

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

R.S., Appellant)
and) Docket No. 22-0773
DEPARTMENT OF THE INTERIOR,)
NATIONAL PARK SERVICE, Washington, DC,)
Employer) Issued: May 22, 2023
)

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On April 9, 2022 appellant filed a timely appeal from a January 7, 2022 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

¹ 5 U.S.C. § 8101 *et seq.*

² The Board notes that, following the January 7, 2022 decision, appellant submitted additional evidence to OWCP. 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 wage-loss compensation, effective January 7, 2022, due to his failure to submit a Form EN-1032, as requested.

FACTUAL HISTORY

This case has previously been before the Board on a different issue.³ 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.

OWCP accepted that on November 14, 1973 appellant, then a 46-year-old engineer, sustained a head contusion, vitreous detachment of the left eye, and cervical, lumbosacral, and right ankle strains due to a motor vehicle accident that occurred while in the performance of duty. It also accepted that he sustained a head contusion, and cervical, lumbosacral, and right ankle sprains due to a December 14, 1983 fall at work. Appellant last worked for the employing establishment on December 14, 1983 and OWCP paid him wage-loss compensation for disability from work on the supplemental and periodic rolls.

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 8, 2021 OWCP provided appellant with a Form EN-1032 and informed him that federal regulations required him to report any earnings received or employment performed during the previous 15 months. It notified him that he was required to fully answer all questions on the Form EN-1032 and return it within 30 days or his benefits would be suspended, pursuant to 20 C.F.R. § 10.528. OWCP mailed the notice to appellant's last known address of record. No response was received.

By decision dated January 7, 2022, OWCP suspended appellant's wage-loss compensation benefits, effective that date, due to his failure to submit the Form EN-1032, as requested. It noted that, if he completed and returned an enclosed copy of the Form EN-1032, his wage-loss compensation benefits would be restored retroactive to the date of suspension.

LEGAL PRECEDENT

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

³ Docket No. 20-0177 (issued September 3, 2021).

⁴ 5 U.S.C. § 8106(b).

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 properly suspended appellant's wage-loss compensation benefits, effective January 7, 2022, due to his failure to complete a Form EN-1032, as requested.

On November 8, 2021 OWCP provided appellant with the a Form EN-1032 and notified him that federal regulations required him to complete the form and answer all questions concerning his employment or earnings. It properly notified him that, if he did not completely answer all questions and return the form within 30 days, his benefits would be suspended. The record reflects that OWCP's letter was sent to appellant's address of record and there is no indication that it was returned as undeliverable.⁷

As the record establishes that appellant failed to timely submit the Form EN-1032 within 30 days of OWCP's request, the Board finds that OWCP properly suspended his wage-loss compensation benefits, effective January 7, 2022, pursuant to 20 C.F.R. § 10.528.⁸

CONCLUSION

The Board finds that OWCP properly suspended appellant's wage-loss compensation benefits, effective January 7, 2022, due to his failure to complete a Form EN-1032, as requested.

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 *See J.H.*, Docket No. 20-0785 (issued October 23, 2020); *Kenneth E. Harris*, 54 ECAB 502 (2003). (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 *See 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 January 7, 2022 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: May 22, 2023
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