



federal employment. Dr. Light noted that audiometric testing was conducted on appellant's behalf on May 17, 2004. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed the following: right ear air -- 15, 15, 20 and 45 decibels; right ear bone -- 10, 10, 25 and 45 decibels; left ear air -- 25, 25, 20 and 50 decibels and left ear bone -- 15, 20, 25 and 40 decibels.

On May 28, 2004 the Office accepted appellant's claim for bilateral hearing loss.

On June 21, 2004 appellant filed a claim for a schedule award.

On July 21, 2004 the Office medical adviser reviewed Dr. Light's report and the audiometric test of May 17, 2004. He applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) and determined that appellant had no ratable hearing loss in the right ear and an eight percent hearing loss in the left ear.

By decision dated August 11, 2004, the Office granted appellant a schedule award for an eight percent monaural (left ear) loss of hearing, consisting of 4.16 weeks of compensation for the period May 17 through June 15, 2004.

By letter dated March 7, 2005, appellant requested reconsideration. Additional information in the record consisted of an otological report dated February 18, 2005 by Beltone Associates. This report included audiometric testing results for an audiogram conducted on February 18, 2005.

By decision dated November 25, 2005, the Office denied reconsideration of the merits. Appellant subsequently appealed to the Board.

In a decision dated August 2, 2006, the Board remanded the case for the Office to conduct a merit review.<sup>1</sup> The Board found that the Office's delay in responding to appellant's request for reconsideration jeopardized his right to review of the merits of the case by the Board.

On September 14, 2006 the Office referred appellant's claim to the Office medical adviser. In a report of the same date, the Office medical adviser noted that the February 18, 2005 audiogram was consistent with a greater schedule award than previously awarded. However, he opined that, as appellant's employment with the employing establishment ended in 1998 and noise-induced hearing loss does not progress after removal from the hazardous source, the presumed worsening is not work related and hence would not result in an increase in appellant's schedule award. The Office medical adviser also noted that the February 18, 2005 study was not performed and submitted under the strict condition of the Office's protocol.

By decision dated September 22, 2006, the Office denied modification of its August 11, 2004 decision.

---

<sup>1</sup> J.W., Docket No. 06-631 (issued August 2, 2006).

## LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act<sup>2</sup> provides for compensation to employees sustaining permanent loss or loss of use, of specified members of the body. The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* (5<sup>th</sup> ed. 2001) has been adopted by the Office for evaluating schedule losses and the Board has concurred in such adoption.<sup>3</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>4</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.<sup>5</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>6</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>7</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing losses.<sup>8</sup>

In order to establish a work-related loss of hearing, the Office requires 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 Otolaryngologist and that the audiometric and otologic examination be performed by different individuals as a method of evaluating the reliability of the findings. Office procedures require that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association and that audiometric test results include both bone conduction and pure tone air conduction thresholds, speech reception thresholds and monaural discrimination scores. 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. 9

---

<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> See 20 C.F.R. § 10.404; *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>4</sup> A.M.A., *Guides* 250.

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

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

<sup>8</sup> *Reynaldo R. Lichtenberger*, 52 ECAB 462 (2001).

## ANALYSIS

In the present case, the Office medical adviser reviewed otologic and audiologic testing performed by Dr. Light and correctly applied the Office's standardized procedures to the May 17, 2004 testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 15, 15, 20 and 45 respectively. These decibel losses were totaled at 95 and divided by 4 to obtain the average hearing loss per cycle of 23.75. The average of 23.75 was then reduced by the 25 decibel fence (the first 25 decibels are discounted as discussed above) to equal 0 percent hearing loss for the right ear, which, when multiplied by 1.5, resulted in a 0 percent rating loss in the right ear. Testing on the left ear at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 25, 25, 20 and 50, respectively. These decibel losses were totaled at 120 and divided by 4 to obtain the average hearing loss per cycle of 30. The average of 30 was then reduced by the 25 decibel fence to equal 5 which was multiplied by 1.5 to result in a 7.5 percent ratable loss in the left ear which was rounded up to an 8 percent loss in the left ear. The Office medical adviser properly found that appellant had a left monaural hearing loss of eight percent and no ratable hearing loss in the right ear under the A.M.A., *Guides*.

The Board finds that the Office medical adviser applied the proper standards to the May 17, 2004 audiogram. The result is a nonratable hearing loss bilaterally.<sup>9</sup> The Office medical adviser properly relied on the May 17, 2004 audiogram as it was part of Dr. Light's evaluation and met all the standards.<sup>10</sup>

The Office properly did not utilize the results from the February 18, 2005 audiometric test. First, the Office medical adviser noted that appellant's employment with the employing establishment ended in 1998 and noise-induced hearing loss does not progress after removal from the hazardous source, the presumed worsening is not work related. Additionally, the February 18, 2005 audiogram did not meet the Office's standards in that no information is given about the person who conducted the test or about the audiological equipment utilized. The audiometric test did not include results from both bone conduction and pure tone air conduction thresholds, speech reception thresholds and monaural discrimination scores. Furthermore, no information was given with regard to the hour of the examination or the date and hour of appellant's last exposure to noise. Accordingly, the Office properly did not use this examination in determining the amount of the schedule award.

Appellant contends that he is not relying on the Beltone otological evaluation. In fact, he states that he only went to Beltone for hearing aids. Appellant contends that the Office did not follow the Board's instructions that directed the Office to reconsider his case because the employing establishment failed to submit his claim in a timely manner. He misread our decision. This Board remanded the case because of the Office's delay in adjudicating appellant's request for reconsideration, not because there was any delay by the employing establishment in

---

<sup>9</sup> To determine the binaural hearing loss, the lesser loss is multiplied by five and added to the greater loss and divided by six. Appellant had a zero percent binaural hearing loss.

<sup>10</sup> See Federal (FECA) Procedure Manual, Part 3 -- *Medical, Requirement for Medical Reports*, Chapter 3.600.8(a)(2) (September 1994).

submitting his claim. Furthermore, appellant contends that, if the employing establishment submitted his claim in a timely manner, he would be entitled to a full 52 weeks of compensation. However, the degree of impairment in an award of compensation for hearing loss is not based on the date of maximum medical improvement, but rather, on the results of appellant's hearing tests. As his hearing test stated that he sustained an eight percent monaural loss of hearing, appellant would not be entitled to a greater amount if his claim had been filed earlier. Accordingly, appellant's arguments are without merit.

**CONCLUSION**

The Board finds that appellant did not sustain a hearing loss of greater than eight percent in his left ear for which he received a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated September 22, 2006 is affirmed.

Issued: April 13, 2007  
Washington, DC

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

David S. Gerson, Judge  
Employees' Compensation Appeals Board

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board