

On February 5, 2003 appellant, then a 46-year-old avionics technician, filed an occupational claim for a hearing loss which he became aware was work related on December 6, 2002. He stated that, since being hired by the employing establishment in 1989, his hearing had continually deteriorated due to exposure to a hazardous occupational noise

environment which resulted in a standard threshold shift in his hearing. Appellant's supervisor stated that appellant wore hearing protection on his job.

The July 15, 2003 audiogram showed that appellant's frequencies in the right ear at 500, 1,000, 2,000 and 3,000 cycles per second were 15, 15, 15 and 25, respectively and his frequencies at those same levels in his left ear were 15, 15, 15 and 20 respectively. The Office referred appellant to Dr. Richard B. Dawson, a Board-certified otolaryngologist, for a hearing evaluation. In a report dated July 15, 2003, using the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001), Dr. Dawson found that the pure tone average was 17.5 in the right ear and 16.25 in the left ear resulting in a 0 percent monaural impairment in each ear and a 0 percent binaural hearing impairment. He did not recommend the use of hearing aids at the time.

In a report dated July 16, 2003, Dr. Dawson considered appellant's history of injury and reviewed audiograms dated November 5, 1992, December 8, 2002 and July 15, 2003. He concluded that appellant had a bilateral high tone sensorineural hearing loss due to his noise exposure at work but the percentages of hearing loss were zero percent in each ear and zero percent binaurally. Dr. Dawson stated that appellant should wear earplugs on the job but hearing aids were not warranted at that time although they might be warranted in the future.

In his report dated July 30, 2003, the district medical adviser reviewed the results of the most recent audiogram dated July 15, 2003. He applied the A.M.A., *Guides* (5th ed. 2001) to the results of that audiogram and determined that appellant had a zero binaural loss. The district medical adviser did not authorize the use of a hearing aid.

By decision dated August 6, 2003, the Office denied appellant's claim for a hearing loss, stating that Dr. Dawson's report established that appellant had a zero percent binaural hearing loss.

LEGAL PRECEDENT -- ISSUE 1

The schedule award provision of the Federal Employees' Compensation Act¹ provides for compensation to employees sustaining permanent impairment from loss or loss of use of specified members of the body. The Act's compensation schedule specifies the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act does not, however, specify the manner by which the percentage loss of a member, function or organ shall be determined. The method used in making such a determination is a matter that rests in the sound discretion of the Office.² 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.³

¹ 5 U.S.C. § 8107 *et seq.*

² *Arthur E. Anderson*, 43 ECAB 691, 697 (1992); *Danniel C. Goings*, 37 ECAB 781, 783 (1986).

³ *Arthur E. Anderson*, *supra* note 2 at 697; *Henry L. King*, 25 ECAB 39, 44 (1973).

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 cycles per second, 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 1.5 to arrive at the percentage of monaural loss.⁷ 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 loss.⁸ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.⁹

ANALYSIS

In this case, the July 15, 2003 audiogram showed that appellant’s frequencies in the right ear at 500, 1,000, 2,000 and 3,000 cycles per second were 15, 15, 15 and 25, respectively and his frequencies at those same levels in his left ear were 15, 15, 15 and 20 respectively. In his July 15, 2003 report, using the A.M.A., *Guides* (5th ed. 2001), Dr. Dawson found that the average pure tone was 17.5 in the right ear and 16.25 in the left ear. He subtracted each figure by the 25 decibel “fence” which yielded 0, and multiplied 0 by 1.5 to obtain a 0 percent monaural loss in each ear. Dr. Dawson multiplied the lesser hearing loss, zero by five, added the product, zero, to the greater hearing loss, zero and divided the sum of 6, resulting in a zero percent binaural loss.

Using the A.M.A., *Guides* (5th ed. 2001), the district medical adviser totaled the decibel losses at the applicable frequencies in the left ear, 15, 15, 15 and 20 to obtain 65, divided 65 by 4 to obtain 16.25, and subtracted the 25 decibel fence to obtain a 0 impairment in the right ear. He totaled the decibel losses in the right ear at the applicable frequencies 15, 15, 15 and 25 at 70, divided 70 by 4 to obtain 17.25 and subtracted the 25 decibel fence to obtain a 0 impairment in the left ear. Multiplying the 0 results for both ears by the established factor of 1.5 yielded a 0 percent monaural hearing loss in each ear and, therefore, a 0 percent binaural hearing loss pursuant to the formula. Dr. Dawson and the district medical adviser properly applied the A.M.A., *Guides* (5th ed. 2001) to the July 15, 2003 audiogram and properly determined that appellant had a zero percent binaural loss. No other probative evidence of record establishes a ratable hearing loss.

⁴ A.M.A., *Guides* at 224 (5th ed. 1993).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Donald E. Stockstad*, 53 ECAB ____ (Docket No. 01-1570, issued January 23, 2002); *petition for recon. granted (modifying prior decision)* (issued August 13, 2002).

LEGAL PRECEDENT -- ISSUE 2

Section 8103 of the Act¹⁰ provides that the United States shall furnish to an employee, who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Office considers likely to cure, give relief, reduce the degree or the period of disability or aid in the lessening of the amount of compensation.¹¹

ANALYSIS

In this case, in his July 15 and July 16, 2003 reports, Dr. Dawson stated that a hearing aid was not warranted at the time. In his July 30, 2003 report, the district medical adviser did not authorize the use of a hearing aid. Since the doctors of record opined that appellant did not require a hearing aid, the Office properly determined that appellant was not entitled to one.

CONCLUSION

The Office properly found that appellant was not entitled to a schedule award for a hearing loss.

ORDER

IT IS HEREBY ORDERED THAT the decision August 6, 2003 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: March 26, 2004
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member

¹⁰ 5 U.S.C. § 8101-8193.

¹¹ 5 U.S.C. § 8103(a).