

claim, he provided a written history of his occupational noise exposure, both prior to and at the employing establishment and audiometric reports from the employing establishment's hearing testing program. On February 27, 2006 Dr. R.S. Hellmann, appellant's primary care physician, stated that he had never treated appellant for ear or hearing problems.

On June 26, 2006 appellant was referred for a second opinion examination with Dr. Joseph Motto, a Board-certified otolaryngologist, to determine whether his hearing loss was related to factors of his federal employment.

On July 19, 2006 Dr. Motto examined appellant and reviewed the medical records provided by the Office. He stated that an audiogram made near the beginning of appellant's federal employment showed an early left ear hearing loss, but that his current hearing loss exceeded the expected presbycusis losses at all frequencies. Dr. Motto stated that appellant's workplace noise exposure was sufficient in intensity and duration to have caused his hearing loss. On physical examination, he found that appellant's tympanic membranes were scarred and retracted, but had good mobility. Dr. Motto diagnosed moderate-to-severe sensorineural hearing loss related to appellant's federal employment. Appellant's audiometric tests results for 500, 1,000, 2,000 and 3,000 cycles per second (cps) showed, respectively, losses of 10, 15, 35 and 55 decibels in the right ear and 10, 15, 55 and 65 decibels in the left ear.

On August 16, 2006 the Office provided Dr. Motto's report to an Office medical adviser for determination of appellant's entitlement to a schedule award. On August 23, 2006 Dr. A.E. Anderson stated that appellant worked for the employing establishment from April 1973 to August 1999. He noted that the last employment audiogram, conducted May 4, 1999, coincided closely with appellant's last date of noise exposure. Dr. Anderson pointed out that "[noise-induced hearing loss] does not progress after removal from hazardous noise." The 1999 audiogram, performed by Dolores Leffew, a registered nurse with the employing establishment, measured average losses for speech, high frequency and low frequency hearing. Dr. Anderson found that the 1999 audiogram was the most accurate measure of appellant's degree of employment-related hearing loss. He noted that the audiogram showed losses of 10, 10, 35 and 35 decibels for the right ear and 10, 15, 50 and 55 decibels for the left ear, respectively, for the frequencies of 500, 1,000, 2,000 and 3,000 cps. Dr. Anderson found that the date of maximum medical improvement was May 4, 1999. He found 11 percent monaural hearing loss in the left ear and 0 percent hearing loss in the right. Dr. Anderson recommended hearing aids.

On August 21, 2006 the employing establishment submitted noise dosimetry monitoring data for employees who held the position of assistant unit operator from 1975 to 1992. It stated that appellant would likely have been exposed to an eight-hour time weighted average of 87.49 decibels while working in that position. The employing establishment also provided an injury report from May 23, 1986, when an explosion of a supply valve caused appellant's right ear to ring.

By decision dated August 31, 2006, the Office accepted appellant's claim for bilateral hearing loss. On September 20, 2006 appellant filed a claim for a schedule award.

By decision dated January 16, 2007, the Office granted appellant a schedule award for 11 percent hearing loss in his left ear. The award compensated appellant for 5.72 weeks, from May 4 to June 13, 1999. The date of maximum medical improvement was listed as May 4, 1999.

On February 26, 2007 appellant requested reconsideration of the August 31, 2006 decision. He stated that he still had a hard time hearing, even with his hearing aids.

On March 2, 2007 the Office notified appellant that it was not clear which decision he was appealing. It stated that no further action would be taken on his letter until clarification was received.

By decision dated March 7, 2007, the Office issued an amended schedule award, superseding the January 16, 2007 decision. The amended award stated that appellant had 0 percent hearing loss in his right ear and 11 percent monaural, left ear, hearing loss.

On June 27, 2007 appellant requested reconsideration of his claim. He stated that he was having more difficulty understanding people when they talked and heard a continual ringing in his ears. Appellant requested compensation for all the time he had loss of hearing, not only the five weeks for which he received payment. He submitted an October 3, 2006 audiogram conducted by Elisha Arnett, who helped fit him for hearing aids.

On August 9, 2007 the Office provided the record to another Office medical adviser, Dr. Eric Puestow, a Board-certified internist, for an explanation of which audiogram was the correct basis for appellant's schedule award. On August 10, 2007 Dr. Puestow found that Dr. Anderson correctly stated that hearing loss due to noise exposure does not progress after the exposure ends. He noted that appellant stopped working in August 1999, at which time his most recent audiogram indicated that he had 11 percent hearing loss in his left ear. Dr. Puestow calculated that appellant's hearing loss had increased to seven percent binaural hearing loss by the time he was examined by Dr. Motto on July 19, 2006. For these reasons, he opined that Dr. Anderson's August 23, 2006 report was the correct measure of employment-related hearing loss and should be adopted.

By decision dated August 20, 2007, the Office denied modification of the March 7, 2007 schedule award. It found that there was no rationale for using the more current audiogram because it included hearing loss that was not related to appellant's employment and thus not compensable.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulations 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.² The Act provides for 52 weeks of compensation for total loss of hearing in one ear

¹ 5 U.S.C. §§ 8101-8193.

² 5 U.S.C. § 8107; 20 C.F.R. § 10.404.

and 200 weeks for total loss of hearing in both ears.³ Any loss less than a total loss is compensated at a proportionate rate.⁴

The Act does not specify the manner in which the percentage of loss is to be determined for the purposes of schedule awards. 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵ Therefore, the Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁶ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁷ 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.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ 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.¹⁰ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹¹

ANALYSIS

The Office granted appellant a schedule award for an employment-related permanent impairment. The issue to be determined is whether he has established hearing loss greater than 11 percent in his left ear, for which he received a schedule award and 0 percent in his right ear.

On June 26, 2006 the Office referred appellant to Dr. Motto, a Board-certified otolaryngologist, for a second opinion on the cause of his hearing loss. Dr. Motto stated that appellant's hearing loss exceeded the expected presbycusis losses at all frequencies. Noting that appellant's workplace noise exposure was sufficient to have caused hearing loss, he opined that appellant's moderate-to-severe sensorineural hearing loss was related to his federal employment.

³ 5 U.S.C. § 8107(c)(13).

⁴ 5 U.S.C. § 8107(c)(19); *David W. Ferrall*, 56 ECAB 362 (2005).

⁵ 20 C.F.R. § 10.404.

⁶ A.M.A., *Guides* 246-51 (5th ed. 2001).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Donald Stockstad*, 53 ECAB 301 (2002), *petition for recon., granted (modifying prior decision)* Docket No. 01-1570 (issued August 13, 2002).

The attached audiometric test results showed, respectively, losses of 10, 15, 35 and 55 decibels in the right ear and 10, 15, 55 and 65 decibels in the left ear for 500, 1,000, 2,000 and 3,000 cps. Based on Dr. Motto's opinion, the Office properly accepted appellant's claim for bilateral hearing loss.

In order to make a determination on appellant's entitlement to a schedule award, the Office submitted his case to Dr. Anderson, an Office medical adviser, who found that an audiogram conducted by the employing establishment in May 1999 was the most accurate gauge of appellant's employment-related hearing loss because it was made near the date of his last exposure to employment noise. Dr. Anderson noted that noise-related hearing loss did not worsen after noise exposure ended. He added the right ear decibel losses recorded at 500, 1,000, 2,000 and 3,000 cps, which were 10, 10, 35 and 35 decibels, respectively, for a total loss of 90 decibels. When divided by 4, the result was an average hearing loss of 22.5 decibels. The average loss was then reduced by the "fence" of 25 decibels to equal 0, which, when multiplied by the established factor of 1.5 resulted in 0 percent monaural hearing loss for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed leveled losses of 10, 15, 50 and 55 decibels, respectively, for a total of 130 decibels. When divided by 4, the result was an average hearing loss of 32.5 decibels. The average loss was then reduced by the "fence" of 25 decibels to equal 7.5, which, when multiplied by the established factor of 1.5 resulted in 11.25 percent monaural hearing loss for the left ear. Dr. Anderson properly rounded the percentage loss and opined that appellant to a schedule award for 11 percent hearing loss in his left ear and 0 percent loss in his right ear. The Board finds that the Office properly issued a schedule award on the basis of Dr. Anderson's opinion.

After appellant requested reconsideration, the Office provided his file to Dr. Puestow, a Board-certified internist, acting as an Office medical adviser, for an opinion on which audiogram should form the basis of the schedule award. Dr. Puestow concurred with Dr. Anderson's finding that the 1999 audiogram was the most accurate for purposes of a schedule award because the increases in hearing loss appellant incurred after that time were not employment related. He therefore opined that Dr. Anderson's August 23, 2006 report was correct and should be adopted. The Board finds that the Office correctly denied appellant's request for an increased schedule award based on Dr. Puestow's medical opinion.

The Board notes that, along with this request for reconsideration, appellant submitted an audiogram prepared in conjunction with his hearing aid fitting. The audiogram provided a measure of appellant's hearing loss, but contained no rationalized opinion on whether the loss was caused by appellant's employment. Medical reports not containing rationale on causal relation are entitled to little probative value and are generally insufficient to meet an employee's burden of proof.¹² The Board therefore finds that the opinions of Dr. Puestow and Dr. Anderson carry the weight of the medical opinion evidence.

¹² Elizabeth H. Kramm (*Leonard O. Kramm*), 57 ECAB 117 (2005).

CONCLUSION

The Board finds that appellant has no more than 11 percent monaural hearing loss in his left ear for which he received a schedule award and no ratable hearing loss in his right ear.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated August 20 and March 7, 2007 are affirmed.

Issued: June 19, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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