

On May 22, 2007 the Office referred appellant, together with a statement of accepted facts, to Dr. Meredith Pang, a Board-certified otolaryngologist, for a second opinion evaluation regarding the nature, extent and relationship of appellant's hearing loss to his federal employment. In a June 14, 2007 report, Dr. Pang reviewed a baseline audiogram dated July 23, 1974, which she advised revealed binaural mild high frequency hearing loss. She stated that subsequent threshold testing recorded better hearing levels, indicating that the 1974 levels were suspect. Dr. Pang determined that the occupational noise levels were of sufficient intensity and duration to have aggravated appellant's hearing loss. After reviewing the results of a June 14, 2007 audiogram, she diagnosed binaural mild high frequency sensorineural hearing loss, which was due to appellant's noise exposure in his federal employment. She attached a certificate of acoustic impedance/admittance meter calibration and a copy of the June 14, 2007 audiogram.¹

On July 31, 2007 an Office medical adviser reviewed the report of Dr. Pang and applied the Office's standardized procedures to find a nonratable hearing loss under the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed. 2001) (A.M.A., *Guides*). Decibel losses for the left ear were totaled at 80, and divided by 4, to obtain the average hearing loss per cycle of 20. The 20 average was then reduced by the 25 decibel fence to equal 0 decibels, resulting in a 0 percent loss. Decibel losses for the right ear were totaled at 55, and divided by 4, to obtain the average hearing loss per cycle of 13.75. The 13.75 average was then reduced by the 25 decibel fence to equal 0 decibels, resulting in a 0 percent loss. The medical adviser diagnosed noise-induced binaural hearing loss and recommended against the authorization of a hearing aid.

On September 20, 2007 the Office accepted appellant's claim for binaural hearing loss, due to his employment-related hearing exposure. By separate decision dated September 20, 2007, the Office determined that appellant's hearing loss was not severe enough to be considered ratable and found that he was not entitled to a schedule award.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² and its implementing regulations³ 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 regulations as the appropriate standard for evaluating schedule losses.⁴

¹ 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 10, 10, 25 and 35 respectively; testing for the right ear at those frequency levels revealed decibel losses of 15, 10, 15 and 15 respectively.

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

⁴ *Id.*

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁵ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁶ 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.⁷ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁸ 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.⁹ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹⁰

Regarding tinnitus, the A.M.A., *Guides* states that tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, up to five percent may be added for tinnitus in the presence of measurable hearing loss, if the tinnitus impacts the ability to perform the activities of daily living.¹¹

ANALYSIS

The evidence of record is insufficient to establish that appellant is entitled to a schedule award for his hearing loss in accordance with the fifth edition of the A.M.A., *Guides*.

In support of his claim for an employment-related hearing loss, appellant submitted copies of audiograms for the period July 23, 1974 through December 7, 2006. This evidence did not meet the Office's criteria to establish an employment-related loss of hearing, as the audiograms were not certified by a physician as being accurate. The Office is not required to review uncertified audiograms which have not been prepared in connection with an examination by a medical specialist.¹²

The Office referred appellant for a second opinion examination by Dr. Pang, a Board-certified otolaryngologist. On July 31, 2007 the Office medical adviser reviewed the otologic and audiologic testing obtained by Dr. Pang, 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

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

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ See *B.A.*, 58 ECAB ____ (Docket No. 06-2048, issued January 10, 2007); see also *Donald Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

¹¹ A.M.A., *Guides* 246.

¹² *Robert E. Cullison*, 55 ECAB 570 (2004).

and 3,000 cps revealed decibel losses of 10, 10, 25 and 35 respectively. These decibel losses were totaled at 80 decibels and were divided by 4 to obtain the average hearing loss of 20 decibels. This average loss was then reduced by 25 decibels (25 decibels being discounted as discussed above) to equal a negative figure. Testing for the right ear revealed decibel losses of 15, 10, 15 and 15 respectively. These decibel losses were totaled at 55 decibels and were divided by 4 to obtain the average hearing loss of 13.75 decibels. This average loss was then reduced by 25 decibels, resulting in a negative figure. The Office medical adviser properly concluded that the calculations showed that appellant did not have a ratable hearing loss under the relevant standards of the A.M.A., *Guides*.

On appeal appellant notes that he is experiencing a constant ringing in his left ear. The A.M.A., *Guides* provides for the addition of up to five percent for tinnitus in the presence of measurable hearing loss, if the tinnitus impacts the ability to perform the activities of daily living. In her June 14, 2007 second opinion report, Dr. Pang did not diagnose tinnitus due to noise exposure. Although appellant contends that he suffers daily from tinnitus, it is for the evaluating physician to integrate any subjective complaints with objective data to estimate the degree of permanent impairment due to tinnitus.¹³ The A.M.A., *Guides* provides that up to five percent may be added for tinnitus in the presence of measurable hearing loss, if the tinnitus impacts the ability to perform the activities of daily living.¹⁴ There is no provision for an award in the absence of a measurable hearing loss. Accordingly, the Board finds that appellant is not entitled to a schedule award for tinnitus.

CONCLUSION

The Board finds that appellant has failed to establish that he sustained a ratable hearing loss entitling him to a schedule award.

¹³ *Id.*

¹⁴ A.M.A., *Guides* 246.

ORDER

IT IS HEREBY ORDERED THAT the September 20, 2007 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 24, 2008
Washington, DC

David S. Gerson, Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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