

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

N.G., Appellant)

and)

DEPARTMENT OF THE ARMY, ABERDEEN)
PROVING GROUND, Aberdeen, MD, Employer)

**Docket No. 12-981
Issued: December 4, 2012**

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

Case Submitted on the Record

DECISION AND ORDER

Before:

RICHARD J. DASCHBACH, Chief Judge
PATRICIA HOWARD FITZGERALD, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 4, 2012 appellant filed a timely appeal from a March 6, 2012 decision of the Office of Workers' Compensation Programs (OWCP) suspending her compensation. 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.

ISSUE

The issue is whether OWCP properly suspended appellant's compensation benefits for failure to submit an EN1032 form when requested.

FACTUAL HISTORY

On January 20, 1993 appellant, then a 49-year-old motor vehicle operator supervisor, sustained a left ankle strain when she twisted her ankle while walking down steps. OWCP accepted the claim for left ankle sprain and left disrupted posterior ankle ligament and authorized

¹ 5 U.S.C. § 8101 *et seq.*

surgery, which occurred on November 15, 1993. It subsequently accepted reflex sympathetic dystrophy syndrome. Appellant received wage-loss compensation and medical benefits.

On January 11, 2012 OWCP asked appellant to complete a Form CA-1032 within 30 days to provide information regarding her earnings from the prior reporting period. Appellant was advised that her benefits would be suspended pursuant to 20 C.F.R. § 10.528 if a completed CA-1032 form was not received by OWCP within 30 days. No response was received.

By decision dated March 6, 2012, OWCP suspended appellant's wage-loss benefits effective March 11, 2012 because she did not submit a complete Form CA-1032, as requested. It informed her that, when she completed the CA-1032 form, her compensation would be restored retroactively from the date of suspension.²

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.³

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.⁴ 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.⁵ At that time, OWCP will reinstate compensation retroactive to the date of suspension if the employee remains entitled to compensation.⁶

ANALYSIS

OWCP requested that appellant submit an EN1032 form with respect to her employment activity performed for the prior 15 months. It requested the information by letter dated January 11, 2012 and advised her to submit the form within 30 days or her compensation could be suspended. The record establishes that appellant did not respond prior to March 6, 2012.

Based on the evidence of record, OWCP properly suspended appellant's compensation effective March 11, 2012 pursuant to 20 C.F.R. § 10.528.

² The Board notes that appellant submitted a completed Form CA-1032 with her appeal. The Board may only review evidence that was in the record at the time OWCP issued its final decision. See 20 C.F.R. § 501.2(c)(1); *M.B.*, Docket No. 09-176 (issued September 23, 2009); *J.T.*, 59 ECAB 293 (2008); *G.G.*, 58 ECAB 389 (2007); *Donald R. Gervasi*, 57 ECAB 281 (2005); *Rosemary A. Kayes*, 54 ECAB 373 (2003).

³ 5 U.S.C. § 8106(c).

⁴ 20 C.F.R. § 10.528.

⁵ See *Lucille A. Pettaway*, 55 ECAB 228 (2004); *Demetrius Beverly*, 53 ECAB 305 (2002).

⁶ *Supra* note 4.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

CONCLUSION

The Board finds that OWCP properly suspended appellant's compensation benefits based on her failure to timely submit a completed EN1032 form when requested.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated March 6, 2012 is affirmed.

Issued: December 4, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board