

In a December 10, 2008 report, Dr. Richard B. Dawson, an otolaryngologist, provided findings on physical examination and stated that hearing test results established that appellant had bilateral sensorineural high frequency hearing loss. Audiometric testing performed on December 8, 2008 by a certified audiologist revealed, at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps): left ear decibel losses of 10, 10, 10 and 40; right ear decibel losses of 10, 15, 15 and 30. The report shows that the audiometric testing equipment was last calibrated on October 22, 2008.

In a February 2, 2009 report, Dr. R. Meador, an Office medical adviser, totaled the decibel losses of 10, 10, 10 and 40 in the left ear for the frequency levels of 500, 1,000, 2,000 and 3,000 cps at 70 decibels and divided by 4 to obtain the average hearing loss of 17.5 decibels. This average was then reduced by 25 decibels to equal 0 decibels and multiplied by the established factor of 1.5 to compute 0 percent impairment in the left ear. Dr. Meador totaled the losses of 10, 15, 15 and 30 in the right ear at 70 decibels and divided by 4 to obtain the average hearing loss of 17.5 decibels. This average was then reduced by 25 decibels to equal 0 which was multiplied by the established factor of 1.5 to compute 0 percent monaural hearing loss in the right ear.¹

By decision dated February 25, 2009, the Office denied appellant's claim for a schedule award on the grounds that the medical evidence established that his hearing loss was not severe enough to be ratable.

Appellant requested reconsideration and submitted a March 6, 2009 report from Lisa L. Irby, an audiologist, who stated that hearing test results indicated that he had bilateral sensorineural high frequency hearing loss. Ms. Irby did not provide an opinion as to whether appellant's hearing loss was work related. Audiometric testing performed on March 6, 2009 revealed, at the frequency levels of 500, 1,000, 2,000 and 3,000 cps: left ear decibel losses of 25, 20, 20 and 50; right ear decibel losses of 20, 20, 15 and 40. There was no information as to whether the audiometric testing equipment had been calibrated within one year of the test date.

By decision dated April 20, 2009, the Office denied modification of the February 25, 2009 decision. It found that the audiometric test results could not be accepted as valid because there was no evidence that the testing equipment had been calibrated within one year of the test date.

¹ See Federal (FECA) Procedural Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6(d) (October 2005) (these procedures contemplate that, after obtaining all necessary medical evidence, the file should be routed to an Office medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) with the medical adviser providing rationale for the percentage of impairment specified, especially when there is more than one evaluation of the impairment present).

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act² provides for compensation to employees sustaining permanent impairment loss of use of scheduled members. 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 within the sound discretion of the Office. For consistent results and to ensure equal justice under the law to all claimants, 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* has been adopted by the Office for evaluating schedule losses and the Board has concurred in the adoption of this standard.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 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 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

ANALYSIS

Dr. Dawson provided findings on physical examination and diagnosed bilateral sensorineural high frequency hearing loss. Audiometric testing performed on December 8, 2008 revealed, at the frequency levels of 500, 1,000, 2,000 and 3,000 cps: left ear decibel losses of 10, 10, 10 and 40; right ear decibel losses of 10, 15, 15 and 30. Dr. Meador applied the audiometric test results provided by Dr. Dawson to the Office's standardized procedures for determining hearing impairment. He totaled the decibel losses of 10, 10, 10 and 40 in the left ear for the frequency levels of 500, 1,000, 2,000 and 3,000 cps at 70 decibels and divided by 4 to obtain the average hearing loss of 17.5 decibels. This average was then reduced by 25 decibels to equal 0 decibels and multiplied by the established factor of 1.5 to compute 0 percent impairment in the left ear. Dr. Meador totaled the losses of 10, 15, 15 and 30 in the right ear at 70 decibels and divided by 4 to obtain the average hearing loss of 17.5 decibels. This average was then reduced

² 5 U.S.C. § 8107.

³ See 20 C.F.R. § 10.404; *Thomas O. Bouis*, 57 ECAB 602 (2006).

⁴ A.M.A., *Guides* 250 (5th ed. 2001).

⁵ *Id.*

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

by 25 decibels to equal 0 which was multiplied by the established factor of 1.5 to compute 0 percent monaural hearing loss in the right ear. The medical evidence does not establish a ratable hearing loss for schedule award purposes.

The Board notes that the March 6, 2009 audiologist's report provided by appellant does not contain an opinion on the causal relationship of his hearing loss to his employment. The March 6, 2009 audiometric test results also do not indicate the last calibration date for the testing equipment. For these reasons the March 6, 2009 report is of diminished probative value and is not sufficient to establish that appellant has a ratable hearing loss.

On appeal, appellant contends that the Office's decisions are contrary to fact and law. As noted, however, the weight of probative medical opinion does not establish a ratable hearing loss. The Office properly calculated appellant's right and left ear impairment due to hearing loss and determined that he had no ratable hearing loss.

CONCLUSION

The Board finds that the evidence establishes that appellant has no ratable hearing loss.

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated April 20 and February 25, 2009 are affirmed.

Issued: January 26, 2010
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