

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

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P.S., Appellant)	
)	
and)	Docket No. 23-0563
)	Issued: October 11, 2023
U.S. POSTAL SERVICE, MAIN POST OFFICE,)	
Napa, CA, Employer)	
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Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On March 1, 2023 appellant filed a timely appeal from a November 17, 2022 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to consider the merits of this case.

ISSUE

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective November 17, 2022, for failure to complete a Form CA-1032, as requested.

¹ The Board notes that, following the November 17, 2022 decision, OWCP received 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.*

² 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

On February 7, 1987 appellant then a 37-year-old carrier, filed a traumatic injury claim (Form CA-1) alleging that on February 6, 1987 she injured her lower back and both legs lifting parcels from a tub into her vehicle while in the performance of duty. She initially stopped work on February 9, 1987. OWCP accepted this claim for low back strain and lumbar herniated disc L5-S1. Appellant filed a notice of recurrence (Form CA-2a) on April 2, 1992 alleging that she sustained a recurrence of disability as a result of increasing back pain due to her accepted February 6, 1987 employment injury. She stopped work on November 2, 1992. OWCP paid appellant wage-loss compensation on the periodic rolls effective November 2, 1992.

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

On September 20, 2022 OWCP informed appellant that federal regulations required her to execute an affidavit regarding any earnings received or employment performed during the previous 15 months, and that it had enclosed a Form CA-1032 for that purpose. It notified her that she must fully answer all questions on the enclosed Form CA-1032 and return it within 30 days, or her benefits would be suspended pursuant to 20 C.F.R. § 10.528. OWCP mailed the letter to appellant's address of record. No response was received.

By decision dated November 17, 2022, OWCP suspended appellant's wage-loss compensation benefits, effective that date, due to her failure to submit the Form CA-1032 as requested. It advised that, if she completed and returned an enclosed copy of the Form CA-1032, her compensation benefits would be restored retroactively to the date of suspension.

LEGAL PRECEDENT

Section 8106(b) of FECA³ 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.

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.⁴ 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.⁵

³ *Id.* at § 8106(b).

⁴ 20 C.F.R. § 10.528; *see also* *L.M.*, Docket No. 22-0387 (issued August 2, 2022); *R.B.*, Docket No. 20-0176 (issued June 25, 2020); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

⁵ *Id.*; *see also id.* at § 10.525.

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective November 17, 2022, for failure to complete a Form CA-1032 as requested.

On September 20, 2022 OWCP provided appellant with a Form CA-1032, and notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. It properly notified her that, if she did not completely answer all questions and return the form within 30 days, her benefits would be suspended. The record reflects that OWCP's letter was mailed to appellant's address of record.⁶

Appellant, however, failed to timely submit the Form CA-1032 as requested. Her failure to file an CA-1032 form within 30 days properly resulted in the suspension of her wage-loss compensation. Thus, the Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective November 17, 2022, pursuant to 20 C.F.R. § 10.528.⁷

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective November 17, 2022, for failure to complete a Form CA-1032, as requested.

⁶ See *M.B.*, Docket No. 20-0865 (issued June 15, 2021); *C.C.*, Docket No. 17-0043 (issued June 15, 2018); *A.H.*, *supra* note 4; (under the mailbox rule, a document mailed in the ordinary course of the sender's business practices to the addressee's last known address is presumed to be received by the addressee).

⁷ *L.M.*, *supra* note 4; *K.F.*, Docket No. 20-1248 (issued February 8, 2021); *P.M.*, Docket No. 16-0382 (issued May 19, 2016); *M.W.*, Docket No. 15-0507 (issued June 18, 2015).

ORDER

IT IS HEREBY ORDERED THAT the November 17, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 11, 2023
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board