

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

-----  
C.G., Appellant )

and )

DEPARTMENT OF THE NAVY, )  
PHILADELPHIA NAVAL SHIPYARD, )  
Philadelphia, PA, Employer )  
----- )

**Docket No. 21-0895**  
**Issued: May 10, 2023**

*Appearances:*  
*Appellant, pro se*  
*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  
JANICE B. ASKIN, Judge

**JURISDICTION**

On April 26, 2021 appellant filed a timely appeal from a March 15, 2021 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, pursuant to 5 U.S.C. § 8123(d), effective February 1, 2020, for failure to submit the EN-1032 form as requested.

---

<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On December 20, 1983 appellant, then a 33-year-old laborer, filed a traumatic injury claim (Form CA-1) alleging that, on that date, he slipped on a piece of wood and injured his left shoulder. OWCP accepted the claim for dislocation of the left shoulder. It paid appellant wage-loss compensation on the periodic rolls as of 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 November 30, 2018 OWCP received an incomplete Form EN-1032 from appellant.

On February 13, 2019 OWCP notified appellant that his Form EN-1032 received on November 30, 2018 was incomplete, as he had not properly completed questions 1 and 3, and indicated that additional information was required. It advised that he was required to fully answer all questions on the EN-1032 form and return it within 30 days or his benefits would be suspended pursuant to 20 C.F.R. § 10.528. OWCP mailed the form to appellant's last known address of record. No response was received.

By decision dated January 29, 2020, OWCP suspended appellant's wage-loss compensation benefits, effective February 1, 2020, for failure to submit the EN-1032 form as requested. It noted that he had not responded to its February 13, 2019 letter. OWCP advised that, if appellant fully completed and returned an enclosed copy of the EN-1032 form, it would restore his wage-loss compensation benefits retroactive to the date of suspension.

On March 9, 2020 appellant requested reconsideration. He included a copy of his completed Form EN-1032.

On October 6, 2020 appellant submitted his pay stubs from 2018 and 2019.

By decision dated March 15, 2021, OWCP denied modification of the January 29, 2020 suspension of appellant's compensation benefits.

## **LEGAL PRECEDENT**

Section 8106(b) of FECA<sup>2</sup> 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>3</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

---

<sup>2</sup> *Id.*

<sup>3</sup> 5 U.S.C. § 8106(b).

to work, which the employee has performed for the prior 15 months.<sup>4</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 time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.<sup>5</sup>

### ANALYSIS

The Board finds that OWCP improperly suspended appellant's wage-loss compensation benefits, pursuant to 5 U.S.C. § 8123(d), effective February 1, 2020.

In a February 13, 2019 letter mailed to appellant's address of record, OWCP informed him that he needed to complete, sign, and return a Form EN-1032, and that failure to return the requested document within 30 days would lead to the suspension of his compensation benefits. By decision dated January 29, 2020, it suspended his wage-loss compensation benefits, effective February 1, 2020, for failure to submit the EN-1032 form as requested. OWCP advised that, if appellant fully completed and returned an enclosed copy of the EN-1032 form, it would restore his wage-loss compensation benefits retroactive to the date of suspension. Appellant returned a completed Form EN-1032 that was received by OWCP with his request for reconsideration on March 9, 2020. OWCP, however, in its March 15, 2021 decision, denied modification of the January 29, 2020 suspension decision.

Although appellant did not submit the form within 30 days of OWCP's February 13, 2019 letter, he subsequently responded and complied with its instructions to fully complete the EN-1032 form. OWCP should have reinstated his compensation retroactive to the effective date of suspension, which in this case was February 1, 2020.<sup>6</sup> The Board thus finds that OWCP's March 15, 2021 denial of modification is erroneous, and the suspension of appellant's compensation benefits was improper.<sup>7</sup> The case will be remanded to OWCP for reinstatement of appropriate compensation benefits.

### CONCLUSION

The Board finds that OWCP improperly suspended appellant's wage-loss compensation benefits, pursuant to 5 U.S.C. § 8123(d), effective February 1, 2020.

---

<sup>4</sup> 20 C.F.R. § 10.528; *see also R.B.*, Docket No. 20-0176 (issued June 25, 2020); *A.H.*, Docket No. 15-241 (issued April 3, 2015).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *See C.S.*, Docket No. 19-0331 (issued May 24, 2019); *S.F.*, Docket No. 12-1821 (issued January 25, 2013); *H.A.*, Docket No. 11-1192 (issued May 24, 2012); *W.F.*, Docket No. 11-0877 (issued March 9, 2012).

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 15, 2021 decision of the Office of Workers' Compensation Programs is reversed.

Issued: May 10, 2023  
Washington, DC

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

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board