

record contains several audiograms dated between 1986 and 2006. None of these were certified by a physician as being accurate.

The Office referred appellant to Dr. Meredith Pang, a Board-certified otolaryngologist, for otologic and audiologic testing. On October 26, 2006 Dr. Pang determined that appellant's exposure to noise at work contributed to his high-frequency sensorineural hearing loss in both ears. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed decibel losses of 5, 5, 5 and 35 respectively and testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 5, 10, 10 and 65 respectively.

The Office accepted that appellant sustained an employment-related bilateral hearing loss and he filed a claim for a schedule award due to this condition. On July 31, 2007 an Office district medical adviser evaluated the findings of Dr. Pang and determined that appellant did not have a ratable hearing loss under the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001).

In a February 14, 2007 decision, the Office determined that appellant did not have a permanent hearing loss which entitled him to schedule award compensation.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. 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. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.³

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁴ Using the frequencies of 500, 1,000, 2,000, and 3,000 cps, the losses at each frequency are added up and averaged.⁵ Then, the "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 speech under everyday conditions.⁶ The remaining amount is

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

³ *Id.*

⁴ A.M.A., *Guides* at 226-51.

⁵ *Id.*

⁶ *Id.*

multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁷ 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.⁸ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁹

ANALYSIS

The Office accepted that appellant sustained an employment-related bilateral hearing loss and he filed a claim for a schedule award due to this condition. On February 14, 2007 the Office determined that appellant did not have a permanent hearing loss which entitled him to schedule award compensation.

The Board finds that appellant did not meet his burden of proof to establish that he sustained a permanent hearing loss which entitles him to schedule award compensation. On January 31, 2007 the Office district medical adviser reviewed the otologic and audiologic testing performed on appellant by Dr. Pang, a Board-certified otolaryngologist, and properly applied the Office's standardized procedures to this evaluation. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 5, 5, 5 and 35 respectively. These decibel losses were totaled at 50 decibels and were divided by 4 to obtain the average hearing loss of 12.5 decibels. This average loss was reduced by 25 decibels (25 decibels being discounted as discussed above) to equal a number less than 0. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 5, 10, 10 and 65 respectively. These decibel losses were totaled at 90 decibels and were divided by 4 to obtain the average hearing loss of 22.5 decibels. This average loss was reduced by 25 decibels (25 decibels being discounted as discussed above) to equal a number less than 0.

For these reasons, the Office properly determined that appellant did not show that he had a ratable hearing loss under the relevant standards of the A.M.A., *Guides* and the Office properly denied his schedule award claim.

CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he has a permanent hearing loss which entitles him to schedule award compensation.

⁷ *Id.*

⁸ *Id.*

⁹ *Donald E. Stockstad*, 53 ECAB 301 (2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' February 14, 2007 decision is affirmed.

Issued: August 13, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board