

FACTUAL HISTORY

On January 7, 2014 appellant, then a 66-year-old boiler plant operator, filed an occupational disease claim for compensation (Form CA-2) alleging hearing loss as a result of his federal employment. On the claim form, he stated that he was exposed to blower motors and loud noises. The date appellant became aware of the condition and its relationship to employment was reported as December 16, 2013. He submitted employing establishment audiograms from an audiologist dated December 16 and 17, 2013.

By letter dated January 13, 2014, OWCP requested that appellant submit additional information. It requested that he submit his employment history, both federal and nonfederal, job titles, a description of noise exposure, and use of any noise-reducing devices. OWCP advised appellant that the claim would be held open for 30 days to provide an opportunity to submit the requested evidence. The record also contains a letter dated January 13, 2014 requesting similar information from the employing establishment. No response was received.

By decision dated February 28, 2014, OWCP denied the claim for compensation as no evidence had been submitted as requested.

On March 26, 2014 appellant requested reconsideration. On that date OWCP received employing establishment audiograms from 1983 to 2005.

By decision dated June 24, 2014, OWCP reviewed the case on its merits and denied modification. It found appellant had failed to submit factual evidence as to his specific employment history, sources of noise, job titles, or other relevant information.

LEGAL PRECEDENT

A claimant seeking benefits under FECA³ has the burden of proof to establish the essential elements of his or her claim by the weight of the reliable, probative, and substantial evidence, including that an injury was sustained in the performance of duty as alleged and that any specific condition or disability claimed is causally related to the employment injury.⁴

To establish that an injury was sustained in the performance of duty, a claimant 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 claimant.⁵

³ 5 U.S.C. §§ 8101-8193.

⁴ 20 C.F.R. § 10.115(e), (f) (2005); see *Jacquelyn L. Oliver*, 48 ECAB 232, 235-36 (1996).

⁵ *Ruby I. Fish*, 46 ECAB 276, 279 (1994).

With respect to hearing loss claims, OWCP procedures provide specific requirements for the audiological testing and medical examinations necessary to establish the claim.⁶ The procedures state that once all “pertinent factual evidence” has been obtained, the medical evidence would be developed.⁷

ANALYSIS

In the present case, appellant has alleged that he sustained hearing loss as a result of his federal employment, but a claimant must initially provide factual evidence with respect to his or her claim of noise exposure. The claim form briefly refers to blower motors and exposure to loud noises, without further explanation. Appellant did not provide his employment history, with dates of employment and the jobs performed. He did not clearly identify and discuss the sources of noise exposure, the nature and extent of the exposure, or otherwise provide a proper factual background for his claim for compensation. A claimant must provide an adequate description of the alleged noise exposure.⁸ If a claimant does not submit an adequate factual statement with respect to a hearing loss claim, OWCP may properly deny the claim.⁹

The Board accordingly finds that OWCP properly denied the claim for compensation in this case. Appellant was advised of the need to submit a proper description of his employment history and noise exposure in the January 13, 2014 letter. In the absence of an appropriate response, OWCP properly denied the claim.

On appeal, appellant submitted additional medical evidence. The Board notes that it may review only evidence that was before OWCP at the time of the final decision on appeal.¹⁰ Moreover, the denial of the claim in this case was based on the lack of a proper factual background.

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 a hearing loss causally related to his federal employment.

⁶ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8(a) (September 1996). The medical examination, for example, should be performed by a Board-certified otolaryngologist.

⁷ *Id.*

⁸ *D.B.*, Docket No. 06-2177 (issued March 28, 2007).

⁹ *Id.*

¹⁰ 20 C.F.R. § 501.2(c).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated June 24, 2014 is affirmed.

Issued: March 25, 2015
Washington, DC

Patricia Howard Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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