

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

C.C., Appellant)

and)

U.S. POSTAL SERVICE, POST OFFICE,)
Suisun, CA, Employer)
_____)

Docket No. 24-0825
Issued: October 29, 2024

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

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
JANICE B. ASKIN, Judge
JAMES D. MCGINLEY, Alternate Judge

JURISDICTION

On August 9, 2024 appellant filed a timely appeal from a July 15, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP).¹ Pursuant to the Federal Employees' Compensation Act² (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.³

¹ Appellant timely requested oral argument before the Board. 20 C.F.R. § 501.2(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). The Board in exercising its discretion, denies appellant's request for oral argument because the arguments on appeal can adequately be 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.

² 5 U.S.C. § 8101 *et seq.*

³ The Board notes that, following the July 15, 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.*

ISSUE

The issue is whether OWCP properly suspended appellant's compensation benefits, effective July 15, 2024, for failure to complete an EN1032 form as requested.

FACTUAL HISTORY

On December 31, 1990 appellant, then 27-year-old mail carrier, filed an occupational disease claim (Form CA-2) alleging that she sustained depression and anxiety causally related to factors of her federal employment. OWCP accepted the claim for dysthymic disorder. It paid appellant wage-loss compensation on the periodic rolls commencing June 26, 1994.

OWCP periodically sent appellant letters (Form CA-1032) requesting that she complete an enclosed Form EN1032 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. It notified her that she was required to fully answer all questions on the EN1032 form and return it within 30 days or her benefits would be suspended. A request dated June 12, 2024 was mailed to appellant's last known address of record. However, OWCP received no response to the June 12, 2024 letter within 30 days.

By decision dated July 15, 2024, OWCP suspended appellant's compensation benefits, effective on that date, for failing to complete the EN1032 form as requested. It noted that, if she completed and returned an enclosed copy of 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.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

⁴ 5 U.S.C. § 8106(b).

⁵ 20 C.F.R. § 10.528. *See also C.G.*, Docket No. 24-0210 (issued August 27, 2024); *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).

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective July 15, 2024, for failure to complete a Form EN1032, as requested.

On June 12, 2024 OWCP provided appellant with a Form EN1032 via a letter of even date, and notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. It properly advised her that, if she did not completely answer all of the questions and return the statement within 30 days, her benefits would be suspended. OWCP also properly advised that appellant's benefits would be restored retroactively upon receipt of the properly completed form. The record reflects that OWCP's letter was properly sent to appellant's last known address of record, and there is no indication that it was returned as undeliverable.⁷ 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.⁸

The record indicates that appellant failed to timely submit the Form EN1032 within 30 days of OWCP's request. At the time, she was receiving wage-loss compensation, and she was therefore required to complete the Form EN1032.⁹ Appellant's failure to file an EN1032 form within 30 days properly resulted in the suspension of her wage-loss compensation. Thus, the Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective July 15, 2024, pursuant to 20 C.F.R. § 10.528.¹⁰

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation benefits, effective July 15, 2024, for failure to complete an EN1032 form as requested.

⁷ See *C.G.*, *supra* note 5; *J.H.*, Docket No. 20-0785 (issued October 23, 2020); *Kenneth E. Harris*, 54 ECAB 502 (2003).

⁸ *Id.*

⁹ See *C.G.*, *supra* note 5; *R.S.*, Docket No. 20-0580 (issued September 14, 2020); *A.S.*, Docket No. 17-1530 (issued November 7, 2017).

¹⁰ See *C.G.*, *id.*; *R.B.*, *supra* note 5; *P.M.*, *supra* note 6; *M.W.*, Docket No. 15-0507 (issued June 18, 2015).

ORDER

IT IS HEREBY ORDERED THAT the July 15, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 29, 2024
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

James D. McGinley, Alternate Judge
Employees' Compensation Appeals Board