



was failing numerous hearing examinations and submitted audiological reports from 1986 to 2002 to support his claim.

The record indicates that appellant retired in 1991 and three years later filed a claim for hearing loss.<sup>1</sup> The Office accepted that claim for a bilateral noise-induced hearing loss:

“On May 14, 1996 this Office made a final decision of your claim for compensation for hearing loss. It has determined that you have sustained a permanent partial hearing loss bilaterally. However, you were not awarded any schedule award compensation payment because your hearing loss impairment was found to be noncompensable (zero percent). Also, [a] hearing aid was not authorized.”

Responding to his new claim, the Office asked appellant to provide his doctor’s explanation of how preretirement federal employment caused a later increase in hearing loss.

In a decision dated October 1, 2004, the Office denied appellant’s claim on the grounds that the evidence failed to establish that his federal employment, which ended in 1991, had caused an increased hearing loss. The Office noted that he submitted no medical opinion discussing the issue of causal relationship. On October 4, 2004 the Office reissued its decision with no apparent change.

Appellant requested a review of the written record by an Office hearing representative. In support thereof, he submitted an October 18, 2004 audiological report from Dr. A. Sultan Lalani, who appellant noted was the same doctor that addressed his hearing loss in 1996.

In a decision dated March 25, 2005, the hearing representative affirmed the denial of appellant’s claim. She found that he failed to meet his burden of proof to establish that he sustained an increased hearing loss causally related to his federal employment.

### **LEGAL PRECEDENT**

A claimant seeking benefits under the Federal Employees’ Compensation Act<sup>2</sup> has the burden of proof to establish the essential elements of his claim by the weight of the evidence,<sup>3</sup> including that he sustained an injury in the performance of duty and that any specific condition or disability for work for which he claims compensation is causally related to that employment injury.<sup>4</sup>

The evidence generally required to establish causal relationship is rationalized medical opinion evidence. The claimant must submit a rationalized medical opinion that supports a

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<sup>1</sup> OWCP File No. 13-1080436.

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *Nathaniel Milton*, 37 ECAB 712 (1986); *Joseph M. Whelan*, 20 ECAB 55 (1968) and cases cited therein.

<sup>4</sup> *Elaine Pendleton*, 40 ECAB 1143, 1145 (1989).

causal connection between his current condition and the employment injury. The medical opinion must be based on a complete factual and medical background with an accurate history of the claimant's employment injury and must explain from a medical perspective how the current condition is related to the injury.<sup>5</sup>

### ANALYSIS

The Office accepted appellant's earlier claim for a nonratable bilateral noise-induced hearing loss. A "nonratable" hearing loss is a measurable loss but one that falls short of impairing the ability to hear everyday sounds under everyday listening conditions.<sup>6</sup> A claimant with an employment-related nonratable hearing loss is not entitled to a schedule award for permanent impairment because, according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* there is no hearing impairment as a practical matter. The hearing loss is real but is not significant enough to be compensable for schedule award purposes.

The acceptance of appellant's earlier claim establishes that he sustained an injury in the performance of duty before he retired in 1991. The question presented on this appeal is whether that employment injury has caused a later increase in his hearing loss. Appellant's hearing may be worse now than it was when he retired in 1991, but if the reason it is now worse has nothing to do with his former federal employment, his claim for benefits must be denied.

To establish a connection between appellant's current level of hearing and his former federal employment, he must submit a physician's explanation of the causal relationship, a well-reasoned medical discussion addressing how occupational noise exposure through his retirement in 1991 caused any later increase in his hearing loss. This is crucial evidence. Without it, appellant cannot establish an essential element of his claim.

On June 17, 2004 the Office asked appellant to submit a doctor's explanation of causal relationship, but he did not comply. Because the record contains no medical opinion addressing the connection between his current level of hearing and his former federal employment, the Board finds that appellant has not met his burden of proof. The Board will affirm the denial of his claim.

### CONCLUSION

The Board finds that appellant has not met his burden of proof to establish that his current hearing loss is causally related to his former federal employment. He has submitted no doctor's explanation of how his hearing has worsened since 1991 and how that worsening can be attributed to his preretirement occupational noise exposure.

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<sup>5</sup> *John A. Ceresoli, Sr.*, 40 ECAB 305 (1988).

<sup>6</sup> The A.M.A., *Guides* 250 (5<sup>th</sup> ed. 2001) ("the ability to hear everyday sounds under everyday listening conditions is not impaired when the average of the hearing levels at 500, 1000, 2000 and 3000 hertz is 25 decibels or less").

**ORDER**

**IT IS HEREBY ORDERED THAT** the March 25, 2005 and October 4, 2004 decisions of the Office of Workers' Compensation Programs are affirmed.

Issued: October 12, 2005  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

Willie T.C. Thomas, Alternate Judge  
Employees' Compensation Appeals Board