

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

C.L., Appellant	)	
	)	
and	)	Docket No. 23-0177
	)	Issued: June 23, 2023
DEPARTMENT OF AGRICULTURE, FOOD,	)	
SAFETY & INSPECTION SERVICE,	)	
Long Beach, CA, Employer	)	
	)	

*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  
JAMES D. MCGINLEY, Alternate Judge

**JURISDICTION**

On November 14, 2022 appellant filed a timely appeal from an October 18, 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>

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

<sup>2</sup> The Board notes that, following the October 18, 2022 decision, appellant submitted additional evidence to OWCP. 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.*

## ISSUE

The issue is whether OWCP properly suspended appellant's compensation benefits, effective October 18, 2022, for failure to complete a Form EN-1032 as requested.

## FACTUAL HISTORY

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

On March 18, 1983 appellant, a 32-year-old food inspector filed a traumatic injury claim (Form CA-1) alleging that on March 7, 1983 she sustained an injury to her sternum when she was examining a steer head while in the performance of duty. OWCP accepted the claim for strain and separation at the costa sternal junction.<sup>4</sup> Appellant stopped work on March 8, 1983. OWCP paid her wage-loss compensation.

Appellant continued to pursue her claim and, by decision dated August 24, 2010, OWCP expanded the acceptance of her claim to include sprain of the chondrosternal joint, left sternoclavicular joint strain, and left fifth, sixth, and seventh rib fracture.

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

On August 23, 2022 OWCP informed appellant that federal regulations required her to execute an affidavit relative to any earnings or employment during the previous year and that a Form EN-1032 was enclosed for that purpose. It notified her that she must fully answer all questions on the enclosed Form EN-1032 and return it within 30 days or her benefits would be suspended. OWCP mailed the notice to appellant's last known address.

By decision dated October 18, 2022, OWCP suspended appellant's compensation benefits, effective that date, for failing to complete the Form EN-1032 that it had sent to her on August 23, 2022, as requested. It advised that, if she were to complete and return the form, her compensation benefits would be restored retroactively to the date they were suspended.

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<sup>3</sup> Docket No. 16-0004 (issued June 14, 2016); Docket No. 06-0810 (issued May 3, 2007), *petition for recon. denied*, Docket No. 06-0810 (November 26, 2007).

<sup>4</sup> OWCP assigned the present claim OWCP File No. xxxxxx472. Under OWCP File No. xxxxxx056 appellant injured her left shoulder at work on October 21, 1980. OWCP accepted for left shoulder girdle strain and left pectoralis major muscle strain. Appellant also filed a claim for an injury sustained in a fall at work on October 14, 1982, which OWCP accepted for multiple contusions of the ribs, File No. xxxxxx772. Her claims have been administratively combined, with OWCP File No. xxxxxx472 serving as the master file.

## 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>5</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>6</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 time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>7</sup>

## ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective October 18, 2022, for failure to complete the Form EN-1032 as requested.

On August 23, 2022 OWCP provided appellant with a Form EN-1032. It properly advised her that, if she did not completely answer all of the questions and return the form within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was properly mailed to appellant's last known address of record and there is no indication that it was returned as undeliverable.<sup>8</sup> Under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address of record is presumed to be received by the addressee.<sup>9</sup>

The record indicates that appellant failed to timely submit the Form EN-1032 within 30 days of OWCP's request. Appellant was receiving wage-loss compensation and she was, therefore, required to complete the Form EN-1032. Her failure to file a Form EN-1032 within 30 days resulted in the suspension of compensation. Thus, the Board finds that OWCP properly

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<sup>5</sup> 5 U.S.C. § 8106(b).

<sup>6</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).

<sup>7</sup> *Id.*; *see also id.* at § 10.525.

<sup>8</sup> *See H.B.*, *supra* note 6; *J.J.*, Docket No. 13-1067 (issued September 20, 2013); *Kenneth E. Harris*, 54 ECAB 502, 505 (2003).

<sup>9</sup> *Id.*

suspended appellant's compensation benefits, effective October 18, 2022, pursuant to 20 C.F.R. § 10.528.<sup>10</sup>

**CONCLUSION**

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective October 18, 2022, for failure to complete a Form EN-1032 as requested.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 18, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 23, 2023  
Washington, DC

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

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

James D. McGinley, Alternate Judge  
Employees' Compensation Appeals Board

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<sup>10</sup> See *R.S.*, Docket No. 22-0773 (issued May 22, 2023); *R.B.*, Docket No. 20-0176 (issued June 25, 2020); *M.W.*, Docket No. 15-0507 (issued June 18, 2015).