

On July 28, 2005 appellant, then a 56-year-old retired inventory manager, filed an occupational disease claim alleging that he sustained a hearing loss in the left ear due to his federal employment. He also submitted a schedule award claim on the same date. Appellant realized that his hearing loss was related to his employment on June 28, 2005, the date he retired from his employment.

Appellant submitted evidence in support of his claim. He stated that he was exposed to noise from metal cutting machines, grinders, plating machines, rectifiers and x-ray machines while he installed and maintained industrial generators and motors for 40 hours per week. Appellant worked as a mechanic from 1975 to 1985 and was exposed to test stands machines for eight hours a day during which time he wore earplugs. He worked as an equipment specialist from 1986 to 1996 and was exposed to helicopter and blade repair machines. Appellant submitted a June 28, 2005 audiogram obtained at the employing establishment that revealed a hearing loss of 0, 5, 15 and 15 decibels in the left ear and 0, 5, -5 and 5 decibels in the right ear for frequency levels recorded at 500, 1,000, 2,000 and 3,000 hertz respectively.

The Office referred appellant for a second opinion evaluation and included a statement of accepted facts listing his employment history. The Office noted that he was employed as both a repairman and mechanic during which time he was exposed to various machines and motors for eight hours a day, five days a week. A November 28, 2006 audiological evaluation recorded a hearing loss of 0, 5, 5 and 15 decibels in the right ear and 0, 10, 15 and 25 in the left ear for frequency levels recorded at 500, 1,000, 2,000 and 3,000 hertz respectively. Dr. John Keebler, an otolaryngologist, reviewed the audiogram and diagnosed left ear high frequency nerve loss. He opined that the hearing loss was probably presbycusis and not due to noise encountered in appellant's federal employment.

On January 24, 2007 the Office denied appellant's claim for hearing loss. It found that the weight of medical evidence did not establish that appellant's hearing loss was caused by his federal employment.

On February 7, 2007 appellant requested review of the written record. He contended that he sustained a left ear hearing loss due to his noise exposure at work. Appellant did not submit any additional medical evidence.

On July 3, 2007 the Office hearing representative found that there was no evidence to establish that occupational noise exposure during appellant's federal employment caused his hearing loss.

LEGAL PRECEDENT

An employee seeking benefits under the Federal Employees' Compensation Act¹ 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, that an injury was sustained 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.² These are the essential

¹ 5 U.S.C. §§ 8101-8193

² *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.³

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant. The medical evidence required to establish causal relationship, generally, is rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.⁴

ANALYSIS

Appellant contends that his hearing loss is causally related to noise exposure his federal employment. The Board finds that he has not submitted medical evidence to establish that his hearing loss was caused or aggravated by his federal employment.

In support of his claim, appellant submitted an audiogram obtained June 28, 2005 as part of the hearing conservation program at work. This evidence did not meet the Office's criteria as the audiogram was not certified by a physician as being accurate.⁵ Thereafter, the Office referred appellant for an evaluation by Dr. Keebler. However, while Dr. Keebler diagnosed a hearing loss, he opined that it was due to presbycusis and not related to appellant's history employment of noise exposure. The report of Dr. Keebler, a specialist in the appropriate specialty, constitutes the weight of medical opinion.⁶

Appellant has not satisfied the requirements to establish that his hearing loss is causally related to his federal employment. He has failed to submit medical evidence to establish causal relationship and, therefore, has failed to discharge his burden of proof to establish that he sustained a condition due to factors of his federal employment.

³ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁴ *Id.*

⁵ *See Robert E. Cullison*, 55 ECAB 570 (2004). The Office does not have to review every uncertified audiogram.

⁶ *See John D. Jackson*, 55 ECAB 465 (2004).

CONCLUSION

Appellant has not met his burden of proof to establish that he sustained an occupational disease in the performance of duty.

ORDER

IT IS HEREBY ORDERED THAT the July 3, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 4, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

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