



August 17, 2006, the Office informed appellant that the information was currently not sufficient to support his claim. The Office outlined factual and medical evidence necessary to adjudicate his claim.

Appellant submitted a description on his noise exposure during the course of both his federal employment and military service to the Office on September 20, 2006. His supervisor also responded and noted that appellant was exposed to noise during his employment. The additional information also included audiograms dated January 25 and April 8 and 13, 2005 that were performed in connection with employer's annual hearing test. There is no indication that this audiometric testing was performed by an audiologist or that the audiograms were verified by an otolaryngologist.

By letter dated September 23, 2005, the Office referred appellant to Dr. Gary Nanez, a Board-certified otolaryngologist, for an evaluation to determine whether he had an employment-related hearing loss. Dr. Nanez obtained an audiogram on October 17, 2005. In an addendum to the report, dated December 20, 2006, Dr. Nanez stated that the audiometric data was inconsistent and, therefore, auditory brainstem response testing had been performed. He concluded that the results of the tests suggested that appellant's hearing was within normal limits and that his behavioral responses were not valid. Dr. Ronald Blum, district medical adviser reviewed the statement of accepted facts and the medical evidence of record in a report dated January 19, 2006. In Dr. Blum's opinion, the record at that time did not support sensorineural hearing loss.

The Office decided that a second opinion evaluation was necessary and notified appellant in a letter dated January 25, 2006. By letter dated March 8, 2006, the Office referred appellant to Dr. Mark Wegleitner, Board-certified otolaryngologist, for an evaluation. Dr. Wegleitner obtained an audiogram on March 28, 2006. The audiogram reflected testing at frequency levels including those of 500, 1,000, 2,000 and 3,000 cycles per second (cps) and revealed decibel losses on the left of 30, 30, 15 and 20 respectively and on the right of 20, 15, 15 and 25 respectively.<sup>1</sup> Dr. Wegleitner diagnosed sensorineural hearing loss of a very mild degree due to aging and exposure to noise.

On April 22, 2006 Dr. R. Meador, district medical adviser, reviewed Dr. Wegleitner's report and audiometric test results. Dr. Meador concluded that appellant's hearing loss was not ratable and that hearing aids were not recommended at the time.

By decision dated May 2, 2006, the Office accepted appellant's claim for bilateral hearing loss but found that he was not entitled to a schedule award because his hearing loss was not ratable.

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<sup>1</sup> Dr. Wegleitner did include the results for bone conduction testing on both ears but the results did not reveal a significant air-bone gap.

## LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act<sup>2</sup> provides for compensation to employees sustaining permanent loss or loss of use of specified members of the body. The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rest in the sound discretion of the Office. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*) (5<sup>th</sup> ed. 2001), has been adopted by the Office for evaluating schedule losses and the Board has concurred in such adoption.<sup>3</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>4</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.<sup>5</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>6</sup> The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.<sup>7</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>8</sup>

In order to establish a work-related loss of hearing, the Office requires that the employee undergo both audiometric and otologic examination; that the audiometric testing precede the otologic examination; that the audiometric testing be performed by an appropriately certified audiologist; that the otologic examination be performed by an otolaryngologist certified or eligible for certification by the American Academy of Otolaryngologists and that the audiometric and otologic examination be performed by different individuals as a method of evaluating the reliability of the findings. Office procedures require that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association and that audiometric test results include both bone conduction and pure tone air conduction thresholds, speech reception thresholds and monaural discrimination scores. The otolaryngologist's report must include: date and hour of

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> See 20 C.F.R. § 10.404; *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>4</sup> A.M.A., *Guides* 250.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Reynaldo R. Lichtenberger*, 52 ECAB 462 (2001).

examination; date and hour of employee's last exposure to loud noise; a rationalized medical opinion regarding the relation of the hearing loss to the employment-related noise exposure and a statement of the reliability of the tests.<sup>9</sup>

### ANALYSIS

Office procedures advise that a certification must accompany each audiological battery indicating that the instrument calibration and the environment in which the tests were conducted met the specified accreditation standards.<sup>10</sup> In the present case, the audiograms submitted by appellant from his employing establishment were not properly certified and reviewed by a physician. The Office, therefore, properly requested further audiometric and otologic evaluation. It initially referred appellant to Dr. Nanez who reported that the audiometric results and auditory brainstem response testing he reviewed were inconsistent and suggested malingering. The Office appropriately undertook further testing.<sup>11</sup> The Office properly referred appellant to Dr. Wegleitner for further testing.

An Office medical adviser reviewed the otologic and audiologic testing performed by Dr. Wegleitner and correctly applied the Office's standardized procedures to the March 28, 2006 audiogram. Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 20, 15, 15 and 25 respectively. These decibel losses were totaled at 75 and divided by 4 to obtain the average hearing loss per cycle of 18.75. The average of 18.75 was then reduced by the 25 decibel fence (the first 25 decibels are discounted as discussed above) to equal 0 decibels for the right ear. The 0 was multiplied by the 1.5 resulting in a 0 percent loss for the right ear. Testing for the left ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 30, 30, 15 and 20 respectively. These decibel losses were totaled at 95 and divided by 4 to obtain the average hearing loss per cycle of 23.75. The average of 23.75 was then reduced by the 25 decibel fence to equal 0 decibels for the left ear. The 0 was multiplied by 1.5 resulting in a 0 percent loss for the left ear. The Office medical adviser properly found that appellant did not have a ratable hearing loss in either ear under the A.M.A., *Guides*.

The Board finds that the Office medical adviser applied the proper standards to the March 28, 2006 audiogram. The result is a nonratable hearing loss bilaterally.<sup>12</sup> The Board further finds that the Office medical adviser properly relied upon the March 28, 2006 audiogram as it was part of Dr. Wegleitner's evaluation and met all the Office standards.<sup>13</sup>

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<sup>9</sup> See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8(a) (September 1994); see also *Luis M. Villanueva*, 54 ECAB 666 (2003).

<sup>10</sup> *Vernon Brown*, 54 ECAB 376 (2003).

<sup>11</sup> See *Luis M. Villanueva*, *supra* note 9. Office procedures provide that further testing should be obtained if the initial tests are inadequate or there is reason to believe that the claimant is malingering.

<sup>12</sup> To determine the binaural hearing loss, the lesser loss is multiplied by five and added to the greater loss and divided by six. Appellant has a zero percent binaural hearing loss.

<sup>13</sup> See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirement for Medical Reports*, Chapter 3.600.8(a)(2) (September 1994).

As the Office has accepted that appellant has an employment-related hearing loss appellant would be entitled to medical benefits related to his hearing loss, including hearing aids, if medically necessary. Dr. Wegleitner and the Office medical adviser have concluded that currently appellant does not require hearing aids.

**CONCLUSION**

The Board finds that appellant has not established a ratable loss of hearing such that he is entitled to a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 2, 2006 is affirmed.

Issued: December 6, 2006  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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