

The employing establishment submitted records from its hearing conservation program and advised that appellant was a participant in the program since July 24, 2000. The records revealed that the duration of appellant's exposure to hazardous noise was from June 6, 1983 to June 7, 2005. On May 29, 2001 appellant was advised that the audiograms performed in conjunction with the hearing conservation program revealed a significant threshold shift. The employing establishment submitted copies of audiograms taken from June 19, 1989 to May 1, 2006 which revealed progressive bilateral high frequency hearing loss. The employer also submitted historical noise survey data which revealed noise levels for equipment used in the shop where appellant worked ranging from 88 to 109 decibels and noise dosimetry conducted in June 2002 resulted in levels of 102 decibels which exceed the threshold limit value of 85. The employing establishment noted that appellant was provided with protective foam earplugs from 1989 to 2007 and earmuffs starting in 1987.

By letter dated October 12, 2007, the Office referred appellant to Dr. Jeffrey Kunkes, a Board-certified otolaryngologist, for otologic examination and audiological evaluation. The Office provided Dr. Kunkes with a statement of accepted facts, available exposure information, and copies of all medical reports and audiograms.

Dr. Kunkes performed an otologic evaluation of appellant on November 1, 2007 and audiometric testing was conducted on the doctor's behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 10, 10, 10 and 10 decibels; left ear 15, 10, 10 and 15 decibels. Dr. Kunkes determined that appellant sustained noise-induced high frequency sensorineural hearing loss. He indicated that the sensorineural hearing loss was due to noise exposure encountered in appellant's employment above the accepted level which caused temporary and permanent threshold changes. Dr. Kunkes advised that there was no other relevant history implicated to cause the existing hearing loss. He found no evidence of ratable disability and recommended appellant be rechecked in one year.

On November 19, 2007 the Office accepted appellant's claim for bilateral hearing loss. On December 18, 2007 appellant filed a claim for a schedule award.

On January 3, 2008 an Office medical adviser reviewed Dr. Kunkes' report and the audiometric test of November 1, 2007 to determine if appellant's hearing loss was ratable for schedule award purposes. The medical adviser concluded that, in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (5th ed. 2001) (A.M.A., *Guides*), that appellant had zero percent monaural hearing loss in the left and right ear and zero percent bilateral sensorineural hearing loss. 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 November 1, 2007 audiogram.

By decision dated January 7, 2008, the Office determined that the hearing loss was employment related but not severe enough to be considered ratable for purposes of a schedule award.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation² 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.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 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 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 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

The Office referred appellant to Dr. Kunkes for otologic examination and audiological evaluation. Dr. Kunkes determined that appellant's hearing loss was work related and the Office accepted bilateral hearing loss.

When appellant claimed a schedule award for hearing loss, an Office medical adviser applied the Office's standardized procedures to the November 1, 2007 audiogram performed for Dr. Kunkes. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

³ *Id.* See *B.C.*, 58 ECAB ___ (Docket No. 06-925, issued October 13, 2006).

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

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

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).

cycles per second revealed decibels losses of 10, 10, 10 and 10 respectively. These decibels were totaled at 40 and were divided by 4 to obtain an average hearing loss at those cycles of 10.00 decibels. The average of 10.00 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal zero, which was multiplied by the established factor of 1.5 to compute a zero percent 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 hertz revealed decibels losses of 15, 10, 10 and 15 respectively. These decibels were totaled at 50 and were divided by 4 to obtain the average hearing loss at those cycles of 12.50 decibels. The average of 12.50 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss for the left ear.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Kunkes' report and the November 1, 2007 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth above. While appellant has an employment-related hearing loss, it is not ratable, for schedule award purposes, under the uniform standards that the Office applies to all schedule award claims for hearing loss. Consequently, appellant is not entitled to a schedule award for his hearing loss.

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the January 7, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 2, 2008
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board