



and carrying mail. By decision dated June 30, 2000, OWCP accepted her claim for right shoulder sprain and right rotator cuff tear. It also authorized right rotator cuff repair surgery.

Appellant filed a claim for recurrence of disability, as of March 27, 2001, which was accepted by OWCP as work related. She thereafter returned to work full time, with restrictions of no lifting or pulling of over 10 pounds. Appellant worked in a limited-duty capacity until September 17, 2010, when she was sent home because no work was available within her physical restrictions. She was paid compensation for total disability beginning September 17, 2010.

The record reflects that appellant continued to submit reports to OWCP from her treating physician, Dr. Herman Ambris, Board-certified in physical medicine and rehabilitation. In a June 16, 2010 report, Dr. Ambris noted that she was last examined on March 17, 2010. At that time appellant had ongoing right shoulder pain, which was generally unchanged from previous visits. Dr. Ambris noted a “pins and needle” sensation in her right hand. Regarding appellant’s left shoulder, he noted transient pain. In a report dated September 15, 2010, Dr. Ambris stated that appellant had been seen that day for follow-up evaluation. He concluded that appellant could work full time, but that she should avoid wet and humid conditions, avoid repetitive movement of the upper extremities, avoid lifting over the shoulder and limit lifting to 20 pounds.

On December 2, 2010 appellant was referred to Dr. Robert Orlandi, a Board-certified orthopedic surgeon, for a second opinion medical examination in order to determine the nature and extent of her injury-related condition and disability. Dr. Orlandi was provided with a statement of accepted facts and medical evidence from appellant’s case file. In a report dated December 30, 2010, he conducted a physical examination and reported that appellant’s right shoulder revealed no angular or rotary deformity. There was no atrophy or dystrophy. There was no localizing tenderness during examination, and appellant had full range of motion unassociated with pain or discomfort. There was no evidence of shoulder laxity or labral tear, and there was no subacrominal crepitation to suggest impingement, tendinitis or tear. Dr. Orlandi also reported normal examination findings for appellant’s right elbow, wrists and hand. He reviewed appellant’s MRI scans and stated that appellant had a normal right shoulder MRI scan examination two and a half years ago, although the initial scan had shown a full thickness tear of the rotator cuff. Dr. Orlandi concluded that appellant had no musculoskeletal disability related to her May 21, 1998 injury and could perform full-duty work, without restriction. Finally, he added that she did not need further physical therapy or other surgical treatment. In a supplemental report received by OWCP on March 8, 2011, Dr. Orlandi stated that appellant’s claim should not be expanded to include any other medical conditions. He concluded that appellant did not have any current disability that she had fully recovered from her work injury and was able to return to her date-of-injury position.

OWCP found Dr. Orlandi’s opinion constituted the weight of medical evidence and issued a notice of proposed termination of compensation on March 17, 2011.

In progress notes dated March 10, and 21, 2011, Dr. Ambris reiterated appellant’s work restrictions.

By decision dated April 18, 2011, OWCP terminated appellant's compensation benefits on the grounds that the medical evidence established that she no longer had any medical residuals or disability due to the May 21, 1998 work incident.

Following the termination decision, OWCP continued to receive progress reports from Dr. Ambris.

In handwritten reports dated March 10 and 21, 2011, received by OWCP on May 2, 2011, Dr. Ambris stated that appellant was seen for complaints of right shoulder pain and stated that the nature of her pain had remained unchanged over time. He again concluded that she should adhere to her previous work restrictions.

In a July 6, 2011 progress note, Dr. Ambris continued appellant's work restrictions. He recommended that appellant avoid wet and humid conditions, avoid repetitive movements of the upper extremities, avoid lifting over the shoulder and limit her lifting to 20 pounds.

Appellant requested reconsideration of the April 18, 2011 decision on August 29, 2011.

In support of her request for reconsideration, appellant submitted an August 10, 2011 report from Dr. Ambris who stated that he had first examined appellant on March 19, 2008 for her right shoulder pain. Dr. Ambris noted that appellant had previously refused surgery and injections had not effectively relieved her pain. He concluded that appellant had been working restricted duty, that her condition had not changed and that her work restrictions should continue. Appellant also resubmitted Dr. Ambris' initial report dated March 19, 2008.

By decision dated November 4, 2011, OWCP denied modification of its prior decision, finding that the evidence was insufficient to establish that appellant had any continuing disability or residuals due to her May 21, 1998 injury.

### **LEGAL PRECEDENT**

After termination or modification of compensation benefits, clearly warranted on the basis of the evidence, the burden for reinstating compensation shifts to the claimant. To prevail, the claimant must establish by the weight of the reliable, probative and substantial evidence that she had an employment-related disability, which continued after the termination of compensation benefits.<sup>2</sup>

### **ANALYSIS**

By decision dated April 18, 2011, OWCP found that the reports from Dr. Orlandi, the second opinion physician, established that appellant's accepted right shoulder conditions had ceased and that she was no longer disabled due to her May 21, 1998 injury. The Board's jurisdiction is limited to decisions of OWCP issued no more than 180 days prior to notice of appeal to the Board, therefore the Board does not have jurisdiction to review the April 18, 2011

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<sup>2</sup> *I.J.*, 59 ECAB 408 (2008).

decision terminating appellant's compensation benefits.<sup>3</sup> The only issue before the Board is whether appellant has established continuing disability after April 18, 2011.

The Board finds that appellant submitted insufficient medical evidence to establish that she continued to be disabled or have residuals of her accepted right shoulder conditions, after April 18, 2011.

Appellant submitted several progress reports from Dr. Ambris after the April 18, 2011 termination decision. Dr. Ambris essentially opined that appellant's pain complaints remained the same and that her work restrictions should continue to apply. He, however, did not provide any current physical examination findings, did not relate any relevant objective findings to support continuing disability and did not even substantively discuss appellant's current diagnosis. Whether a particular injury caused an employee disability from employment is a medical issue, which must be resolved by competent medical evidence.<sup>4</sup> To be of probative value, medical evidence must provide a reasoned opinion, based upon a complete and accurate factual and medical history.<sup>5</sup> Dr. Ambris stated in a conclusory fashion that appellant's work restrictions should continue. He did not explain why these work restrictions remained unchanged and necessary and did not address the time span of years since the work injury. Dr. Ambris did not provide a history of appellant's medical condition, only of her pain complaints. Furthermore, he did not address Dr. Orlandi's findings that appellant had a normal physical examination, and no objective findings of continued residuals or disability. The Board therefore finds that the reports from Dr. Ambris are of limited probative value.

As appellant did not submit other relevant medical evidence, the Board finds that OWCP properly found in its November 4, 2011 decision that appellant failed to submit evidence sufficient to establish continuing disability.

### **CONCLUSION**

The Board finds that appellant has not met her burden of proof to establish continuing disability.

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<sup>3</sup> 20 C.F.R. § 501.3(e).

<sup>4</sup> See *Carol A. Lyles*, 57 ECAB 265 (2005).

<sup>5</sup> See *Daniel F. O'Donnell, Jr.*, 54 ECAB 456 (2003).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 4, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 1, 2012  
Washington, DC

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board