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

B.L., Appellant and	)	Docket No. 25-0389 Issued: April 14, 2025
DEPARTMENT OF COMMERCE, U.S. CENSUS BUREAU, Chicago, IL, Employer	) ) )	
Appearances: Alan J. Shapiro, Esq., for the appellant <sup>1</sup> 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 VALERIE D. EVANS-HARRELL, Alternate Judge

#### **JURISDICTION**

On March 14, 2025, appellant, through counsel, filed a timely appeal from a March 11, 2025<sup>2</sup> merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>3</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

<sup>&</sup>lt;sup>1</sup> In all cases in which a representative has been authorized in a matter before the Board, no claim for a fee for legal or other service performed on appeal before the Board is valid unless approved by the Board. 20 C.F.R. § 501.9(e). No contract for a stipulated fee or on a contingent fee basis will be approved by the Board. *Id.* An attorney or representative's collection of a fee without the Board's approval may constitute a misdemeanor, subject to fine or imprisonment for up to one year or both. *Id.*; *see also* 18 U.S.C. § 292. Demands for payment of fees to a representative, prior to approval by the Board, may be reported to appropriate authorities for investigation.

<sup>&</sup>lt;sup>2</sup> The Board notes that there is a February 21, 2025 merit decision by an OWCP hearing representative a ffirming OWCP's denial of appellant's expansion claim, which is also within the Board's jurisdiction. As counsel did not appeal from the February 21, 2025 expansion claim decision, the Board will not address the February 21, 2025 decision in this appeal. 20 C.F.R. § 501.3; *see E.B.*, Docket No. 24-0775 (issued September 27, 2024); *D.K.*, Docket No. 22-0111 (issued February 8, 2023); *E.R.*, Docket No. 20-1110 (issued December 23, 2020).

<sup>&</sup>lt;sup>3</sup> 5 U.S.C. § 8101 et seq.

# <u>ISSUE</u>

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective March 11, 2025, for failure to complete a Form EN-1032 as requested.

#### FACTUAL HISTORY

On February 6, 2020, appellant, then a 23-year-old census field supervisor, filed a traumatic injury claim (Form CA-1) alleging that on February 4, 2020 she sustained injuries when her vehicle hydroplaned and struck trees on the side of the highway while in the performance of duty. She stopped work on the date of injury. OWCP accepted the claim for contusion of right forearm, cervical myofascial strain, and lumbar strain. It later expanded its acceptance of the claim to include complex regional pain syndrome of left upper limb. The record reflects that OWCP paid appellant wage-loss compensation on the supplemental rolls, effective March 21, 2020, and on the periodic rolls, effective May 19, 2024.

By letter dated January 21, 2025, OWCP informed appellant that federal regulations required her to execute an affidavit relative to any earnings or employment during the previous 15 months, and that a Form EN-1032 was enclosed for that purpose. It advised 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 letter to appellant's last known address of record. No response was received.

By decision dated March 11, 2025, OWCP suspended appellant's wage-loss compensation benefits, effective that date, due to her failure to submit the Form EN-1032, 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.

#### 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

<sup>&</sup>lt;sup>4</sup> 5 U.S.C. § 8106(b).

<sup>&</sup>lt;sup>5</sup> 20 C.F.R. § 10.528. *C.B.*, Docket No. 24-0188 (issued May 1, 2024); *A.S.*, Docket No. 23-0437 (issued February 16, 2024). *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 March 11, 2025, for failure to complete the Form EN-1032 as requested.

On January 21,2025,OWCP provided appellant with a Form EN-1032. It advised her that, if she did not fully 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. 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.

The record indicates that appellant failed to timely submit the Form EN-1032 within 30 days of OWCP's request. As noted above, 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. Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective March 11, 2025, pursuant to 20 C.F.R. § 10.528.

# **CONCLUSION**

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective March 11, 2025, for failure to complete a Form EN-1032 as requested.

<sup>&</sup>lt;sup>6</sup> *Id.*; *C.G.*, Docket No. 24-0210 (issued August 27, 2024); *P.M.*, Docket No. 16-0382 (issued May 19, 2016). *See also* 20 C.F.R. § 10.525.

<sup>&</sup>lt;sup>7</sup> *C.B.*, *supra* note 5; *A.S.*, *supra* note 5; *see H.B.*, *supra* note 5; *J.J.*, Docket No. 13-1067 (issued September 20, 2013); *Kenneth E. Harris*, 54 ECAB 502, 505 (2003).

<sup>&</sup>lt;sup>8</sup> *Id*.

<sup>&</sup>lt;sup>9</sup> Supra note 6.

<sup>&</sup>lt;sup>10</sup> See R.T., Docket No. 25-02024 (issued February 10, 2025); 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).

## **ORDER**

**IT IS HEREBY ORDERED THAT** the March 11, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 14, 2025 Washington, DC

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

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

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