

FACTUAL HISTORY

By decision dated October 16, 2002, the Office accepted that appellant, then a 57-year-old financial analyst and former mechanic, sustained bilateral sensorineural hearing loss due to noise exposure in the performance of duty from May 1971 to June 2002.¹

Dr. Kenneth J. Walker, a Board-certified otolaryngologist and second opinion physician, obtained an audiogram on September 26, 2002 showing the following thresholds at 500, 1,000, 2,000 and 3,000 cycles per second (cps): on the left, 10, 10, 20² and 35 dBs; on the right, 10, 10, 10 and 25 dBs. In September 26 and 27, 2002 reports, Dr. Walker noted a history of chronic hearing loss during the past several years, worse on the left, with “[a]dditional symptom(s) of tinnitus.” Dr. Walker diagnosed a mild bilateral high frequency sensorineural hearing loss “consistent with long-term noise exposure” at work.³

On October 23, 2002 an Office medical adviser reviewed Dr. Walker’s September 26, 2002 audiogram and September 27, 2002 report. The Office medical adviser found that appellant did not have a ratable impairment of either ear under the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). He also found that appellant did not require hearing aids.

By decision dated November 13, 2002, the Office determined that appellant did not have a ratable hearing loss. The Office further found that the medical evidence did not establish that appellant would benefit from hearing aids. Appellant disagreed and in a November 26, 2002 letter requested a review of the written record. Appellant later modified this request to a request for an oral hearing, which was held May 28, 2003. At the hearing, appellant asserted that the earmuffs provided him from 1997 to 2002 were withdrawn due to their ineffectiveness. Appellant also asserted that his hearing loss interfered with speech comprehension, and that he had tinnitus or “ringing in the ears.” After the hearing, appellant submitted a June 13, 2003 letter explaining sensorineural hearing loss and tinnitus.

By decision dated August 7, 2003, the Office hearing representative found that appellant had not established a ratable hearing loss.

¹ The Board notes that appellant’s claim form is not of record. The October 23 and 24, 2003 work sheets state that the employing establishment received appellant’s Form CA-2 on May 29, 2002, that the claim was for a hearing loss with an April 1, 1994 date of injury, and that the employing establishment did not controvert the claim.

² While the September 26, 2002 audiogram showed a threshold at 2,000 cps on the left of 20 dB, the written report indicated a threshold of 10 decibels (dB) at 2,000 cps. The Board finds that this discrepancy is nondispositive as the Office correctly relied on the audiogram itself and used the 20 dB threshold at 2,000 cps on the left in its calculations. Also, appellant’s hearing loss would not be ratable using either the 10 dB or 20 dB threshold.

³ The Office accepted that, from May 25, 1971 to June 29, 2002, appellant was exposed to noise from hydraulic test stands, jet engines and an MA-3 air conditioner for 40 hours per week and that hearing protection was provided. He retired from the employing establishment in July 2002. Appellant also submitted employing establishment audiograms dated from June 1973 to June 2002. As these audiograms do not appear to have been reviewed or signed by a physician, they cannot constitute medical evidence in this case. *Vickey C. Randall*, 51 ECAB 357 (2000); *Merton J. Sills*, 39 ECAB 572, 575 (1988).

LEGAL PRECEDENT

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 cps, the losses at each frequency are added up and averaged.⁵ Then, the “fence” of 25 dBs is deducted since, as the A.M.A., *Guides* point out, losses below 25 dBs result in no impairment in the ability to hear everyday speech in everyday conditions.⁶ The remaining amount is multiplied by 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 medical adviser applied the Office’s standardized procedures to the September 26, 2002 audiogram performed for Dr. Walker. Testing for the right ear at the frequency levels of 500 1,000 2,000 and 3,000 cps revealed decibel losses of 10, 10, 10 and 25 dBs. These dBs were totaled at 55 dBs and were divided by 4 to obtain the average hearing loss at those cycles of 13.75 dBs. The average of 13.75 dBs was then reduced by 25 dBs (the first 25 dBs were discounted as discussed above) to equal a 0 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 cps revealed decibel losses of 10, 10, 20 and 35 dBs. These dBs were totaled at 75 dBs and were divided by 4 to obtain the average hearing loss at those cycles of 18.75 dBs. The adviser then subtracted the fence of 25 dBs, resulting in a zero percent loss of hearing for the left ear. Accordingly, pursuant to the Office’s standardized procedures, the Office medical adviser properly determined that appellant had a zero percent binaural hearing loss.

Appellant also asserted that tinnitus entitled him to compensation. The A.M.A., *Guides* states that “tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, up to five percent for tinnitus in the presence of measurable hearing loss may be added if the tinnitus impacts the ability to perform activities of daily living.”¹⁰ In his September 26, 2002 report, Dr. Walker noted appellant’s symptoms of tinnitus but did not state that the tinnitus impacted appellant’s ability to perform activities of daily living. Moreover, appellant does not have a ratable hearing loss on which to add an additional percentage for tinnitus.

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

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)*, Docket No. 01-1570 (issued August 13, 2002).

¹⁰ A.M.A., *Guides* (5th ed. 2001) at Ch. 11.2a, “Criteria for Rating Impairment Due to Hearing Loss,” p.246.

As Dr. Walker's audiogram was the sole report from a physician and complied with the Office's procedural requirements, the Office properly used it to rate appellant's hearing loss.¹¹ Although appellant's claim for hearing loss was accepted, his hearing loss is not ratable under the Federal Employees' Compensation Act for a schedule award. Consequently, appellant is not entitled to a schedule award. Further, as there is no objective evidence designating a need for hearing aids, appellant is not entitled to additional medical benefits.

On appeal, appellant asserts that the Office should have relied on the regulations of OSHA regarding obtaining and evaluating audiograms. However, as set forth above, the Office has adopted the A.M.A., *Guides* as the standard for evaluating impairment, including hearing loss.¹² The standards used by other agencies to establish work-related impairment are not binding on the Office as they are based on different criteria.¹³

CONCLUSION

The Board finds that appellant does not have a ratable loss of hearing and therefore is not entitled to a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the August 7, 2003 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 5, 2004
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

¹¹ *James A. England*, 47 ECAB 1115 (1995).

¹² *Donald E. Stockstad*, *supra* note 9.

¹³ *Raj B. Thackurdeen*, 54 ECAB __ (Docket No. 02-2392, issued February 13, 2002).