



who had provided a second opinion evaluation for the Office, which showed a worsening of appellant's hearing loss. The Board remanded the case to the Office to obtain a supplemental report from Dr. Hollingsworth concerning the extent of appellant's employment-related hearing loss.<sup>1</sup> The facts and law of the previous Board decision are incorporated herein by reference.

Subsequent to the Board's September 20, 2004 decision, by letters dated November 4 and December 3, 2004, the Office requested that Dr. Hollingsworth provide a supplemental report concerning the extent of appellant's employment-related hearing loss, to include appropriate audiometric testing results. In a report dated November 16, 2004 received by the Office on December 8, 2004, Dr. Hollingsworth advised that he had reviewed appellant's records and the November 6, 2002 report remained correct. On January 3, 2005 the Office requested that an Office medical adviser review Dr. Hollingsworth's November 6, 2002 and November 16, 2004 reports and assess the date of maximum medical improvement and degree of impairment. In a January 21, 2005 report, an Office medical adviser advised that he had reviewed the medical evidence and statement of accepted facts. He noted that appellant retired from his federal job in June 2000 and advised that, as noise-induced hearing loss did not progress once the noise exposure ceased, Dr. Hollingsworth's May 2001 evaluation and audiogram findings most accurately measured the extent of any employment-related hearing loss. He advised that maximum medical improvement had been reached on May 1, 2001 and found that the May 2001 audiogram was not ratable for schedule award purposes.<sup>2</sup> By decision dated January 25, 2005, the Office relied on the report of the Office medical adviser and found that appellant was not entitled to a schedule award because his employment-related hearing loss was not severe enough to be ratable.

On August 26, 2005 appellant, through his attorney, requested reconsideration and submitted additional medical evidence, including treatment notes and reports from Fannie Turner, an audiologist, dating from October 14, 2003 to April 29, 2005 in which she noted appellant's diagnosis of binaural hearing loss and fitted him with hearing aids. These reports included audiograms dated June 23, 2000, January 17, 2001, June 16, 2003 and March 3, 2004 which demonstrated a worsening of appellant's hearing loss. In a December 13, 2005 decision, the Office again found that the May 2001 audiogram was a fair representation of appellant's employment-related hearing loss and denied modification of the January 25, 2005 decision.

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<sup>1</sup> Docket No. 03-1172 (issued September 20, 2004).

<sup>2</sup> As stated in the Board's September 20, 2004 decision, appellant's May 2, 2001 audiogram demonstrated decibel losses of 5, 5, 0 and 10 at 500, 1,000, 2,000 and 3,000 cycles per second on the right for a total of 20 decibels. This figure, when divided by four, resulted in an average hearing loss of five decibels. The average of 5 decibels was then reduced by 25 decibels, which resulted in a 0 percent monaural hearing loss of the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 15, 5, 5 and 55, respectively, for a total loss of 80 decibels. Eighty decibels divided by 4 resulted in an average of 20 decibels which, when reduced by the 25 decibel fence, also resulted in a 0 percent monaural hearing loss of the left ear.

## LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act<sup>3</sup> specifies the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body. The Act does not, however, specify the manner by which the percentage loss of a member, function or organ shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office. For consistent results and to ensure equal justice under the law to 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.<sup>4</sup> The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*<sup>5</sup> (hereinafter A.M.A., *Guides*). Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added and averaged.<sup>6</sup> The "fence" of 25 decibels is then deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.<sup>7</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>8</sup> 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.<sup>9</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>10</sup>

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<sup>3</sup> 5 U.S.C. § 8107(c).

<sup>4</sup> *Renee M. Straubinger*, 51 ECAB 667 (2000).

<sup>5</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001). In addition to these standards by which it computes the percentage of hearing loss, the Office has delineated requirements for the type of medical evidence used in evaluating hearing loss. The requirements, as set forth in the Office's Federal (FECA) Procedure Manual, are, *inter alia*, that the employee undergo both audiometric and otologic examination; that the audiometric testing precede the otologic examination; that the audiometric testing be performed by an appropriately certified audiologist; that the otologic examination be performed by an otolaryngologist certified or eligible for certification by the American Academy of Otolaryngology; that the audiometric and otologic examination be performed by different individuals as a method of evaluating the reliability of the findings; that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association; that the audiometric test results include both bone conduction and pure tone air conduction thresholds, speech reception thresholds and monaural discrimination scores; and that the otolaryngologist's report must include: date and hour of examination; date and hour of employee's last exposure to loud noise; a rationalized medical opinion regarding the relation of the hearing loss to the employment-related noise exposure; and a statement of the reliability of the tests. *See* Federal (FECA) Procedure Manual, Part 3 -- Requirements for Medical Reports, *Special Conditions*, Chapter 3.600.8(a) (September 1995); *Vernon Brown*, 54 ECAB 376 (2003). The procedural requirements were met in the instant case regarding the May 2, 2001 audiogram.

<sup>6</sup> A.M.A., *Guides*, *id.*

<sup>7</sup> *Id.*

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)* (issued August 13, 2002).

## ANALYSIS

The Board finds that, based on the opinion of the Office medical adviser, appellant has not established that he is entitled to a schedule award for his employment-related binaural hearing loss. In his report dated November 16, 2004, Dr. Hollingsworth advised that in November 2002 his hearing loss had worsened from his May 2001 examination. He, however, did not provide an opinion regarding whether this worsening was caused by employment and, as appellant had retired in June 2000, he was no longer exposed to employment-related noise. The Office, therefore, properly secured an opinion from its medical adviser, who opined in a January 21, 2005 report that the May 2001 audiogram was the best representation of appellant's hearing loss, since he had retired in June 2000 and noise-induced hearing loss did not progress once the noise exposure ceased.<sup>11</sup>

As the Board found in its September 20, 2004 decision, the Office medical adviser properly applied the standardized procedures of the Office to the findings as stated in Dr. Hollingsworth's report and the accompanying May 2, 2001 audiogram in determining that appellant's hearing loss was not ratable.<sup>12</sup> While he subsequently submitted reports including audiograms from Ms. Turner, an audiologist is not included among the list of healthcare professionals recognized as a "physician" under section 8101(2) of the Act.<sup>13</sup> Furthermore, Office procedures have set forth the type of medical evidence used in evaluating hearing loss<sup>14</sup> and advise, *inter alia*, that a certification must accompany each audiological battery indicating that the instrument calibration and the environment in which the tests were conducted met the specified accreditation standards.<sup>15</sup> No such certification is found with Ms. Turner's reports and the Office does not have to review every uncertified audiogram which has not been prepared in connection with an examination by a medical specialist.<sup>16</sup> Ms. Turner's reports, therefore, do not constitute competent medical evidence.

The Board finds the weight of the medical evidence rests with the opinion of the Office medical adviser who advised that the worsening of appellant's hearing was not employment related as noise-induced hearing loss does not progress once noise exposure ceases and in this case appellant's employment-related noise exposure ended upon his retirement in June 2000. As

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<sup>11</sup> Office procedures provide that, in evaluating schedule awards, after obtaining all necessary medical evidence, the file should be routed to an Office medical adviser for an opinion regarding the nature and percentage of impairment. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Evaluation of Schedule Awards*, Chapter 2.808.6(d) (August 2002).

<sup>12</sup> *Supra* note 2.

<sup>13</sup> 5 U.S.C. § 8101(2); *see Leon Thomas*, 52 ECAB 202 (2001).

<sup>14</sup> Federal (FECA) Procedure Manual, Part 3 -- Requirements for Medical Reports, *Special Conditions*, *supra* note 5.

<sup>15</sup> *See Vernon Brown*, *supra* note 5.

<sup>16</sup> *Robert E. Cullison*, 55 ECAB \_\_\_\_ (Docket No. 04-641, issued June 2, 2004).

the May 2, 2001 audiogram did not demonstrate ratable values,<sup>17</sup> appellant has not established entitlement to a schedule award for his employment-related hearing loss.

**CONCLUSION**

The Board finds that appellant has not established a ratable loss of hearing causally related to his accepted binaural hearing loss.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 13, 2005 be affirmed.

Issued: June 7, 2006  
Washington, DC

Alec J. Koromilas, Chief Judge  
Employees' Compensation Appeals Board

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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<sup>17</sup> *Supra* note 2.