

¹ 5 U.S.C. § 8101 *et seq.*

FACTUAL HISTORY

This case has previously been before the Board on a different issue.² The facts and circumstances of the case as set forth in the Board's prior decision are incorporated herein by reference. The relevant facts are as follows.

On January 5, 2010 appellant, then a 42-year-old medical technologist, filed a traumatic injury claim (Form CA-1) alleging that she slipped in a puddle of water and fell when she entered a restroom while in the performance of duty. OWCP accepted the claim for cervical spondylosis without myelopathy, brachial neuritis/radiculitis, right carpal tunnel syndrome, right shoulder/upper arm sprain, and traumatic arthropathy of both knees due to a fall at work. It paid appellant wage-loss compensation on the supplemental rolls, effective November 16, 2010, and on the periodic rolls, effective January 16, 2011. Appellant underwent OWCP-authorized cervical surgery at C4-5 and C5-6 on February 22, 2011. She returned to full-time work on April 17, 2011. Appellant stopped work on June 7, 2011, and OWCP paid her wage-loss compensation for disability on the supplemental rolls, effective June 7, 2011, and on the periodic rolls, effective February 27, 2022.³

By decision dated July 14, 2016, OWCP granted appellant a schedule award for 12 percent permanent impairment of the right upper extremity (right arm) and 4 percent permanent impairment of the left upper extremity (left arm). The award ran for 49.92 weeks from February 1, 2016 through January 15, 2017.

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

On July 26, 2023, appellant advised OWCP of a change in her mailing address.

Under a July 19, 2024 cover letter, at a time when she was receiving wage-loss compensation, OWCP provided appellant with an EN-1032 form. The cover letter informed her that federal regulations required her to report any earnings received or employment performed during the previous 15 months. OWCP advised that she was required to fully answer all questions on the EN-1032 form and return it within 30 days or her benefits would be suspended pursuant to 20 C.F.R. § 10.528. It mailed the letter to appellant's last known address of record.

On September 4, 2024 the July 19, 2024 cover letter and the EN-1032 form were returned to OWCP, along with the envelope in which they were sent. The envelope was marked "return to sender" and "unable to forward." OWCP did not receive a completed EN-1032 form.

By decision dated November 13, 2024, OWCP suspended appellant's wage-loss compensation benefits, effective the date of the decision, due to her failure to submit the completed EN-1032 form as requested. It noted that she had not responded to its July 19, 2024

² Docket No. 11-1676 (issued February 6, 2012).

³ Appellant underwent OWCP-authorized right carpal tunnel release surgery on October 19, 2011.

letter. OWCP advised that, if appellant were to complete and return an EN-1032 form, it would then reinstate her wage-loss compensation benefits retroactive to the effective date of the suspension.

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.⁴

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.⁵ 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.⁶

ANALYSIS

The Board finds that OWCP improperly suspended appellant's wage-loss compensation benefits, effective November 13, 2024.

On July 19, 2024, OWCP mailed appellant an EN-1032 form, and a July 19, 2024, cover letter, which advised that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. The cover letter indicated that, if she did not completely answer all questions and return the form within 30 days, her benefits would be suspended. 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 The record reflects that OWCP sent the July 19, 2024 letter and EN-1032 form to appellant's last known address of record, but that the July 19, 2024 letter and EN-1032 form were returned to OWCP with the envelope marked "return to sender" and "unable to forward." Therefore, in the present case, appellant has rebutted the presumption of the mailbox rule with respect to the receipt of the July 19, 2024 letter and EN-1032 form.⁸ Thus, the Board finds that OWCP improperly suspended appellant's wage-loss compensation benefits, effective November 13, 2024, and it shall restore appellant's wage-loss compensation back to the date of the improper suspension, *i.e.*, November 13, 2024.

⁴ 5 U.S.C. § 8106(b).

⁵ 20 C.F.R. § 10.528. *See also R.B.*, Docket No. 20-0176 (issued June 25, 2020); *A.H.*, Docket No. 15-0241 (issued April 3, 2015).

⁶ *Id.* *See also P.M.*, Docket No. 16-0382 (issued May 19, 2016).

⁷ *Id.*

⁸ *See D.W.*, Docket No. 23-0877 (issued November 13, 2023).

CONCLUSION

The Board finds that OWCP improperly suspended appellant's wage-loss compensation benefits, effective November 13, 2024.

ORDER

IT IS HEREBY ORDERED THAT the November 13, 2024 decision of the Office of Workers' Compensation Programs is reversed.

Issued: March 20, 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