

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

T.H., Appellant)	
)	
and)	Docket No. 24-0451
)	Issued: June 6, 2024
DEPARTMENT OF COMMERCE, U.S. CENSUS)	
BUREAU, Duncanville, TX, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REVERSING CASE

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On March 15, 2024 appellant filed a timely appeal from a February 15, 2024 merit decision and a February 28, 2024 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards assigned the appeal Docket No. 24-0451.

On May 16, 2000 appellant, then a 39-year-old field operations supervisor, filed a traumatic injury claim (Form CA-1) alleging that on March 30, 2000, she sustained a left ankle fracture and injuries to three toes on her left foot when she slipped and fell while in the performance of duty. OWCP accepted the claim for left fibula (ankle) fracture and radiculitis at the S1 level, later expanding the acceptance of her claim to include thoracic or lumbosacral neuritis, displacement of lumbar intervertebral disc, and psychogenic pain disorder. It paid appellant wage-loss compensation on the supplemental rolls as of June 24, 2000, and on the periodic rolls as of July 14, 2002.

In a Form EN-1032 dated November 28, 2022, appellant noted, *inter alia*, that she was married and lived with her spouse.

On September 25, 2023 OWCP provided appellant a Form EN-1032 for completion and informed her that federal regulations required her to report any improvement in her medical condition, any employment, any change in the status of claimed dependents, any third-party settlement, and any income or change in income from federally-assisted disability or benefit

programs. It notified her 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. OWCP mailed the letter to appellant's last known address of record.

In a letter dated November 21, 2023, OWCP notified appellant that it had not received a response to its letter of September 25, 2023. It afforded her 30 days from November 21, 2023 to fully complete and return the enclosed Form EN-1032.

On December 20, 2023 OWCP received from appellant a Form EN-1032 dated December 9, 2023. In response to the question, "Did you work for any employer during the past 15 months?" appellant marked "X." She also responded to several other questions by marking "X."

In a letter dated January 23, 2024, OWCP noted that it had received appellant's December 9, 2023 Form EN-1032, but stated that the form had not been completed properly, as she failed to answer all of the required questions. It noted that she had not replied to the question regarding her employment over the last 15 months with a "Yes" or "No" response, but instead had marked "X." OWCP requested that she complete the form by answering "Yes" or "No" to that question and to certify all answers by signing and dating the form with the corrected information. It informed appellant that she would have 30 days from January 23, 2024 to return the corrected form.

By decision dated February 15, 2024, OWCP suspended appellant's wage-loss compensation, effective on that date, for failing to complete the EN-1032 form as requested. It noted that, if she completed and returned an enclosed copy of the form, her wage-loss compensation would be restored retroactively to the date it was suspended.

On February 21, 2024 appellant requested reconsideration. With her request, she enclosed a Form EN-1032 dated February 20, 2024 in which, *inter alia*, she responded "No" to the question of whether she worked for any employer during the past 15 months. Appellant noted that she was married; that her spouse did not live with her as of "5-22"; and that she did not make regular payments for her spouse's support. In response to other questions previously marked "X" in her December 9, 2023 Form EN-1032, appellant responded "No."

In a letter dated February 22, 2024, OWCP requested that appellant clarify the date that her spouse ceased to reside with her as it related to her ongoing compensation benefits. It noted that in her Form EN-1032 dated November 28, 2022, she indicated that she was married and lived with her spouse. However, in her February 2024 Form EN-1032, appellant indicated that she was married and did not live with her spouse as of "5-22." OWCP requested that she clarify the date as of which she no longer lived with her spouse and afforded her 15 days from February 22, 2024 to respond in writing.

On February 26, 2024 OWCP received another copy of the Form EN-1032 dated February 20, 2024.

By decision dated February 28, 2024, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

The Board, having duly considered this matter, finds that OWCP improperly suspended appellant's wage-loss compensation effective February 15, 2024. In a letter dated January 23, 2024, OWCP requested that appellant correct and complete a Form EN-1032. It informed appellant that she would have 30 days from January 23, 2024 to return the corrected form. The 30th day following January 23, 2024 was February 22, 2024. By decision dated February 15, 2024, however, OWCP suspended appellant's wage-loss compensation, effective that date, for failing to complete the EN-1032 form as requested.

OWCP, therefore, prematurely issued its decision on February 15, 2024 suspending appellant's wage-loss compensation, before the 30-day period afforded by its January 23, 2024 letter had expired. As such, the Board finds that the decision suspending her compensation benefits as of February 15, 2024 was improper.¹ Accordingly,

IT IS HEREBY ORDERED THAT the February 15, 2024 decision of the Office of Workers' Compensation Programs is reversed. The February 28, 2024 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: June 6, 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

¹ See e.g., *Order Remanding Case, D.H.*, Docket No. 23-0954 (issued January 22, 2024); *N.P.*, Docket No. 09-2263 (issued May 17, 2010).