

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

S.R., Appellant

and

**U.S. POSTAL SERVICE, LENOX HILL
STATION, New York NY, Employer**

)
)
)
)
)
)
)
)
)
)
)
)

**Docket No. 13-1566
Issued: January 2, 2014**

Appearances:
Paul Kalker, Esq., for the appellant
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REVERSING CASE

Before:

RICHARD J. DASCHBACH, Chief Judge
COLLEEN DUFFY KIKO, Judge
PATRICIA HOWARD FITZGERALD, Judge

On June 19, 2013 appellant, through her attorney, filed a timely appeal from a March 6, 2013 merit decision of the Office of Workers' Compensation Programs (OWCP). The Board docketed the appeal as No. 13-1566.

This case has previously been before the Board. In a decision dated December 11, 2012, the Board reversed OWCP's May 16, 2012 decision as it had failed to adequately advise appellant it was rescinding acceptance of its previously accepted recurrence claim.

In a decision dated March 6, 2013, OWCP failed to follow the Board's December 11, 2012 directions.¹ The March 6, 2013 decision did not properly issue a recession decision, but rather sent appellant to a second opinion examination and based on the second opinion report, again denied appellant's clam for recurrence. It did not inform her correctly and accurately of the grounds on which it rejected her claim in order to afford her the opportunity of meeting, if

¹ OWCP based its determination on the March 6, 2013 report from Dr. Jonathan Black, a Board-certified orthopedic surgeon, who provided a second opinion evaluation.

possible, any defect.² As OWCP failed to properly issue a rescission of its prior acceptance of appellant's claim for recurrence, its decision is reversed.³

IT IS HEREBY ORDERED THAT the March 6, 2013 decision of the Office of Workers' Compensation Programs is reversed. The case is returned for OWCP to comply with the Board's prior directives.

Issued: January 2, 2014
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

² See *Y.S.*, Docket No. 10-2325 (issued August 23, 2011); *John M. Pittman*, 7 ECAB 514 (1955).

³ The Board has final authority to determine questions of law and fact. Its determinations are binding upon OWCP and must, of necessity, be so accepted and acted upon by the Director. See *Anthony Greco*, 3 ECAB 84, 85 (1949).