

On February 12, 2004 appellant, then a 53-year-old aircraft sheet metal mechanic, filed a claim for compensation benefits alleging that he sustained a hearing loss due to his federal employment. He became aware of his hearing loss in January 1980 and continues to be exposed to noise at his federal employment. Appellant submitted employing establishment audiograms

taken from February 11, 1975 to February 13, 2004. The audiograms revealed sensorineural hearing loss which was not disqualifying and advised that appellant was given hearing protection. Appellant indicated that he was exposed to hazardous noise primarily as a sheet metal and aircraft mechanic since 1969.

By letter dated March 18, 2004, the Office advised appellant of the evidence needed to establish his claim. In a letter of the same date, the Office requested the employing establishment address the sources of appellant's noise exposure, decibel and frequency level, period of exposure and hearing protection provided.

Appellant submitted a statement dated March 22, 2004 which advised that he experienced significant hearing loss while in the performance of duty. He summarized his employment as primarily an aircraft sheet metal mechanic from 1974 to the present, working in various locations throughout the Federal Government.

On April 28, 2004 the employing establishment noted that appellant's earliest audiogram was dated August 11, 1975 and revealed normal hearing in the right ear and mild high frequency loss in the left ear. The employing establishment indicated that the majority of appellant's hearing loss occurred from 1983 to 1989. Appellant's work history reflected noise exposure from nonfederal and federal employment.

The Office initially referred appellant to Dr. J. Douglas Green, Jr., a Board-certified otolaryngologist, for an otologic examination and an audiological evaluation. Dr. Green performed an otologic evaluation of appellant on August 18, 2004 and audiometric testing was conducted on his behalf. However, he opined that the test results were not valid.

In a report dated August 27, 2004, the Office medical adviser noted that Dr. Green found a high frequency hearing loss which he determined was work related. However, Dr. Green did not feel the results were valid. The medical adviser noted that the poor agreement between pure-tone audiometry and speech reception threshold supported this finding and recommended a repeat hearing evaluation.

On August 8, 2005 appellant filed a claim for a schedule award.

In a memorandum dated August 29, 2005, the Office advised that appellant required a repeat hearing loss second opinion evaluation as recommended by the medical adviser.

By an undated letter, the Office referred appellant to Dr. R. Michael Loper, a Board-certified otolaryngologist, for an otologic examination and an audiological evaluation. Dr. Loper performed an otologic evaluation of appellant on September 22, 2005 and audiometric testing was conducted on his behalf on September 20, 2005. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed the following: right ear 30, 20, 30 and 30 decibels; left ear 35, 30, 45 and 65 decibels. Dr. Loper determined that the testing was valid and that appellant sustained right moderate high frequency neural hearing loss and left severe high frequency neural loss with tinnitus with sensorineural hearing loss due to noise exposure encountered in appellant's federal employment. He noted that the loss was in excess of that expected from

presbycusis and high frequency/notch configuration suggested noise-induced hearing loss. Dr. Loper recommended annual evaluations and bilateral hearing aids.

By decision dated September 28, 2005, the Office accepted that appellant sustained binaural hearing loss due to workplace exposure to noise.

On September 30, 2005 an Office medical adviser reviewed Dr. Loper's report and the audiometric test of September 20, 2005. He concluded that, in accordance with the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*), appellant had an eight percent binaural hearing loss. The Office medical adviser noted that the date of maximum medical improvement was September 20, 2005, the date of the audiogram performed for Dr. Loper. He also recommended authorizing hearing aids.

In a decision dated March 14, 2006, the Office granted appellant a schedule award for an eight percent binaural hearing loss. The period of the award was from September 20, 2005 to January 9, 2006.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation² sets forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.³

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁴ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁵ Then, the "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.⁶ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁷ The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

³ *Id.* See also *Jacqueline S. Harris*, 54 ECAB 139 (2002).

⁴ A.M.A., *Guides* 250 (5th ed. 2001).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

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.⁸ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁹

ANALYSIS

An Office medical adviser applied the Office's standardized procedures to the September 20, 2005 audiogram performed for Dr. Loper. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibels losses of 30, 20, 30 and 30 respectively. These decibels were totaled at 110 and were divided by 4 to obtain an average hearing loss at those cycles of 27.50 decibels. The average of 27.50 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 2.50, which was multiplied by the established factor of 1.5 to compute a 3.75 percent monaural loss of hearing for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibels losses of 35, 30, 45 and 65 respectively. These decibels were totaled at 175 and were divided by 4 to obtain the average hearing loss at those cycles of 43.75 decibels. The average of 43.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 18.75, which was multiplied by the established factor of 1.5 to compute a 28.13 percent hearing monaural loss for the left ear. The lesser loss of 3.75 is multiplied by 5, then added to the greater loss of 28.13 and the total is divided by 6 to arrive at the amount of the binaural hearing loss of 7.81 percent.

On appeal, appellant questions why he received 16 weeks of compensation and why the period of the award began on September 20, 2005 instead of in the 1980's when he began incurring his hearing loss. The Board notes that, for a complete (100 percent) loss of hearing in both ears, 5 U.S.C. § 8107(c)(13)(b) provides for a maximum 200 weeks of compensation. An 8 percent hearing loss entitles appellant to 8 percent of 200 weeks (.08 x 200), which equals 16 weeks of compensation. Regarding the date on which his award began, the Board finds that the Office properly began the award on the date of maximum medical improvement as determined by the Office medical adviser, who relied on the date of the September 20, 2005 audiogram. The Board has held that the period covered by schedule awards commences on the date that the employee reaches maximum medical improvement from the residuals of the employment injury.¹⁰

The Board finds that the Office medical adviser applied the proper standards to the September 20, 2005 audiogram. Under the Office's standardized procedures, there is no basis on which to grant more than an eight percent schedule award for binaural hearing loss.

⁸ *Id.*

⁹ *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

¹⁰ *James E. Earle*, 51 ECAB 567 (2000). The determination of the date of maximum medical improvement is a medical determination and is usually the date of the medical examination which determined the extent of the hearing loss. See *Richard Larry Enders*, 48 ECAB 184, 187 (1996).

CONCLUSION

The Board finds that the Office properly determined that appellant sustained an eight percent binaural hearing loss.

ORDER

IT IS HEREBY ORDERED THAT the March 14, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 18, 2006
Washington, DC

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

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board

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