



January 1983; he began work at the employing establishment in 1985 as an electronics worker and in 1991 was transferred to building 143 as an artillery repairer.

The employing establishment submitted medical and personnel records, including a September 19, 1985 audiogram. The Office prepared a statement of accepted facts and referred appellant, together with relevant evidence of record, to Dr. H.W. Loveless, an otolaryngologist. In a form report (CA-1332) with accompanying audiogram dated March 18, 2003, the physician diagnosed sensorineural hearing loss. Dr. Loveless noted that the 1985 audiogram showed moderate hearing loss with severe loss at higher frequencies. With respect to causal relationship with to noise exposure in federal employment, he checked a box “not due” and further stated, “hearing loss is probably due to noise exposure while in the military [and] progression of loss since 1985 is a continuation of the previous damage plus additional loss [secondary to] presbycusis.”<sup>1</sup>

By decision dated March 31, 2003, the Office denied the claim on the grounds that the medical evidence did not establish an employment-related hearing loss. Appellant requested an oral hearing before an Office hearing representative and a hearing was held on November 18, 2003.

In a decision dated February 10, 2004, the hearing representative remanded the case for further development. The hearing representative noted that the statement of accepted facts had indicated that appellant’s noise exposure during military service included firearms training from December 1965 to April 1985, while the evidence indicated that he did not have exposure as firearms trainer after 1970. The case was remanded for preparation of a revised statement of accepted facts and a supplemental report from Dr. Loveless.

In accord with the hearing representative’s instructions, the Office prepared a February 26, 2004 statement of accepted facts that identified appellant’s noise exposure during military service and since 1991 in federal civilian employment. By report dated April 20, 2004, Dr. Loveless indicated that he reviewed the revised statement of accepted facts and stated:

“This does not change the fact that substantial hearing loss already existed by 1991, as evidenced by the 1985 audiogram that revealed severe high frequency hearing loss, with moderate loss in the mid frequencies. Although [appellant] states that his hearing was good when he began working at his [f]ederal civilian employment, the 1985 audiogram clearly shows that he already had substantial loss.

“My determination, therefore, stands as previously stated. [Appellant] had substantial hearing loss by 1985. This is documented and indisputable. The loss was undoubtedly due to noise exposure prior to that date, whether military noise exposure or otherwise. It existed when he began working as an artillery repairman for the [employing establishment] in 1991.”

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<sup>1</sup> Presbycusis is “a progressive, bilaterally symmetrical perceptive hearing loss occurring with age.” DORLAND’S *Illustrated Medical Dictionary* (30<sup>th</sup> ed. 2003).

By decision dated May 7, 2004, the Office denied appellant's claim for compensation on the grounds that the medical evidence did not establish a causal relationship between his hearing loss and noise exposure in federal employment.

### **LEGAL PRECEDENT**

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that his hearing loss condition was causally related to noise exposure in his federal employment.<sup>2</sup> Neither the condition becoming apparent during a period of employment, nor the belief of the employee that the hearing loss was causally related to noise exposure in federal employment, is sufficient to establish causal relationship.<sup>3</sup>

### **ANALYSIS**

In a hearing loss case it must be established that the loss was causally related to federal employment and if so, that the loss was ratable. In this case appellant did not submit medical evidence with respect to causal relationship. The Office developed the medical evidence and secured an opinion from Dr. Loveless that the sensorineural hearing loss was not causally related to noise exposure in federal employment. In a March 18, 2003 report, Dr. Loveless opined that appellant had significant hearing loss as of 1985, when he began his federal employment and the current level of hearing loss could be explained, a progression of this hearing loss and presbycusis. Since the statement of accepted facts had initially reported that appellant had noise exposure from 1963 to 1985 as a firearms trainer, Dr. Loveless was asked to review a revised statement of accepted facts that correctly described appellant's noise exposure. Dr. Loveless opined in an April 20, 2004 report that his opinion had not changed. He reiterated that the evidence showed that appellant had substantial hearing loss as of 1985, when he began federal civilian employment.

The Board finds that Dr. Loveless represents the weight of the evidence on the issue of causal relationship. He provided an opinion that appellant had a preexisting hearing loss that had progressed and he found that the hearing loss was not causally related to noise exposure in federal employment. As noted above, the record does not contain other probative evidence on the issue. The Board accordingly finds that appellant has not established that his hearing loss is employment-related and the Office properly denied the claim in this case.

### **CONCLUSION**

The Board finds that the weight of the medical evidence is represented by the second opinion otolaryngologist, Dr. Loveless, who opined that appellant's hearing loss was not due to noise exposure in federal employment.

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<sup>2</sup> *Stanley K. Takahaski*, 35 ECAB 1065 (1984).

<sup>3</sup> *See John W. Butler*, 39 ECAB 852, 858 (1988).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 7, 2004 is affirmed.

Issued: October 26, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member