

factors of his federal employment. He first became aware of his condition on March 16, 2009 and first attributed it to his employment on June 17, 2009. Appellant stated that he was notified of his condition by an OSHA report that he had hearing loss in his right ear.

On June 14, 2010 OWCP advised appellant of the deficiencies in his claim and provided him the opportunity to submit new evidence. Appellant was specifically requested to provide medical evidence in support of his claim and further information regarding employment history, exposure to hazardous noise, prior workers' compensation claims filed, previous ear or hearing problems, as well as a description of hobbies that involved exposure to loud noise.

No additional evidence was received by OWCP.² By decision dated August 3, 2010, OWCP denied appellant's claim of compensation.

LEGAL PRECEDENT

An employee seeking benefits under the Act³ has the burden to establish the essential elements of his claim including the fact that the individual is an employee of the United States within the meaning of the Act, that the claim was timely filed, that an injury was sustained in the performance of duty as alleged and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁴

To establish that an injury was sustained in the performance of duty in a claim for occupational disease, an employee must submit: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.⁵

To establish a causal relationship between a claimant's condition and any attendant disability claimed and the employment factors, he must submit rationalized medical opinion evidence based on a complete factual and medical background supporting such a causal relationship. Rationalized medical opinion evidence is medical evidence which provides a physician's opinion explaining the causal relationship between the claimant's diagnosed condition and the implicated employment factors. The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable

² The Board notes that, following the issuance of the August 3, 2010 OWCP decision, appellant submitted new evidence. However, the Board is precluded from reviewing evidence which was not before OWCP at the time it issued its final decision. *See* 20 C.F.R. § 501.2(c)(1). Appellant may resubmit this evidence, together with a formal written request for reconsideration to OWCP, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.606 and 10.607.

³ 5 U.S.C. §§ 8101-8193.

⁴ *Steven S. Saleh*, 55 ECAB 169 (2003); *Elaine Pendleton*, 40 ECAB 1143 (1989).

⁵ *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

medical certainty and must be supported by medical rationale explaining how the specific employment factors identified by the claimant caused the diagnosed condition.⁶

ANALYSIS

The Board finds that appellant failed to meet his burden of proof.

Appellant has the burden to submit a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition, medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed, and medical evidence establishing that the diagnosed condition is causally related to the implicated employment factors. The Board finds that appellant failed to submit any evidence in support of his claim.

Appellant did not provide a factual statement as requested by OWCP. Furthermore, he did not submit any medical evidence establishing a diagnosis and causal relationship between his condition and factors of his federal employment. Although OWCP informed appellant of the deficiencies in the evidence, he did not submit sufficient factual and medical evidence to establish his claim. Appellant did not meet his burden of proof to establish that he sustained an employment-related injury.

CONCLUSION

The Board finds that appellant failed to meet his burden of proof to establish that he sustained hearing loss causally related to factors of his federal employment.

⁶ *Gary J. Watling*, 52 ECAB 278 (2001); *Shirley A. Temple*, 48 ECAB 404 (1997).

ORDER

IT IS HEREBY ORDERED THAT the August 3, 2010 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 24, 2011
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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