



units, aircraft, high-speed grinders, rivet guns, orbital sanders, blow guns, a nut runner and other noises.

By letter dated June 17, 2003, the Office advised appellant that his claim form was insufficient to establish his claim. The Office further advised appellant about the type of factual and medical evidence he needed to submit to establish his claim. By letter of the same date, the Office requested that the employing establishment submit additional factual information regarding appellant's exposure to noise and medical documentation pertaining to examinations for hearing or ear problems including, preemployment examinations and all audiograms.

In response, the employing establishment submitted numerous documents, which included, among other things, annual audiograms, records from the health unit regarding appellant's hearing and statements from appellant, his coworkers and an employing establishment supervisor regarding appellant's exposure to noise at work and outside of work.

By letter dated July 16, 2003, appellant responded to the Office's June 17, 2003 letter. He noted a history of his employment at the employing establishment and indicated that the date of his last exposure to noise at the employing establishment was on January 3, 2003, the date of his retirement. Appellant stated that he became aware of his hearing loss after an annual hearing test on March 12, 1982. Appellant related that he previously filed a claim on March 26, 2003 for hearing loss and that no benefits were received. He further related that prior to March 12, 2002 he had no ear or hearing problems.<sup>1</sup> A description of his hobbies that exposed him to loud noise included 40 hours annually of hunting and, since May 2001, four wheeling for 32 hours annually. Appellant submitted the results of a December 6, 2002 audiogram and a form authorizing the release of information.

By letter dated January 27, 2004, the Office referred appellant together with a statement of accepted facts to Dr. Craig W. Anderson, a Board-certified otolaryngologist, for a second opinion medical examination.

Dr. Anderson submitted a February 13, 2004 report in which he provided a history of appellant's employment at the employing establishment beginning in 1966. He stated that appellant's hearing was normal until 1969 when he started to show signs of hearing loss well before presbycusis set in. Regarding appellant's noise exposure outside the employing establishment, Dr. Anderson stated that appellant had done a little hunting, occasional target practice and use of a skill saw and periodic handling of lawn and garden tools, but nothing unusual as far as outside factors. He provided normal findings on physical examination and diagnosed a high frequency sensorineural hearing loss related to long-term noise exposure. Dr. Anderson opined that this condition was due to noise exposure in appellant's federal civilian employment. He explained that appellant's hearing loss started early, before presbycusis would set in and that appellant did not have a significant family or outside noise exposure history. Dr. Anderson noted that appellant was retired and recommended that he continue with noise protection in his personal activities. He further recommended that appellant consider hearing aids if he felt like he was missing a lot with his hearing.

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<sup>1</sup> It appears that appellant may have inadvertently stated that he had no ear or hearing problems prior to March 12, 2002 rather than March 12, 1982.

A February 13, 2004 audiogram performed by Dr. Allen Anderson, an audiologist, accompanied Dr. Anderson's report. Testing of the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed decibel losses of 5, 5, 10 and 45 respectively and in the left ear decibel losses of 5, 5, 20 and 50 respectively.

On February 18, 2004 an Office medical adviser reviewed Dr. Anderson's February 13, 2004 report and audiogram results. The Office medical adviser determined that appellant had a zero percent binaural sensorineural hearing loss and had reached maximum medical improvement on February 13, 2004.

By decision dated February 19, 2004, the Office accepted appellant's claim for hearing loss due to his employment-related noise exposure, but found the evidence of record insufficient to establish that he had a ratable hearing loss based on the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001) (A.M.A., *Guides*). Accordingly, the Office determined that appellant was not entitled to a schedule award under the Federal Employees' Compensation Act. The Office, however, determined that appellant was entitled to medical benefits.

### **LEGAL PRECEDENT**

The schedule award provision of the Act<sup>2</sup> and its implementing regulation<sup>3</sup> 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.<sup>4</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>5</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cps the losses at each frequency are added up and averaged.<sup>6</sup> 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.<sup>7</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>8</sup> The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss

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<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404 (2004).

<sup>4</sup> *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

<sup>5</sup> A.M.A., *Guides* at 250 (5<sup>th</sup> ed. 2001).

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

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.<sup>9</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>10</sup>

### ANALYSIS

Dr. Craig Anderson, the second opinion specialist, examined appellant on February 13, 2004 and concluded that appellant sustained a high frequency sensorineural hearing loss related to long-term exposure to noise in the course of his federal employment. The Office medical adviser applied the Office's standardized procedures to the February 13, 2004 audiogram obtained by Dr. Allen Anderson. Testing of the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 5, 5, 10 and 45 respectively. These decibel losses were totaled at 65 decibels and were divided by 4 to obtain an average hearing loss of 16.25 decibels. This average was then reduced by 25 decibels (25 decibels being discounted as discussed above) to equal 0, which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss in the right ear.

Testing of the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 5, 5, 20 and 50 respectively. These decibel losses were totaled at 80 decibels and were divided by 4 to obtain an average hearing loss of 20 decibels. This average was then reduced by 25 decibels (25 decibels being discounted as discussed above) to equal 0, which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss in the left ear. Accordingly, the Office medical adviser calculated appellant's hearing loss under the Office standardized procedures to be nonratable for both the right and left ears.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Craig Anderson's February 13, 2004 report and accompanying audiogram. This resulted in a calculation of zero percent binaural hearing loss in the right and left ears, which is not ratable under these standards and, therefore, is not compensable for schedule award purposes.

### CONCLUSION

The Board finds that appellant has failed to establish that he sustained a ratable hearing loss entitling him to a schedule award.

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<sup>9</sup> *Id.*

<sup>10</sup> *Donald E. Stockstad*, 53 ECAB \_\_\_ (Docket No. 01-1570, issued January 23, 2002); *petition for recon. granted, (modifying prior decision)* Docket No. 01-1570 (issued August 13, 2002).

**ORDER**

**IT IS HEREBY ORDERED THAT** the February 19, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 13, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Willie T.C. Thomas  
Alternate Member