



she was engaged in strenuous physical training exercises which involved repetitive motions of the injured area of her abdomen while performing push-ups, sit-ups and pull-ups.

In support of her claim, appellant submitted a June 3, 2003 report from DeeAnn Kaserer, a nurse practitioner, who indicated that she was treated for lower quadrant pain and recommended that she undergo a surgical evaluation for her pelvic condition. She also submitted Ms. Kaserer's June 3, 2003 treatment note which indicated that she could not work until she was seen by a surgeon later that week. An unsigned x-ray report dated June 4, 2003, by Dr. Stephen V. Ward, a Board-certified radiologist, and provided the results of a pelvic ultrasound which revealed an intrauterine device (IUD) centrally located within the uterine lumen and a 1.9 centimeter simple left ovarian cyst. The report concluded that the pelvic ultrasound was negative. A June 9, 2003 report from Dr. Edward P. Herman, a Board-certified radiologist, provided the results of a computerized tomography (CT) scan of appellant's abdomen and pelvis which was performed on June 5, 2003. He reported that the abdomen was unremarkable with no focal findings. Regarding appellant's pelvis, Dr. Herman stated that she had a longitudinal left abdominal rectus musculature mass that was most consistent with a hematoma which measured 10 x 4 x 3 centimeters in size and was longitudinally oriented. He noted that a history of any prior trauma or surgery may be helpful and that there was no evidence of any abdominal hernia. Dr. Herman stated that there was an IUD in the pelvis and there appeared to be some ovarian cysts present, the largest on the left measuring 2.2 centimeters. He did not see any free pelvis fluid or other focal findings. An unsigned treatment note dated June 3, 2004 from Ms. Kaserer indicated that appellant had abdominal pain. A June 19, 2003 disability certificate of Dr. Daniel E. Wesche, a Board-certified surgeon, indicated that appellant could return to work on June 11, 2003 with no restrictions.

By letter dated March 10, 2004, the Office advised appellant that additional information was needed to process her claim. The Office requested that she submit factual information regarding her alleged injury including, among other things, a description of the alleged injury and the reason for her delay in seeking medical treatment. The Office also requested that appellant submit a detailed medical report from her attending physician which included, among other things, a firm diagnosis resulting from the alleged injury.

In a March 31, 2004 narrative statement, appellant provided a description of how she sustained the alleged injury on May 19, 2003 and the initial effects of this injury. She noted that she had not sustained any other injuries on or off duty between May 19 and June 3, 2003, the date she was first treated by her physician. Regarding the delay in seeking medical treatment, appellant noted that she sustained a muscular strain of the abdominal muscles and explained that in most cases muscular strains do not require medical attention but her pain continued and move lower. She noted her other symptoms and related them to the alleged injury she sustained on May 19, 2003. Appellant also noted the medical treatment she received for her symptoms.

Appellant submitted duplicate copies of her June 3, 2003 traumatic injury claim form, the unsigned x-ray report from Dr. Ward, Dr. Herman's June 9, 2003 CT scan report and the unsigned treatment of Ms. Kaserer. She also submitted a statement from Nathaniel Nozie, an employing establishment superintendent, who noted that appellant hurt herself on May 19, 2003 while performing stretching exercises during physical training. Dr. Wesche's June 5, 2003 treatment note provided the instructions that appellant needed to follow for an abdominal and

pelvic CT scan. His undated treatment note addressed appellant's abdominal and pelvic symptoms.

By decision dated April 22, 2004, the Office found the evidence of record sufficient to establish that the work incident occurred, but insufficient to establish that appellant sustained a medical condition causally related to the accepted event. Accordingly, the Office denied her claim.

On May 16, 2004 appellant requested a review of the written record by an Office hearing representative. She submitted duplicate copies of the medical and factual evidence already of record.

In an October 20, 2004 decision, the hearing representative affirmed the April 22, 2004 decision on the grounds that appellant failed to submit rationalized medical evidence establishing that she sustained a medical condition causally related to the accepted May 19, 2003 employment incident.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>1</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 filed within applicable time limitation; that an injury was sustained while in the performance of duty as alleged; and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury.<sup>2</sup> These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury of an occupational disease.<sup>3</sup>

In order to determine whether an employee actually sustained an injury in the performance of duty, the Office begins with an analysis of whether fact of injury has been established. Generally, fact of injury consists of two components, which must be considered in conjunction with one another. The first component to be established is that the employee actually experienced the employment incident or exposure, which is alleged to have occurred.<sup>4</sup> In order to meet her burden of proof to establish the fact that she sustained an injury in the performance of duty, an employee must submit sufficient evidence to establish that she actually experienced the employment injury or exposure at the time, place and in the manner alleged.

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

<sup>3</sup> *See Irene St. John*, 50 ECAB 521 (1999); *Michael I. Smith*, 50 ECAB 313 (1999); *Elaine Pendleton*, *supra* note 2.

<sup>4</sup> *See also*, Federal (FECA) Procedure Manual, Part 2 -- Claims, *Fact of Injury*, Chapter 2.803(2)(a) (June 1995).

The second component is whether the employment incident caused a personal injury and generally can be established only by medical evidence.<sup>5</sup> The evidence required to establish causal relationship is rationalized medical opinion evidence, based upon complete factual and medical background, showing a causal relationship between the claimed condition and the identified factors.<sup>6</sup> The belief of the claimant that a condition was caused or aggravated by the employment is insufficient to establish a causal relationship.<sup>7</sup>

### ANALYSIS

In this case, there is no dispute that on May 19, 2003 appellant was performing physical training exercises in the performance of duty while working at the employing establishment. The Board finds, however, that the medical evidence of record is insufficient to establish that this incident caused an injury.

The reports and notes from Ms. Kaserer, a nurse practitioner, are of no probative medical value as a nurse practitioner is not defined as considered a “physician” under the Act.<sup>8</sup> Similarly, the pelvic ultrasound report from Dr. Ward is insufficient to establish appellant’s burden of proof because it lacks a signature by the physician.<sup>9</sup> Therefore, the Board finds that, as the report lacks proper identification, it does not constitute medical evidence in support of her claim.

Dr. Herman’s CT scan report reveals that appellant has a longitudinal left abdominal rectus musculature mass and ovarian cysts, but fails to address the causal relationship between these conditions and the May 19, 2003 employment incident.<sup>10</sup> As such, this report does not establish appellant’s claim.

Dr. Wesche’s disability certificate reveals that appellant could return to work on June 11, 2003 with no restrictions but did not indicate a diagnosis and failed to address whether the diagnosed condition was caused by the accepted employment incident.<sup>11</sup> Further, his treatment notes, which addressed appellant’s abdominal and pelvic symptoms and indicated that a CT scan was necessary to evaluate these symptoms, do not contain a specific diagnosis and failed to discuss how any medical condition was caused by the accepted employment incident. Therefore,

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<sup>5</sup> *John J. Carlone*, 41 ECAB 354 (1989); see 5 U.S.C. § 8101(5) (“injury” defined); 20 C.F.R. §§ 10.5(ee), 10.5(q) (“traumatic injury” and “occupational disease” defined).

<sup>6</sup> *Lourdes Harris*, 45 ECAB 545 (1994); see *Walter D. Morehead*, 31 ECAB 188 (1979).

<sup>7</sup> *Charles E. Evans*, 48 ECAB 692 (1997).

<sup>8</sup> 5 U.S.C. § 8101(2) which defines “physician” as including surgeons, podiatrists, dentists, clinical psychologists, optometrists, chiropractors and osteopathic practitioners within the scope of their practice as defined by State law; see also *Joseph N. Fassi*, 42 ECAB 231 (1991) (medical evidence signed only by a registered nurse or nurse practitioner is generally not probative evidence).

<sup>9</sup> *Vickey C. Randall*, 51 ECAB 357 (2000); *Merton J. Sills*, 39 ECAB 572 (1988) (reports not signed by a physician lack probative value).

<sup>10</sup> See *Michael E. Smith*, 50 ECAB 313 (1999).

<sup>11</sup> *Daniel Deparini*, 44 ECAB 657, 659 (1993).

the Board finds that Dr. Wesche's disability certificate and treatment notes are insufficient to establish appellant's claim.

As there is no rationalized medical evidence of record establishing that appellant sustained an abdominal or pelvic injury in the performance of duty as alleged, the Board finds that she has failed to meet her burden of proof.

**CONCLUSION**

As appellant did not provide the necessary medical evidence to establish that she sustained an injury caused by the May 19, 2003 employment incident, the Board finds that she has failed to satisfy her burden of proof in this case.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 20 and April 22, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: May 17, 2005  
Washington, DC

Colleen Duffy Kiko  
Member

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member