

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

R.J., Appellant)	
)	
and)	Docket No. 23-0969
)	Issued: January 4, 2024
DEPARTMENT OF THE ARMY, SHARPE)	
ARMY DEPOT, Lathrop, CA, Employer)	
)	

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
VALERIE D. EVANS-HARRELL, Alternate Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On July 10, 2023 appellant filed a timely appeal from a March 14, 2023 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

ISSUE

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective March 14, 2023, for failure to complete an EN1032 form, as requested.

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the March 14, 2023 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.*

FACTUAL HISTORY

On July 5, 1984 appellant, then a 27-year-old packer, filed a traumatic injury claim (Form CA-1) alleging that on July 3, 1984 she sustained a neck injury when her vehicle was rear-ended while in the performance of duty. OWCP accepted the claim for left shoulder strain and degeneration of the cervical intervertebral disc. It paid appellant wage-loss compensation on the periodic rolls effective June 16, 2002.

On January 17, 2023 OWCP provided appellant a Form EN1032 for completion and informed her that federal regulations required her to report any improvement in her medical condition, any employment, any change in the status of claimed dependents, any third-party settlement, and any income or change in income from Federally-assisted disability or benefit programs. It notified her that she was required to fully answer all questions on the EN1032 form and return it within 30 days or her benefits would be suspended. The letter was mailed to appellant's last known address. However, OWCP received no response within 30 days.

By decision dated March 14, 2023, OWCP suspended appellant's compensation benefits, effective on that date, for failing to complete the EN1032 form as requested. It noted that, if she completed and returned an enclosed copy of the form, her 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.³

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

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective March 14, 2023, for failure to complete a Form EN1032, as requested.

³ 5 U.S.C. § 8106(b).

⁴ 20 C.F.R. § 10.528. *See also P.S.*, Docket No. 23-0563 (issued October 11, 2023); *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).

⁵ *Id.*

On January 17, 2023 OWCP provided appellant a Form EN1032 and notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. It properly advised her that, if she did not completely answer all of the questions and return the statement within 30 days, her benefits would be suspended. OWCP also properly advised that appellant's benefits would be restored retroactively upon receipt of the properly completed form. The record reflects that OWCP's letter was properly sent to appellant's last known address and there is no indication that it was returned as undeliverable.⁶ 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

Appellant, however, failed to timely submit the Form EN1032 within 30 days of OWCP's request. She was receiving wage-loss compensation, and she was therefore required to complete the Form EN1032. Appellant's failure to file an EN1032 form within 30 days resulted in the suspension of compensation. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective March 14, 2023, pursuant to 20 C.F.R. § 10.528.⁸

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective March 14, 2023, for failure to complete a Form EN1032, as requested.

⁶ See *H.B.*, *supra* note 4; *Kenneth E. Harris*, 54 ECAB 502, 505 (2003); *J.J.*, Docket No. 13-1067 (issued September 20, 2013).

⁷ *Id.*

⁸ *L.M.*, Docket No. 22-0387 (issued August 2, 2022); *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 March 14, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 4, 2024
Washington, DC

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

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

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