

On August 15, 2008 appellant, then a 55-year-old maintenance supervisor, filed a claim alleging that he sustained permanent hearing loss while in the performance of duty. He became aware of his hearing loss on January 1, 1992 and was exposed to noise at his federal employment until his retirement on December 10, 2004.

The employing establishment submitted audiograms taken on its behalf from May 13, 1975 to December 10, 2004 which revealed progressive bilateral moderately severe high frequency hearing loss. The December 10, 2004 audiogram revealed testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealing the following: right ear 5, 5, 5 and 20 decibels; left ear 5, 5, 5 and 35 decibels. Also submitted were employer medical records which noted that appellant participated in an occupational health and hearing conservation program beginning January 21, 1983 and was tested annually and issued foam earplugs. Also submitted was a job history summary from 1975 to 2004.

Appellant submitted an employment history with a job description for a machinist apprentice. In an accompanying statement, he noted working from May 13, 1975 to May 1989 as a machinist; from 1989 to 1990 as a machinist foreman; from 1990 to 1992 as a maintenance planner; from 1992 to 1995 as an outage coordinator and from 1995 to December 10, 2004 as a maintenance supervisor when he retired from the Federal Government. Appellant was exposed to noise from machine shop equipment such as lathes, metal shears, drill presses, boring mills, tap machines and foundry equipment for 10 hours a day, 6 days a week without hearing protection. After he retired on December 10, 2004, he continued to work for Synterprise, LLC from December 13, 2004 to February 2006 as a senior consultant; Retirement Resources Corporation from March 2006 to May 2007, Worley-Parsons from September 2007 to May 2008 as a construction specialist; and Retirement Resources Corporation from May 2008 to the present as a project manager.

On September 19, 2008 the Office requested additional medical evidence from appellant stating that the initial information submitted was insufficient to establish an injury. It also requested information from the employing establishment addressing appellant's claim.

A September 24, 2008 statement of accepted facts set forth appellant's noise exposure history prior to and during his employment with the employing establishment. On September 26, 2008 an Office medical adviser reviewed the employing establishment audiograms dated May 13, 1975 to December 10, 2004. The medical adviser concluded that the initial employment audiogram of May 13, 1975 showed normal hearing and the December 10, 2004 audiogram revealed that appellant developed a moderately severe, high frequency hearing loss bilaterally.

By letter dated October 17, 2008, the Office referred appellant and the statement of accepted facts to Dr. John Erdman, a Board-certified otolaryngologist, for an otologic examination and an audiological evaluation. Dr. Erdman performed an otologic evaluation of appellant on October 30, 2008 and audiometric testing was conducted on his behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed the following: right ear 10, 5, 15 and 30 decibels; left ear 10, 5, 10 and 40 decibels. Dr. Erdman determined that appellant sustained bilateral high frequency neurosensory hearing loss which was at least in part due to the noise exposure encountered in appellant's employment.

On December 11, 2008 an Office medical adviser reviewed Dr. Erdman's report and the audiometric test of October 30, 2008. He concluded that in accordance with the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,¹

¹ A.M.A., *Guides* (5th ed. 2001).

(A.M.A., *Guides*), appellant had zero percent monaural hearing loss in each ear. The medical adviser determined that appellant's hearing loss was not severe enough to be ratable for a schedule award after applying the Office's current standards for evaluating hearing loss to the results of the October 30, 2008 audiogram. He recommended that hearing aids be authorized.

On December 22, 2008 the Office accepted appellant's claim for bilateral sensorineural hearing loss. It noted that appellant was eligible to receive hearing aids for both ears. On December 31, 2008 appellant filed a claim for a schedule award.

In a January 12, 2009 decision, the Office found that the hearing loss was employment related but not severe enough to be considered ratable for purposes of a schedule award. It noted that the medical evidence revealed that appellant would not benefit from hearing aids.

In an amended decision dated January 20, 2009, the Office found that the hearing loss was employment related but not severe enough to be considered ratable for purposes of a schedule award.²

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act³ and its implementing regulations⁴ set 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.⁵

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁶ Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged.⁷ 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.⁸ The remaining

² On January 20, 2009 appellant contacted the Office requesting clarification of his eligibility for hearing aids. He noted that the December 22, 2009 decision stated that he was eligible for hearing aids; however, the January 12, 2009 decision advised that he was not eligible for hearing aids. The claims examiner indicated that an amended decision would be issued authorizing hearing aids.

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

⁵ *Id.* See also *Jacqueline S. Harris*, 54 ECAB 139 (2002).

⁶ A.M.A., *Guides* at 250 (5th ed. 2001).

⁷ *Id.*

⁸ *Id.*

amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ 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.¹⁰ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹¹

ANALYSIS

The Office properly referred appellant to Dr. Erdman regarding his hearing loss. An Office medical adviser reviewed Dr. Erdman's findings and concluded that appellant's hearing loss was aggravated by his employment. The medical adviser applied the Office's standardized procedures to the October 30, 2008 audiogram performed for Dr. Erdman. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 10, 5, 15 and 30, respectively. These decibels were totaled at 60 and were divided by 4 to obtain an average hearing loss at those cycles of 15 decibels. The average of 15 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal zero percent hearing loss for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 10, 5, 10 and 40 respectively. These decibels were totaled at 65 and were divided by 4 to obtain the average hearing loss at those cycles of 16.25 decibels. The average of 16.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to zero which was multiplied by the established factor of 1.5 to compute a zero percent hearing loss for the left ear.

The Board finds that the Office medical adviser applied the proper standards to Dr. Erdman's October 30, 2008 report and the October 30, 2008 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth above.

On appeal appellant questions why he received three different decisions; one authorizing hearing aids, one denying hearing aids and denying a schedule award, and one denying a schedule award. The Board notes that, on December 22, 2008, the Office accepted appellant's claim for bilateral sensorineural hearing loss and also found that he was eligible to receive hearing aids for both ears. In a January 12, 2009 decision, the Office denied appellant's claim for a schedule award and also denied hearing aids. After, appellant contacted the Office for clarification regarding hearing aids, the Office issued an amended decision on January 20, 2009, which omitted the language about a denial of hearing aids but reiterated that the claim for a schedule award was denied. The Board notes that the January 20, 2009 decision replaced or superseded the January 12, 2009 decision. The January 20, 2009 decision only denied a schedule award. This left in place the finding in the December 22, 2008 acceptance letter that appellant is eligible to receive hearing aids for his accepted hearing loss. While appellant has an accepted bilateral hearing loss, the hearing loss is not, as discussed above, ratable under the standards used by the Office to determine permanent impairment for schedule award purposes.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

CONCLUSION

The Board finds that the Office properly denied appellant's claim for a schedule award for hearing loss.

ORDER

IT IS HEREBY ORDERED THAT the January 20, 2009 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: November 6, 2009
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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