

On April 6, 2004 Dr. Paine reported that appellant was exposed to occupational noise levels from 90 to 100 decibels for five to eight hours a day. He obtained an audiogram that day, the results of which he determined were valid and representative of appellant's hearing sensitivity. Dr. Paine diagnosed noise-induced sensorineural hearing loss and reported that the intensity and duration of appellant's work exposure were sufficient to cause the loss in question.

On May 31, 2004 an Office medical adviser reviewed the August 6, 2004 audiogram and determined that appellant had no ratable loss of hearing in either ear.

In a decision dated June 2, 2004, the Office accepted appellant's claim for an employment-related binaural hearing loss but denied a schedule award on the grounds that the loss was not severe enough to be considered ratable.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.² 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. Then, a "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 sounds under everyday listening 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.³ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁴

ANALYSIS

The Board notes that section 8107 of the Act sets forth how many weeks of compensation are payable to an employee who sustains a permanent impairment of hearing.⁵ For a complete loss of hearing in 1 ear, an employee may receive 52 weeks' compensation. For a complete loss of hearing in both ears, he may receive 200 weeks' compensation. Partial losses are

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999). Effective February 1, 2001 the Office began using the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001). FECA Bulletin No. 01-05 (issued January 29, 2001).

³ American Medical Association, *Guides to the Evaluation of Permanent Impairment* 250 (5th ed. 2001).

⁴ *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).

⁵ 5 U.S.C. § 8107(13).

compensated proportionally.⁶ But the Act does not specify how the percentage of this loss is to be determined. For consistent results and to ensure equal justice under the law for 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. For this reason, the Office uses the A.M.A., *Guides* as the appropriate standard for evaluating the extent of any permanent impairment, including impairment of hearing.

According to the audiogram obtained by Dr. Paine on August 6, 2004, hearing thresholds in appellant's right ear at 500, 1,000, 2,000 and 3,000 cycles per second were 10, 10, 20 and 50 decibels respectively, for a total of 90 and an average of 22.5. Hearing thresholds in his left ear at those same frequencies were 15, 5, 15 and 50 decibels respectively, for a total of 85 and an average of 21.25. Because both averages are below 25 decibels, no impairment is considered to exist in appellant's ability to hear everyday sounds under everyday listening conditions, under the A.M.A., *Guides*. For this reason, the Office properly accepted that, while appellant did sustain a loss of hearing in both ears as a result of his federal employment, he was not entitled to a schedule award for hearing impairment. The averages did not exceed the "fence" of 25 decibels, so the loss is "not ratable" or not severe enough to constitute an impairment under the A.M.A., *Guides*.

Because the Office properly applied standardized procedures to appellant's August 6, 2004 audiogram, the Board will affirm the Office's June 2, 2004 decision.⁷

CONCLUSION

The medical evidence shows that appellant's hearing loss is not ratable. He is therefore not entitled to a schedule award for hearing impairment.

⁶ *Id.* at § 8107(19).

⁷ The Board notes that none of the audiograms provided by the employing establishment show a ratable loss of hearing.

ORDER

IT IS HEREBY ORDERED THAT the June 2, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: January 10, 2005
Washington, DC

Alec J. Koromilas
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member