

hearing loss, which covered a period of 72 weeks beginning February 23, 1998.² On August 25, 2002 prior to his scheduled retirement, appellant filed an occupational disease claim for additional hearing loss. He indicated that he worked with jackhammers, chippers and eductors and was regularly exposed to noise ranging from 2 hours a day to 40 hours per week. Appellant also stated that he always wore earplugs and earmuffs when he worked with a jackhammer or anything with noise. He became aware of his additional hearing loss on June 12, 2002 when he received a physical examination. Appellant also filed a claim for a schedule award.

The employing establishment submitted information regarding appellant's occupational noise exposure in addition to his employee medical records, which included an August 9, 1977 preemployment physical and more than 20 years of annual audiograms through July 11, 2002.

Dr. Gerald G. Randolph, a Board-certified otolaryngologist and Office referral physician, examined appellant on November 6, 2002 and an audiogram was administered that same day. He diagnosed bilateral neurosensory hearing loss. He noted that appellant's hearing loss preexisted his employment at the shipyard and that it increased in severity during the course of his employment. However, Dr. Randolph stated that it was more probable than not that appellant's hearing loss was not due to industrial noise exposure. He explained that, while appellant's industrial noise exposure would have been competent to aggravate his hearing loss, he utilized ear protection when required and for the past 15 years appellant utilized double ear protection. Dr. Randolph indicated that appellant had a ratable binaural hearing loss of 47.5 percent, which appeared to be progressive. He further indicated that it was more probable than not that the hearing loss was due to intrinsic inner ear disease, possibly cochlear otosclerosis or endolymphatic hydrops.

By decision dated April 2, 2003, the Office denied appellant's claim for additional aggravation of hearing loss since February 23, 1998. The Office found that he failed to establish that his condition was due to his employment exposure.

Appellant requested an oral hearing, which was held on February 11, 2004. He also submitted audiograms dated May 28, 2003 and February 2, 2004. The Office also received February 19, 2004 progress notes from Dr. Stephen A. Habener, a Board-certified otolaryngologist,³ who noted that he examined appellant on February 18, 2004 and reviewed audiograms from 1998, 2002, 2003 and February 2004. He stated that his bilateral sensorineural hearing loss was stable. Dr. Habener also noted that appellant might be having intermittent eustachian tube dysfunction in the right ear coinciding with his allergic rhinitis. Additionally, he

² Appellant filed an earlier claim for employment-related hearing loss in 1988, which the Office denied by decision dated February 8, 1990 (A14-235468).

³ Dr. Habener initially examined appellant on February 23, 1998 at the request of the Office. In his February 24, 1998 report, he diagnosed bilateral symmetrical sensorineural hearing loss, which he stated was "certainly compatible with the noise exposure" given in the Office's statement of accepted facts. Dr. Habener also noted that there were no previous audiograms in the chart for comparison to determine whether there was any preemployment hearing loss. He calculated a 38 percent binaural hearing loss based on a February 23, 1998 audiogram. This was the same audiogram that formed the basis for the Office's June 5, 1998 schedule award for a 36 percent binaural hearing loss.

stated that wax and debris in his right ear was also probably contributing to his decreased subjective acuity.

In a decision dated May 11, 2004, the Office hearing representative affirmed the April 2, 2003 decision.

LEGAL PRECEDENT

A claimant seeking benefits under the Federal Employees' Compensation Act⁴ has the burden of establishing the essential elements of his claim by the weight of the reliable, probative and substantial evidence, including that any specific condition or disability for work for which he claims compensation is causally related to the employment injury.⁵

In an occupational disease claim, to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.⁶

A claim for an increased schedule award may be based on new employment exposure; however, additional occupational exposure is not a prerequisite. A claim for an increased schedule award based on additional exposure constitutes a new claim.⁷ Absent additional employment exposure, an increased schedule award may also be based on evidence demonstrating that the progression of an employment-related condition has resulted in a greater permanent impairment than previously calculated.⁸

ANALYSIS

Because of appellant's post July 9, 1997 additional occupational exposure his August 25, 2002 claim is properly considered as a new claim.⁹ However, he did not submit any medical

⁴ 5 U.S.C. § 8101 *et seq.*

⁵ 20 C.F.R. § 10.115(e), (f) (2003); *see Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996). Causal relationship is a medical question that can generally be resolved only by rationalized medical opinion evidence. *See Robert G. Morris*, 48 ECAB 238 (1996). A physician's opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors must be based on a complete factual and medical background of the claimant. *Victor J. Woodhams*, 41 ECAB 345, 352 (1989). Additionally, in order to be considered rationalized, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factors. *Id.*

⁶ *Victor J. Woodhams*, *supra* note 5.

⁷ *Paul Fierstein*, 51 ECAB 381, 385 (2000).

⁸ *Linda T. Brown*, 51 ECAB 115 (1999).

⁹ *Paul Fierstein*, *supra* note 7.

evidence with his August 25, 2002 claim for additional hearing loss. Appellant reportedly realized his condition had been aggravated by his employment on June 12, 2002 because that was when he received a physical examination. He also stated that more hearing tests had been performed and he had spoken with his doctor about the problem. Appellant's employee medical records included recent audiograms administered on June 18, July 8 and 11, 2002. However, there was no evidence of a recent physician's examination. The Office referred him for evaluation.

Dr. Randolph, the referral physician, found that appellant's sensorineural hearing loss was "due to intrinsic inner ear disease and [was] not due to noise exposure." He noted that a 1977 audiogram revealed preexisting hearing loss and that his hearing loss increased in severity from 1977 until his retirement in 2002. The increased hearing loss was noted to be in excess of what would normally be predicted on the basis of presbycusis. Dr. Randolph further explained that, while the workplace exposure was of sufficient intensity and duration to aggravate hearing loss, appellant utilized ear protection throughout his work history at the shipyard. Consequently, his November 6, 2002 report does not establish a causal relationship between appellant's employment exposure and his deteriorating binaural hearing condition.

Dr. Habener's recent progress notes are similarly insufficient to establish causal relationship. His February 19, 2004 notes do not specifically address appellant's employment exposure. Dr. Habener stated that appellant might be having intermittent eustachian tube dysfunction in the right ear coinciding with his allergic rhinitis. He also indicated that wax and debris in the right ear was probably contributing to his decreased subjective acuity. As the recent reports of Dr. Randolph and Dr. Habener fail to establish that appellant's claimed increased hearing loss is causally related to his employment exposure, the Office properly denied the August 25, 2002 claim.

CONCLUSION

The Board finds that appellant failed to establish entitlement to an increased schedule award for binaural hearing loss based on his additional occupational exposure.

ORDER

IT IS HEREBY ORDERED THAT the May 11, 2004 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: June 14, 2005
Washington, DC

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member