

² Appellant submitted a timely request for oral argument before the Board, explaining his disagreement with OWCP's November 26, 2024 decision. 20 C.F.R. § 501.5(b). Pursuant to the Board's *Rules of Procedure*, oral argument may be held in the discretion of the Board. 20 C.F.R. § 501.5(a). Appellant contended that OWCP erred in suspending his compensation as he timely submitted a Form EN-1032 as requested. The Board, in exercising its discretion, denies appellant's request for oral argument because arguments on appeal can be adequately addressed in a decision based on a review of the case record. Oral argument in this appeal would further delay issuance of a Board decision and not serve a useful purpose. As such, the oral argument request is denied, and this decision is based on the case record as submitted to the Board.

Employees' Compensation Act³ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.⁴

ISSUE

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective November 26, 2024, for failure to complete a Form EN-1032 as requested.

FACTUAL HISTORY

On July 16, 1970 appellant, then a 25-year-old postal clerk, filed a notice of injury or occupational disease alleging that he sustained right knee and low back injuries that day when he pushed mail tray carts and fell off a hydraulic lift while in the performance of duty. OWCP accepted the claim for internal derangement of the right knee and low back strain. The record reflects that OWCP paid appellant wage-loss compensation on the periodic rolls, effective June 16, 2002.

By letter dated October 2, 2024, OWCP informed appellant that federal regulations required him 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 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. OWCP mailed the letter to appellant's last known address of record. No response was received.

By decision dated November 26, 2024, OWCP suspended appellant's wage-loss compensation benefits, effective that date, due to his failure to submit the Form EN-1032, as requested. It advised that, if he were to complete and return the form, his 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.⁵

³ 5 U.S.C. § 8101 *et seq.*

⁴ The Board notes that, following the November 26, 2024 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.*

⁵ 5 U.S.C. § 8106(b).

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.⁶ 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.⁷

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective November 26, 2024, for failure to complete the Form EN-1032 as requested.

On October 2, 2024 OWCP provided appellant with a Form EN-1032. It advised him that, if he did not completely fully answer all of the questions and return the form within 30 days, his 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.⁸ 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.⁹

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.¹⁰ Thus, the Board finds that OWCP properly suspended appellant's compensation benefits, effective November 16, 2024, pursuant to 20 C.F.R. § 10.528.¹¹

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective November 16, 2024, for failure to complete a Form EN-1032 as requested.

⁶ 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).

⁷ *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.

⁸ *C.B.*, *supra* note 6; *A.S.*, *supra* note 6; *see H.B.*, *supra* note 6; *J.J.*, Docket No. 13-1067 (issued September 20, 2013); *Kenneth E. Harris*, 54 ECAB 502, 505 (2003).

⁹ *Id.*

¹⁰ *Supra* note 7.

¹¹ *C.B.*, *supra* note 6; *A.S.*, *supra* note 6; *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).

ORDER

IT IS HEREBY ORDERED THAT the November 26, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 10, 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