

**United States Department of Labor  
Employees' Compensation Appeals Board**

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<b>G.A., Appellant</b>	)	
	)	
<b>and</b>	)	
	)	<b>Docket No. 22-1245</b>
	)	<b>Issued: April 11, 2023</b>
<b>U.S. POSTAL SERVICE, POST OFFICE,</b>	)	
<b>New Orleans, LA, Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
PATRICIA H. FITZGERALD, Deputy Chief Judge  
JANICE B. ASKIN, Judge

**JURISDICTION**

On August 17, 2022 appellant filed a timely appeal from an April 22, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.<sup>2</sup>

**ISSUE**

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective April 22, 2022, for failure to complete a Form CA-1032 as requested.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

<sup>2</sup> The Board notes that, following the April 22, 2022 decision, appellant submitted additional evidence. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

## **FACTUAL HISTORY**

This case has previously been before the Board.<sup>3</sup> The facts and circumstances as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

Appellant, then a 28-year-old part-time regular letter carrier, filed a traumatic injury claim (Form CA-1) alleging that on January 3, 2011 he injured his lower back while loading packages onto a postal truck while in the performance of duty. He stopped work that day. On February 10, 2011 OWCP accepted the claim for lower back sprain, lumbar region, and subsequently expanded acceptance of the claim to include displacement of lumbar intervertebral disc without myelopathy. It paid appellant wage-loss compensation on the periodic rolls effective July 3, 2011.

OWCP periodically requested that appellant submit financial disclosure statements (Form CA-1032), which solicited information regarding his employment, volunteer work, dependent(s) status, receipt of other federal benefits and/or payments, and third-party settlements.

On February 22, 2022 OWCP informed appellant that federal regulations required him to execute an affidavit relative to any earnings or employment during the previous year and that a Form CA-1032 was enclosed for that purpose. It advised him that he must fully answer all questions on the enclosed Form CA-1032 and return it within 30 days or his benefits would be suspended. OWCP mailed the notice to appellant's last known address of record.

By decision dated April 22, 2022, OWCP suspended appellant's wage-loss compensation benefits, effective that date, for failing to complete the Form CA-1032 it had sent to him on February 22, 2022, as requested. It advised that, if he were to complete and return the form, his compensation benefits would be restored retroactively to the date they were suspended.

## **LEGAL PRECEDENT**

Section 8106(b) of FECA authorizes the Secretary of Labor to require a partially disabled employee to report his or her earnings from employment or self-employment, by affidavit or otherwise, in the manner and at the times the Secretary specifies.<sup>4</sup>

Under section 10.528 of OWCP's implementing federal regulations, an employee in receipt of compensation benefits must complete an affidavit as to any work or activity indicating an ability to work, which the employee has performed for the prior 15 months.<sup>5</sup> If an employee who is required to file such a report fails to do so within 30 days of the date of the request, his or her right to compensation for wage loss is suspended until OWCP receives the requested report. At that

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<sup>3</sup> Docket No. 15-0095 (issued April 2, 2015).

<sup>4</sup> 5 U.S.C. § 8106(b).

<sup>5</sup> 20 C.F.R. § 10.528. *See also H.B.*, Docket No. 19-0405 (issued June 26, 2019); *M.S.*, Docket No. 18-1107 (issued December 28, 2018); *C.C.*, Docket No. 17-0043 (issued June 15, 2018); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>6</sup>

### **ANALYSIS**

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective April 22, 2022, for failure to submit a completed Form CA-1032 as requested.

On February 22, 2020 OWCP provided appellant with a Form CA-1032. It properly advised him that, if he did not completely answer all of the questions and return the form within 30 days, his benefits would be suspended. The record reflects that OWCP's letter was properly sent to appellant's last known address of record and there is no indication that it was returned as undeliverable.<sup>7</sup>

The record indicates that appellant failed to timely submit the Form CA-1032 within 30 days as required. Appellant was receiving wage-loss compensation and he was, therefore, required to complete the Form CA-1032. His failure to file a Form CA-1032 within 30 days resulted in the suspension of compensation. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective April 22, 2022, pursuant to 20 C.F.R. § 10.528.

### **CONCLUSION**

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective April 22, 2022, for failure to complete a Form CA-1032 as requested.

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<sup>6</sup> *Id.*; *see also id.* at § 10.525.

<sup>7</sup> The Board has held that, absent evidence to the contrary, a notice mailed in the ordinary course of business is presumed to have been received by the intended recipient. The presumption is commonly referred to as the "mailbox rule." *See C.C.*, Docket No. 17-0043 (issued June 15, 2018); *A.H.*, Docket No. 15-0241 (issued April 3, 2015); *J.J.*, Docket No. 13-1067 (issued September 20, 2013); *Kenneth E. Harris*, 54 ECAB 502, 505 (2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the April 22, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 11, 2023  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge  
Employees' Compensation Appeals Board

Janice B. Askin, Judge  
Employees' Compensation Appeals Board