

² The Board notes that following the September 13, 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 May 28, 1981 appellant then a 35-year-old mail clerk filed a traumatic injury claim (Form CA-1) alleging that on May 15, 1981 he injured his head and cervical spine when he fell from his postal vehicle while in the performance of duty. He stopped work that same day.

OWCP accepted the claim for cervical sprain, aggravation of chronic muscular ligamentous, and derangement of the cervical spine with cervical brachial plexopathy. The record reflects that OWCP has paid appellant wage-loss compensation on the periodic rolls effective June 16, 2002.

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

On July 19, 2023 OWCP informed appellant that federal regulations required him to execute an affidavit regarding any earnings received or employment performed during the previous 15 months, and that it had enclosed a Form EN-1032 for that purpose. It notified him that he must fully answer all questions on the enclosed Form EN-1032 and return it within 30 days, or his 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 September 13, 2023, OWCP suspended appellant's wage-loss compensation benefits, effective that date, due to his failure to submit the Form CA-1032 as requested. It advised him that if he completed and returned an enclosed copy of the Form CA-1032, his 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 during 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 P.S.*, Docket No. 23-0563 (issued October 11, 2023); *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 September 13, 2023, for failure to complete a Form EN-1032 as requested.

On July 19, 2023 OWCP provided appellant with a Form EN-1032 and notified him that federal regulations required him to complete the form and answer all questions concerning his employment or earnings. It properly notified him that, if he did not completely answer all questions and return the form within 30 days, his benefits would be suspended until a completed Form EN-1032 was received. The record reflects that OWCP's letter was mailed to appellant's address of record.⁶

Appellant, however, failed to timely submit the Form EN-1032 as requested. His failure to file an CA-1032 form within 30 days properly resulted in the suspension of his wage-loss compensation. Thus, the Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective September 13, 2023, pursuant to 20 C.F.R. § 10.528.⁷

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective September 13, 2023, for failure to complete a Form EN-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 3 (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 September 13, 2023 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 25, 2024
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