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P.S., Appellant)	
)	
and)	Docket No. 25-0159
)	Issued: January 13, 2025
U.S. POSTAL SERVICE, CLIFTON EAST END)	
POST OFFICE, Baltimore, MD, Employer)	
)	

Case Submitted on the Record

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

On December 4, 2024 appellant filed a timely appeal from a November 29, 2024 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.²

The issue is whether OWCP properly suspended appellant's wage-loss compensation benefits, effective November 29, 2024, for failure to complete an EN-1032 form as requested.

² The Board notes that following the November 29, 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.*

FACTUAL HISTORY

This case has previously been before the Board on different issues.³ The facts and circumstances as set forth in the Board's prior decisions are incorporated herein by reference. The relevant facts are as follows.

On November 5, 2015 appellant, then a 54-year-old letter carrier, filed an occupational disease claim (Form CA-2) alleging that she injured her neck, shoulders, and the left side of her arm causally related to factors of her federal employment. OWCP accepted the claim for bicipital tendinitis of the left shoulder and an aggravation of cervical disc degeneration at the mid-cervical region.

Appellant returned to full-time limited-duty employment on September 11, 2017. She stopped work on August 13, 2021 and OWCP paid her wage-loss compensation on the supplemental rolls effective that date, and on the periodic rolls effective January 30, 2022.

By decision dated September 3, 2024, OWCP reduced appellant's wage-loss compensation effective that date as she had the capacity to earn wages of \$600.00 per week as a customer service representative, Department of Labor, *Dictionary of Occupational Titles* (DOT) #239.362-014. OWCP applied the formula set forth in *Albert C. Shadrick*⁴ as codified in section 10.403 of OWCP's regulations, to determine appellant's loss of wage-earning capacity.

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 October 2, 2024 OWCP provided appellant with a Form EN-1032 and informed her that federal regulations required her to make an affidavit regarding any earnings received or employment performed during the previous 15-month period. It 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. OWCP mailed the letter to appellant's address of record. She did not respond to OWCP's request.

By decision dated November 29, 2024, OWCP suspended appellant's wage-loss compensation benefits, effective that date, for failing to submit the EN-1032 form as requested. It noted that she had not responded to its October 2, 2024 letter. OWCP advised that, if appellant completed and returned the enclosed copy of the EN-1032 form, it would restore her wage-loss compensation benefits retroactive to the date of suspension.

³ Docket No. 18-1438 (issued February 1, 2019); Docket No. 24-0912 (issued December 2, 2024).

⁴ 5 ECAB 376 (1953), codified at 20 C.F.R. § 10.403.

LEGAL PRECEDENT

Section 8106(b) of FECA⁵ 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.⁶

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.⁷ 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.⁸

ANALYSIS

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective November 29, 2024, for failure to complete an EN-1032 form as requested.

On October 2, 2024 OWCP provided appellant with the EN-1032 form and notified her that federal regulations required her to complete the form and answer all questions concerning her employment or earnings. It properly notified her that, if she did not completely answer all questions and return within 30 days, her benefits would be suspended. The record reflects that OWCP sent the letter to appellant's address of record and there is no indication that it was returned as undeliverable.⁹ 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.¹⁰

Appellant failed to timely submit the EN-1032 form within 30 days of OWCP's request. She was receiving wage-loss compensation and was, therefore, required to complete the EN-1032 form.¹¹ Appellant's failure to file an EN-1032 form within 30 days properly resulted in the suspension of her wage-loss compensation. Thus, the Board finds that OWCP properly suspended

⁵ *Supra* note 1.

⁶ 5 U.S.C. § 8106(b).

⁷ 20 C.F.R. § 10.528.

⁸ *Id.*; *see also id.* at § 10.525; *C.L.*, Docket No. 23-0177 (issued June 23, 2023); *R.B.*, Docket No. 20-0176 (issued June 25, 2020); *A.H.*, Docket No. 15-241 (issued April 3, 2015).

⁹ *See K.O.*, Docket No. 23-1150 (issued March 12, 2024); *J.H.*, Docket No. 29-0785 (issued October 23, 2020); *Kenneth E. Harris*, 54 ECAB 502 (2003).

¹⁰ *Id.*

¹¹ *See R.S.*, Docket No. 20-0580 (issued September 14, 2020); *A.S.*, Docket No. 17-1530 (issued November 7, 2017).

her wage-loss compensation benefits, effective November 29, 2024, pursuant to 20 C.F.R. § 10.528.¹²

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective November 29, 2024, for failure to complete an EN-1032 form as requested.

ORDER

IT IS HEREBY ORDERED THAT the November 29, 2024 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 13, 2025
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

¹² *M.H.*, Docket No. 21-0356 (issued September 22, 2023); *K.F.*, Docket No. 20-1248 (issued February 8, 2021); *P.M.*, Docket No. 16-0382 (issued May 19, 2016); *M.W.*, Docket No. 15-0507 (issued June 18, 2015).