

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JANE F. MOORE and DEPARTMENT OF AGRICULTURE,
ANIMAL & PLANT HEALTH INSPECTION SERVICE, Great Falls, MT

*Docket No. 02-1966; Submitted on the Record;
Issued December 19, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant sustained an injury in the performance of duty on August 20, 2001, as alleged.

On August 27, 2001 appellant, then a 63-year-old plant protection and quarantine technician, filed a traumatic injury claim alleging that on August 20, 2001 she sustained cuts and bruises when her truck rolled over after hitting a deep section of gravel.

By decision dated October 20, 2001, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record did not establish that appellant sustained a medical condition as a result of the August 20, 2001 incident.

In an undated letter received by the Office on April 9, 2002, appellant requested reconsideration and submitted additional evidence.

In notes and a medical form dated August 20, 2001, L. Ladd, MS APRN, stated that appellant was brought to the emergency room by ambulance after a vehicle rollover. She was treated for abrasions on her left elbow.

By decision dated May 8, 2002, the Office denied modification of its October 20, 2001 decision on the grounds that the evidence submitted was not sufficient to establish that she sustained a medical condition as a result of the August 20, 2001 motor vehicle accident. The Office stated that the only medical evidence submitted consisted of reports from L. Ladd, MS APRN and that the initials APRN could be interpreted as "Assistant Physician, Registered

Nurse” and noted that medical reports from physician assistants and nurses are not probative under the Federal Employees’ Compensation Act.¹

The Board finds that appellant has failed to establish that she sustained an injury on August 20, 2001, as alleged.

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be established whether a “fact of injury” has been established. First, the employee must submit sufficient evidence to establish that he or she actually experienced the employment incident at the time, place and in the manner alleged. Second, the employee must submit sufficient evidence, generally only in the form of medical evidence, to establish that the employment incident caused a personal injury.²

In this case, appellant submitted medical evidence from L. Ladd, MS APRN. These initials are not explained but could stand for “Master of Science, Assistant Physician, Registered Nurse.” There is no medical evidence of record from a physician. A nurse practitioner is not a “physician” as defined in the Act.³ Lay individuals such as physician assistants, nurse practitioners and social workers are not competent to render a medical opinion under the Act.⁴ Therefore, the Office properly denied appellant’s claim.

¹ The record contains additional evidence that was not before the Office at the time it issued its May 8, 2002 and October 20, 2001 decisions. The Board has no jurisdiction to review this evidence for the first time on appeal. *See* 20 C.F.R. § 501.2(c); *Robert D. Clark*, 48 ECAB 422, 428 (1997). This evidence, together with an additional request for reconsideration, can be submitted to the Office for consideration.

² *See Louise F. Garnett*, 47 ECAB 639, 643, (1996); *John D. Carlone*, 41 ECAB 354, 357 (1989).

³ As defined by the Act in 5 U.S.C. § 8101(2), “physician” includes surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by state law.

⁴ *See Sheila Arbour*, 43 ECAB 779, 788 (1992); *Barbara J. Williams*, 40 ECAB 649, 657 (1989).

The decisions of the Office of Workers' Compensation Programs dated May 8, 2002 and October 20, 2001 are affirmed.

Dated, Washington, DC
December 19, 2002

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member