



employment.<sup>1</sup> He stated that he was first aware of his hearing loss and realized that it was causally related to his federal employment on January 1, 1984. Appellant attributed his hearing loss to his exposure to high levels of noise while he worked at the employing establishment. He retired in January 1995.

Appellant submitted a Form CA-1032, personnel action forms and a hearing loss questionnaire detailing his work history and exposure to noise. He worked at the employing establishment from 1962 to 1995 as a cardpunch operator, transceiver operator, stock control clerk, supply clerk, supervisor supply technician typing and supply technician. Appellant was exposed to noise from a sorter, keypunch, metal cutting machine, air conditioner and office machinery for 40 hours per week and that he did not use any safety devices. He submitted information of nonfederal employment from June 1960 to September 1961 where he was exposed to noise from a graphotype machine, sewing machines, cutting machines and mules for about 40 hours a week.

Appellant submitted medical evidence including periodic diagnostic reports of audiograms from his employing establishment dated October 1962 to January 1995. According to the October 1962 audiological examination report, he was advised of hearing loss at the onset of his federal employment.

In a May 14, 2009 audiological evaluation and audiogram, Joseph E. Gillespie, an audiologist, listed testing at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz (Hz) revealed the following: right ear 20, 25, 50 and 70 decibels; left ear 20, 25, 60 and 90 decibels. He diagnosed appellant with severe sensorineural loss in both ears.

On November 18, 2009 the Office issued a statement of accepted facts. It noted that appellant began working for the Federal Government on November 5, 1962 and was exposed to work noise levels averaging from 88 to 56 decibels during his employment. The Office pointed out that October 22, 1962 entrance audiogram revealed a high frequency hearing loss bilaterally. It further noted that appellant was issued ear defenders in 1980 and was advised to use them in high noise level areas.

On November 19, 2009 the Office referred the medical record to a district medical adviser (DMA). It requested the medical adviser to review his audiograms from 1983 to 1995 and to determine whether a decrease in hearing threshold levels occurred. The DMA compared appellant's June 15, 1983 and January 3, 1995 audiograms and found a decrease in his right ear of 10 decibels at 2,000, 3,000 and 4,000 frequency levels. The medical adviser further reported a decrease in his left ear of 5 decibels at 2,000 Hz and 15 decibels at 5,000 Hz. The DMA concluded that the audiograms from 1983 to 1995 revealed a bilateral, progressive loss of hearing that was most consistent with excessive exposure to noise.

By letter dated November 20, 2009, the Office referred appellant to Dr. Russell D. Kitch, a Board-certified otolaryngologist, for a second opinion evaluation. It provided Dr. Kitch with the statement of accepted facts and copies of available medical records.

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<sup>1</sup> The record reveals that appellant has a previously accepted occupational disease claim for monaural hearing loss in his left ear (File No. xxxxxx735).

On January 20, 2010 Dr. Kitch performed an otologic evaluation and an audiometric test was conducted on his behalf. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed the following: right ear 15, 25, 55 and 75 decibels; left ear 20, 25, 65 and 85 decibels respectively. The testing indicated that appellant showed normal hearing up to 1,000 Hz before decreasing to moderately severe and profound sensorineural symmetric loss in both ears.

Dr. Kitch diagnosed moderate-to-severe binaural mid to high frequency sensorineural hearing loss. Based on a review of appellant's audiometric testing results dating back to 1962, he determined that appellant suffered from significant binaural high frequency sensorineural hearing loss at the onset of his federal employment and that progression since that date was consistent with predicted presbycusis age-related progressive hearing loss, with the exception of 2,000 and 3,000 Hz in the right ear. Dr. Kitch advised that appellant suffered from moderate-to-severe binaural mid to high frequency sensorineural hearing loss in a pattern consistent with noise exposure, but that, based on audiometric records from the onset of appellant's federal employment, it was unlikely that his hearing loss was a result of his federal employment. He stated that the hearing loss in appellant's right ear of low to mid frequency was an exception because the progression of hearing loss in appellant's right ear was 10 to 20 decibels greater than expected with predicted presbycusis age-related progressive hearing loss. Accordingly, Dr. Kitch recommended bilateral amplification.

In a February 4, 2010 decision, the Office denied appellant's claim for hearing loss finding insufficient medical evidence to establish that his hearing loss was causally related to his federal employment. It noted that he suffered from moderate-to-severe binaural mid to high frequency hearing loss in a pattern consistent with noise exposure, but not as a result of his federal employment, with the exception of right ear low to mid frequency.

### **LEGAL PRECEDENT**

An employee seeking benefits under the Federal Employees' Compensation Act<sup>2</sup> has the burden of proof to establish the essential elements of his claim by the weight of the reliable, probative and substantial evidence.<sup>3</sup> To establish entitlement for permanent impairment, the employee must initially submit 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 employment factors identified by the employee.<sup>4</sup>

Causal relationship is a medical issue and the medical evidence generally required to establish causal relationship is rationalized medical opinion evidence.<sup>5</sup> Rationalized medical opinion evidence is medical evidence which includes a physician's rationalized opinion on

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<sup>2</sup> 5 U.S.C. §§ 8101-8193.

<sup>3</sup> *J.P.*, 59 ECAB 178 (2007); *Joseph M. Whelan*, 20 ECAB 55, 58 (1968).

<sup>4</sup> *See Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

<sup>5</sup> *J.R.*, 61 ECAB \_\_ (Docket No. 09-1229, issued February 24, 2010); *W.D.*, 61 ECAB \_\_ (Docket No. 09-658, issued October 22, 2009); *D.I.*, 59 ECAB 158 (2007).

whether there is a causal relationship between the employee's diagnosed condition and the specified employment factors or incident.<sup>6</sup>

When a claimant has a preexisting condition, the Board has held that it is not necessary for a work factor to materially contribute to the condition in order for the claimant to be entitled to compensation.<sup>7</sup> The Board has found that it is not necessary to prove a significant contribution of employment factors to a condition for the purpose of establishing causal relationship. If the medical evidence reveals that a work factor contributed in any way to the employee's condition, such condition would be considered employment related for the purpose of compensation benefits under the Act.<sup>8</sup>

### ANALYSIS

The Board finds that the medical evidence is sufficient to support appellant's claim for binaural hearing loss. By decision dated February 4, 2010, the Office denied his hearing loss claim finding that Dr. Kitch did not support causal relationship. The Board finds that the evidence of record establishes that appellant's binaural hearing loss is causally related to his federal employment.

The Board notes that in 1983 the Office accepted employment-related monaural hearing loss in appellant's left ear.<sup>9</sup> The record does not establish that this acceptance was rescinded. Accordingly, to support a claim for binaural hearing loss, appellant has the burden to establish that his right ear hearing loss was causally related to his federal employment. The Board finds that the Office medical adviser's report and Dr. Kitch's second opinion medical report establish that appellant sustained hearing loss in his right ear as a result of his federal employment.

On November 19, 2009 the Office medical adviser reviewed the record, including appellant's audiograms dating from 1983 to 1995. He found that appellant had binaural progressive hearing loss, consistent with noise exposure.

In a January 20, 2010 report, Dr. Kitch diagnosed appellant with moderate-to-severe binaural mid to high frequency sensorineural hearing loss in a pattern consistent with noise exposure. He observed that appellant had significant binaural high frequency sensorineural hearing loss at the onset of his federal employment and that appellant's hearing loss worsened in a manner consistent with predicted presbycusis age-related progressive hearing loss, except for 2,000 and 3,000 Hz in appellant's right ear, where the progression levels were 10 to 20 decibels greater. While it was unlikely that appellant's hearing loss resulted from his federal employment, Dr. Kitch attributed the right ear low-to-mid frequency loss to appellant's noise exposure in his federal employment. The report of Dr. Kitch establishes that appellant's

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<sup>6</sup> *I.J.*, 59 ECAB 408 (2008); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>7</sup> *James M. Taylor*, Docket No. 97-2497 (issued July 22, 1999); *Arnold Gustafson*, 41 ECAB 131 (1989).

<sup>8</sup> *Beth P. Chaput*, 37 ECAB 158 (1985).

<sup>9</sup> The current record is unclear however as to whether appellant received a prior schedule award for his left ear hearing loss.

accepted noise exposure contributed to his hearing loss at 2,000 and 3,000 Hz in the right ear. In this case, Dr. Kitch stated that appellant sustained additional noise exposure from low-to-mid frequency hearing loss in his right ear as a result of his federal employment. As appellant's hearing loss in his left ear was previously accepted and Dr. Kitch's report supports the causal relation between appellant's hearing loss in his right ear and his federal employment, he met his burden of proof to establish his claim. Accordingly, the case will be remanded for the Office to consolidate his claims relating to his binaural hearing loss and further develop the medical evidence as to the extent of permanent impairment related to his hearing loss.

### **CONCLUSION**

The Board finds that appellant's claim requires further development to determine the extent of any permanent impairment related to his binaural hearing loss.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 4, 2010 is set aside. The case is remanded for further development consistent with this decision.

Issued: February 4, 2011  
Washington, DC

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

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

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