



became aware of his hearing loss on January 1, 1995 and realized it was causally related to his employment on the same day. Appellant retired from the employing establishment on February 3, 1995.

By letter dated February 3, 2012, OWCP advised appellant of the type of evidence needed to establish his claim. It also requested the employing establishment address appellant's workplace noise exposure.

In a February 17, 2012 statement, appellant indicated that from 1968 to 1970 he worked as a rigger and was exposed to noise from chipping guns, grinders, chain falls, cranes, diesel motors, vent blowers, pumps and deck crawlers for eight hours a day without hearing protection; from 1970 to 1971 he worked as a firefighter and was exposed to noise from fire trucks, sirens and aircraft helicopters for eight hours a day without hearing protection; and from approximately 1971 to 1995 he worked as a firefighter assistant/assistant fire chief and was exposed to noise from trades working with chipping guns and carbon arc, fire engines, sirens and cranes for eight hours a day without hearing protection. From 2006 to 2010 he worked in the private sector and was not exposed to noise.

The employing establishment provided a December 20, 2011 report from Dr. Gerald G. Randolph, a Board-certified otolaryngologist, who performed an otologic evaluation of appellant on December 14, 2011 and audiometric testing was conducted on the doctor's behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 55, 40, 35 and 40 decibels; left ear 50, 30, 30 and 60 decibels. Appellant reported noticing progressive hearing loss for 20 years. He reported being retired from the employing establishment since 1995 and totally unemployed since 2010. Dr. Randolph noted that physical examination revealed external auditory canals and tympanic membranes were normal and air conduction was greater than bone conduction bilaterally at 500 cycles per second. He advised that audiometric tests revealed a relatively flat bilateral sensorineural hearing loss with speech reception thresholds of 45 decibels in the right ear and 40 decibels in the left ear. Dr. Randolph diagnosed sensorineural hearing loss bilaterally. He noted that appellant's relatively flat audiogram revealed hearing loss which was largely due to causes other than industrial noise exposure; however, he noted dipping in the higher tones of the left ear which suggested the hearing loss was aggravated by past noise exposure. Dr. Randolph opined that, pursuant to the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,<sup>2</sup> (A.M.A., *Guides*), appellant had 26.25 percent hearing loss in the right and left ears with binaural hearing loss of 26.25 percent. He recommended bilateral hearing aids. Dr. Randolph requested to review appellant's industrial audiograms performed during his employing establishment employment to see if the hearing loss would be attributed to his workplace exposure to noise.

On March 16, 2012 the employing establishment advised that appellant retired on February 3, 1995 from his position as a supervisory firefighter. Appellant reported exposure to noise from fire engines, sirens, cranes and various shop noise while inspecting buildings. The employing establishment noted that hearing protection was not available to firefighters in prior

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<sup>2</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 1993).

years. Appellant also worked as a rigger and was exposed to various degrees of noise while using required tools. The employing establishment submitted medical records, including the employing establishment audiograms taken from the hearing conservation program from May 29, 1968 to February 9, 1994.<sup>3</sup> The employing establishment submitted testing results from December 14, 2011.

In an April 25, 2012 letter, OWCP referred appellant to Dr. Randolph for further opinion about his hearing loss. It provided Dr. Randolph with a statement of accepted facts, available exposure information, and copies of all medical reports and audiograms and requested that he provide an addendum report to his December 20, 2011 evaluation.

In a May 3, 2012 addendum report, Dr. Randolph noted that the earliest audiogram present in appellant's record was May 29, 1968 which revealed a mild hearing loss at 4,000 cycles per second in the left ear with normal hearing in the right ear. He noted that appellant left civil service employment in 1995 and the audiogram performed on February 9, 1994 revealed that appellant had normal hearing in those frequencies affected by noise in his right ear. Dr. Randolph indicated that there was very mild loss in the left ear which had increased no greater than that which would be expected on the basis of presbycusis. He advised that the hearing loss was not ratable in both ears and no treatment was required based on the audiogram of February 9, 1994. Dr. Randolph opined that since 1994 appellant's hearing has degenerated very significantly resulting in a flat sensorineural hearing loss with an audiometric configuration which was not compatible with hearing loss aggravated by noise exposure. He advised that appellant was a candidate for hearing aids; however, the need was not related to his civil service employment. Dr. Randolph opined that appellant's current hearing loss was not due to industrial noise exposure, rather the hearing loss occurred since appellant left civil service employment and he could not identify the underlying cause of appellant's relatively flat sensorineural hearing loss. He noted findings from his December 14, 2011 examination and noted that the hearing loss at that time of the revealed an audiometric configuration not compatible with hearing loss due to noise exposure. Dr. Randolph diagnosed sensorineural hearing loss, bilaterally which was unrelated to noise exposure at the employing establishment. He opined that the hearing loss occurred after appellant left the employing establishment and advised that hearing loss occurs at the time of the noise exposure and does not get worse at a later date because of past noise exposure. Dr. Randolph noted that appellant may benefit from bilateral hearing aids.

On June 8, 2012 OWCP's medical adviser reviewed Dr. Randolph's report and the audiometric test of December 14, 2011. The medical adviser concluded that, in accordance with the sixth edition of the A.M.A., *Guides*,<sup>4</sup> appellant had a 26.25 percent monaural hearing loss in each ear and a 26.25 percent binaural hearing loss. The medical adviser opined that, pursuant to Dr. Randolph's May 3, 2012 report, appellant's current hearing loss was not due to noise exposure from federal employment.

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<sup>3</sup> The February 9, 1994 audiogram revealed, at the frequency levels of 500, 1,000, 2,000 and 3,000, the following thresholds: left ear 20, 15, 5 and 35 decibels; right ear 20, 15, 5 and 0 decibels.

<sup>4</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2008).

In a July 18, 2012 decision, OWCP denied the claim finding that the medical evidence did not support that the hearing loss was causally related to workplace noise exposure.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA has the burden of establishing the essential elements of his or her claim including the fact that the individual is an “employee of the United States” within the meaning of FECA, that the claim was timely filed within the applicable time limitation period of FECA, that the injury was sustained in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to the employment injury. These are the essential elements of each and every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by the claimant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by claimant. The medical evidence required to establish causal relationship is generally rationalized medical opinion evidence. Rationalized medical opinion evidence is medical evidence which includes a physician’s rationalized opinion on the issue of whether there is a 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 medical certainty and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>6</sup>

### **ANALYSIS**

It is not disputed that appellant was exposed to noise from 1968 to 1995 in the course of his employment.<sup>7</sup> However, the medical evidence is insufficient to establish that he has hearing loss causally related to his workplace noise exposure.

In a report dated December 20, 2011, Dr. Randolph diagnosed sensorineural hearing loss bilaterally. He advised that audiometrics performed revealed a relatively flat bilateral sensorineural hearing loss which was largely due to causes other than industrial noise exposure.

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<sup>5</sup> *Gary J. Watling*, 52 ECAB 357 (2001).

<sup>6</sup> *Solomon Polen*, 51 ECAB 341 (2000).

<sup>7</sup> The record establishes that the employing establishment had a hearing conservation program in which appellant underwent annual audiometric testing. See *Jose Salaz*, 41 ECAB 743 (1990); *Kathryn A. Bernal*, 38 ECAB 470 (1987).

Although he noted that there was some dipping in the higher tones in the left ear that suggested probable aggravation by past noise exposure, Dr. Randolph advised that he did not have appellant's industrial audiograms and stated that he would like to review these audiograms to see if the hearing loss would be attributed to his workplace noise exposure. In an addendum report dated May 3, 2012, he noted being provided with appellant's employing establishment audiograms and additional information regarding the duration and extent of appellant's work place exposure to noise. Dr. Randolph noted that the earliest audiogram present in appellant's record was May 29, 1968 which revealed a mild hearing loss at 4,000 cycles per second in the left ear with normal hearing in the right ear. He noted that appellant left his civil service employment in 1995 and the last audiogram performed on February 9, 1994 revealed that appellant had normal hearing in those frequencies affected by noise in his right ear. Dr. Randolph indicated that there was very mild loss in the left ear which had increased no greater than that which would be expected on the basis of presbycusis. He advised that the hearing loss was not ratable in both ears and no treatment was required based on the audiogram of February 9, 1994. Dr. Randolph opined that since 1994 appellant's hearing has degenerated very significantly resulting in a flat sensorineural hearing loss with an audiometric configuration which is not compatible with hearing loss aggravated by noise exposure. He diagnosed sensorineural hearing loss, bilaterally which was unrelated to noise exposure at the employing establishment. Dr. Randolph opined that appellant's current hearing loss was not due to industrial noise exposure as the hearing loss occurred since he left civil service employment and he could not identify the underlying cause of his relatively flat sensorineural hearing loss. He advised that the hearing loss at the time of the December 14, 2011 testing revealed an audiometric configuration not compatible with hearing loss due to noise exposure. Dr. Randolph advised that appellant was a candidate for hearing aids; however, the need was not related to his civil service employment.

The Board finds that the medical evidence does not support that appellant has any hearing loss causally related to workplace noise exposure. Dr. Randolph examined appellant, reviewed audiological records and provided a reasoned opinion explaining why the hearing loss was not due to the employment. There is no other medical evidence supporting that appellant's hearing loss is employment related. Thus, appellant has not met his burden of proof to establish that his hearing loss is causally related to employment factors.

On appeal, appellant asserts that his hearing loss was causally related to workplace exposure to noise. As noted above, the medical evidence did not establish that his hearing loss is causally related to workplace exposure to noise. Dr. Randolph opined that since 1994 appellant's hearing loss was not compatible with hearing loss aggravated by noise exposure.

Appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128(a) and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant has not established that his hearing loss was caused or aggravated by his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 18, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: February 15, 2013  
Washington, DC

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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