



to file a claim. The employing establishment indicated that appellant did not stop work and continued to be exposed to workplace noise.

On February 23, 2007 the Office advised appellant of the factual and medical evidence needed to support his claim. Appellant submitted a statement dated January 31, 2007 in which he described the various positions he had held at the employing establishment since starting work on June 22, 1971. He described the noise exposure associated with each position. Appellant and the employing establishment submitted various employment records including several audiograms dated between September 11, 1972 and June 23, 2004. In an April 1, 2007 statement, he noted that he had no previous ear problems.

On May 16, 2007 the Office referred appellant with a statement of accepted facts to Dr. Charles Beasley, a Board-certified otolaryngologist, for a second opinion evaluation.

In a May 30, 2007 report, Dr. Beasley compared audiometric data from the beginning of appellant's noise exposure in June 1971 to the data derived at the examination that day. He indicated that appellant's threshold had decreased 15 to 35 decibels (dB) at 3,000 to 6,000 hertz (Hz) bilaterally. Dr. Beasley also indicated that appellant's sensorineural loss was in excess of what would be normally predicated on the basis of presbycusis. He advised that appellant's workplace exposure was sufficient in intensity and duration to cause the hearing loss. Dr. Beasley diagnosed bilateral sensorineural hearing loss due to noise exposure encountered at the employing establishment. He indicated that his position was supported by the characteristic of the audiogram. Dr. Beasley recommended noise protection, a hearing aid evaluation and an annual audiogram. A May 30, 2007 audiogram performed on Dr. Beasley's behalf showed the following decibel losses at frequencies of 500, 1,000, 2,000 and 3,000 Hz: 10, 10, 10 and 25 for the right ear and 15, 10, 5 and 45 for the left ear.

On June 5, 2007 the Office accepted appellant's claim for binaural sensorineural hearing loss. On June 5, 2007 an Office medical adviser reviewed Dr. Beasley's May 30, 2007 report and the audiometric data obtained by Dr. Beasley. The medical adviser noted that the date of Dr. Beasley's report was the date of maximum improvement. He applied the audiometric data to the Office's standard for evaluating hearing loss and determined that appellant had a zero percent monaural hearing loss in the right ear and a zero percent monaural hearing loss in the left ear. The Office medical adviser concluded that appellant had a nonratable hearing loss. He further opined that hearing aids should not be authorized.

In an August 29, 2007 decision, the Office denied appellant's schedule award claim and hearing aids, finding that his hearing loss was not severe enough to be considered ratable and that the evidence did not establish that he needed hearing aids.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>1</sup> and its implementing regulations 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

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

the body. The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001), has been adopted by the Office for evaluating schedule losses and the Board has concurred in such adoption.<sup>2</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*. Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second (cps), the losses at each frequency are added up and averaged. 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. The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss. 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. The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.<sup>3</sup>

### ANALYSIS

Appellant submitted a schedule award claim for sensorineural hearing loss and the Office developed the claim by referring him to Dr. Beasley. On May 30, 2007 Dr. Beasley examined appellant and audiometric testing was performed on appellant. He opined that the noise exposure in appellant’s workplace was sufficient to cause bilateral sensorineural hearing loss. Dr. Beasley recommended hearing protection, evaluation for hearing aids and annual audiograms.

An Office medical adviser applied the Office’s standard procedures to the May 30, 2007 audiogram. It tested decibel losses at 500, 1,000, 2,000 and 3,000 cps and recorded decibel losses of 10, 10, 10 and 25 respectively in the right ear. The total decibel loss in the right ear is 55. When divided by 4, the result is an average hearing loss of 13.75 decibels. The average hearing loss of 13.75 is reduced by the fence of 25 decibels to equal 0, which when multiplied by the established factor of 1.5, resulted in 0 percent impairment of the right ear. The audiogram tested decibel losses for the left ear at 500, 1,000, 2,000 and 3,000 cps and recorded decibel losses of 15, 10, 5 and 45 respectively. The total decibel loss in the left ear is 75. When divided by 4, the result is an average hearing loss of 18.75 decibels. The average hearing loss of 18.75 is reduced by the fence of 25 decibels to equal 0, which when multiplied by the established factor of 1.5, resulted in 0 percent impairment of the right ear. The Board finds that the Office medical adviser properly applied the standards to the findings of the May 30, 2007 audiogram and concluded that appellant did not have a ratable hearing loss for schedule award purposes.

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<sup>2</sup> *R.D.*, 59 ECAB \_\_\_\_ (Docket No. 07-379, issued October 2, 2007); *Bernard Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>3</sup> *E.S.*, 59 ECAB \_\_\_\_ (Docket No. 07-1587, issued December 10, 2007); *Donald Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

The Office medical adviser also opined that hearing aids should not be authorized. Dr. Beasley, while generally recommending an evaluation for hearing aids, did not recommend hearing aids at the time of his examination. As such, there is no current medical evidence supporting a need for hearing aids. Thus, the Office properly denied hearing aids.<sup>4</sup>

On appeal, appellant asserts that he sustained a permanent hearing loss that affects his life daily. However, the Board notes that the Office applied its standardized procedure for calculating permanent impairment for loss of hearing. Under this standardized procedure, appellant's hearing loss is not ratable for schedule award purposes. The Board has also held that factors such as limitations on daily activities do not go into the calculation of a schedule award.<sup>5</sup>

**CONCLUSION**

The Board finds that appellant does not have a ratable hearing loss for schedule award purposes.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated August 29, 2007 is affirmed.

Issued: April 13, 2009  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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

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<sup>4</sup> This does not preclude appellant from seeking authorization for hearing aids or other appropriate medical treatment at some future point.

<sup>5</sup> *E.L.*, 59 ECAB \_\_\_ (Docket No. 07-2421, issued March 10, 2008).