



performance of duty. Appellant described her injury as a posterior repair which she attributed to lifting a package into a car.<sup>1</sup>

In a statement dated November 5, 2001, appellant related that her rural route required lifting numerous packages. She stated that approximately four or five weeks prior she “lifted a heavy package into the back of my truck. I felt it pulled my stomach and hurt my back.” Appellant noted that her condition did not improve. She related that on October 31, 2001 she had an appointment with her physician, who advised her that she had a hernia and scheduled her for surgery on November 26, 2001.<sup>2</sup>

By letter dated December 7, 2001, the employing establishment controverted appellant’s claim on the grounds that the diagnosed condition of a rectocele was not caused by lifting but by multiple births.

In an undated form report received by the Office on December 19, 2001 Dr. Julius Bosco, Sr., a Board-certified gynecologist and appellant’s attending physician, noted the history of injury as a fallen bladder. He checked “yes” that there was a history of a preexisting injury and diagnosed rectocele. Dr. Bosco indicated that the diagnosed condition was “possibly” caused or aggravated by appellant’s employment. He related that he had treated her with a posterior repair and found that she was totally disabled beginning November 17, 2001.

In a December 31, 2001 response to the employing establishment’s request for information, Dr. Bosco related that appellant complained of urinary stress incontinence and pelvic pressure in her initial visit on October 31, 2001. He found that her condition was “possibly due to lifting.”

In a letter dated January 7, 2002, the Office notified appellant that while she had filed an occupational disease claim it appeared that her injury was traumatic in nature. The Office indicated that it would change her claim “to a traumatic injury instead of an occupational claim.” The Office also requested additional factual and medical evidence from appellant.

In a response dated January 11, 2002, appellant related that she had not previously received treatment for a hernia and indicated that the Office had received all the requested medical information.

In a letter dated January 31, 2002, the employing establishment again controverted appellant’s claim.<sup>3</sup>

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<sup>1</sup> The second page of the traumatic injury claim form consists of a CA-2 completed by the employing establishment.

<sup>2</sup> In a statement dated November 18, 2001, appellant noted that she had not previously received treatment for a hernia.

<sup>3</sup> The employing establishment further submitted the first page of appellant’s November 26, 2001 admission report which indicated that she had an anterior and posterior vaginal wall repair in 1987.

By decision dated February 12, 2002, the Office denied appellant's claim on the grounds that she did not establish an injury as alleged. The Office found that she had experienced the described employment incident, but did not establish that the employment incident caused a medical condition.

In an operative report dated November 26, 2001, received by the Office on March 7, 2002 Dr. Bosco diagnosed poor perineal support with rectocele and performed a posterior repair and rectocele repair.

On June 24, 2002 appellant requested reconsideration of her claim and she stated that her physician informed her that her condition was caused by her employment and noted that her job required "a lot of heavy lifting and repetitive motion."

In a statement dated February 15, 2002, received by the Office on September 10, 2002 appellant related that Dr. Bosco told her that she had a hernia, which "came from a period of lifting [and] was work related." She listed the names of coworkers who would confirm that she "complained several times after lifting this one package which caused all the problems...."

In a letter dated June 11, 2002, Dr. Bosco stated:

"[Appellant] was first seen with the complaint of a 'fallen bladder' on October 31, 2001. She gave a history of lifting something heavy at work on October 1, 2001. She was diagnosed with a rectocele and underwent repair surgery on November 26, 2001. Following a recuperative period, she was released to return to work on January 22, 2002."<sup>4</sup>

By decision dated December 12, 2002, the Office denied modification of its February 12, 2002 decision.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>5</sup> has the burden of establishing the essential elements of his or her claim, including the fact that the individual is an "employee of the United States" within the meaning of the Act, that the claim was timely filed within the applicable time limitation period of the Act<sup>6</sup> and that an injury was sustained in the performance of duty.<sup>7</sup> These are the essential elements of each

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<sup>4</sup> In a letter dated October 4, 2002, the employing establishment again controverted appellant's claim, citing her prior hysterectomy and 1987 posterior and rectocele repair.

<sup>5</sup> 5 U.S.C. §§ 8101-8193.

<sup>6</sup> *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>7</sup> *James E. Chadden Sr.*, 40 ECAB 312 (1988).

compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>8</sup>

To determine whether a federal employee has sustained a traumatic injury in the performance of duty, it must first be determined 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.<sup>9</sup> 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.<sup>10</sup>

### ANALYSIS

The Office accepted that appellant was a federal employee, that she timely filed her claim for compensation benefits and that the workplace incident occurred as alleged. The issue, therefore, is whether she has submitted sufficient medical evidence to establish that the employment incident caused an injury.<sup>11</sup>

Appellant submitted an undated form report from Dr. Bosco, who diagnosed rectocele and noted the history of injury as a fallen bladder. He found that the diagnosed condition of rectocele was “possibly” caused or aggravated by appellant’s employment and found that she was totally disabled as of November 17, 2001. However, while the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty, neither can such opinion be speculative or equivocal.<sup>12</sup> Dr. Bosco’s finding that appellant’s rectocele was “possibly” due to her employment is speculative in nature and thus, of little probative value.<sup>13</sup>

Appellant further submitted a November 26, 2001 operative report from Dr. Bosco, who performed a posterior repair and rectocele repair. He provided as the preoperative and postoperative diagnosis “poor perineal support with rectocele.” Dr. Bosco did not, however,

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<sup>8</sup> *Delores C. Ellyet*, 41 ECAB 992 (1990).

<sup>9</sup> *John J. Carlone*, 41 ECAB 354 (1989).

<sup>10</sup> *Id.*

<sup>11</sup> Appellant initially filed an occupational disease claim. 20 C.F.R. § 10.5(ee) defines a traumatic injury as a condition of the body caused by a specific event or incident or series of events or incidents within a single workday or shift. 20 C.F.R. § 10.5(q) defines an occupational disease or illness as a condition produced by the work environment over a period longer than a single workday or shift. In a letter dated January 7, 2002, the Office noted that it was converting her claim for an occupational disease to a claim for a traumatic injury. It appears from the record that appellant is alleging that lifting a heavy package on a single workday caused her condition. However, the date that the lifting occurred is unclear. Appellant listed the date of injury on her traumatic injury claim form as October 31, 2002. In accompanying correspondence, however, she suggests that the actual lifting incident occurred earlier in the month and that October 31, 2002 is the date that she first received treatment from a physician.

<sup>12</sup> *Samuel Senkow*, 50 ECAB 370 (1999).

<sup>13</sup> *Id.*

address the cause of the diagnosed condition. Medical evidence which does not offer any opinion regarding the cause of an employee's condition is of limited probative value on the issue of causal relationship.<sup>14</sup>

Dr. Bosco, in a letter to the employing establishment dated December 31, 2001, described appellant's complaints of urinary stress incontinence and pelvic pressure which he found was "possibly due to lifting." However, Dr. Bosco's finding that appellant's condition was "possibly due to lifting" is speculative and equivocal in nature and thus, insufficient to discharge her burden of proof.<sup>15</sup>

In a letter dated June 11, 2002, Dr. Bosco discussed his initial treatment of appellant on October 31, 2002 for a "fallen bladder." He indicated that she described "a history of lifting something heavy at work on October 1, 2001." Dr. Bosco diagnosed a rectocele and noted that he had performed a surgical repair on November 26, 2001. He did not, however, specifically attribute appellant's rectocele to the history she provided of lifting something heavy at work and his opinion is of little probative value.<sup>16</sup> The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to his or her federal employment and such relationship must be supported with affirmative evidence, explained by medical rationale and based upon a complete and accurate medical and factual background of the claimant.<sup>17</sup>

As appellant has not submitted any rationalized medical evidence to support her allegation that she sustained an injury due to lifting a heavy package at work, she has failed to meet her burden of proof to establish her claim.

### CONCLUSION

The Board finds that appellant has not established that she sustained an injury in the performance of duty.

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<sup>14</sup> *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>15</sup> *Wendall E. Harrell*, 49 ECAB 289 (1998).

<sup>16</sup> *Id.*

<sup>17</sup> *Bonnie Goodman*, 50 ECAB 139 (1998); *James H. Botts*, 50 ECAB 265 (1999).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 12, 2002 is affirmed.

Issued: May 7, 2004  
Washington, DC

Willie T.C. Thomas  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member