

his hearing loss was work related on June 1, 2012. Appellant did not stop work and remained exposed to the identified sources of noise.

In a March 4, 2016 letter, OWCP advised appellant of the additional evidence needed to establish his claim, including a detailed history of occupational and nonoccupational noise exposure, and medical evidence diagnosing a condition causally related to noise exposure at work. It afforded appellant 30 days to submit such evidence.

In response, appellant submitted his March 14, 2016 letter noting exposure to noise from annual firearms qualifications, gunfire, and grinding tools while serving in the U.S. Navy from December 1988 to September 1992, quarterly and annual firearms qualification and vehicle noise while a customs inspector from June 1993 to January 2001, and from quarterly 12-gauge shotgun and annual 9-millimeter (mm) pistol and M-4 rifle qualification at the employing establishment from January 2001 onward. He provided May 1981 and November 9, 1983 industrial hygiene surveys noting that the firearms used produced noise from 130.0 to 151.9 decibels (dB). Appellant explained that he had no history of hearing problems prior to June 2012, and had no nonoccupational exposure to hazardous noise.

Appellant also provided a May 27, 2015 employing establishment audiogram showing decibel losses at the frequency levels of 500, 1,000, 2,000, and 3,000 hertz (Hz) in the right ear of 25, 20, 5, and 15 respectively. Testing at the same frequency levels for the left ear revealed decibel losses of 25, 20, 15, and 35 respectively.

On July 12, 2016 OWCP referred appellant for a second opinion from Dr. Lindsay I. Golden, a Board-certified otolaryngologist. Dr. Golden reviewed the record and a statement of accepted facts. He obtained an audiogram on July 12, 2016 showing decibel losses at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz in the right ear of 20, 20, 5, and 20, respectively. Testing at 500, 1,000, 2,000, and 3,000 Hz in the left ear revealed decibel losses of 20, 20, 5, and 20 respectively. Dr. Golden diagnosed a mild-high frequency hearing loss with normal hearing for speech. He opined that appellant's hearing loss was "not significant enough at this time to implicate acoustic trauma as the cause." Dr. Golden explained that the severity and pattern of decibel losses demonstrated by the audiogram were not in excess of the sensorineural loss that would be expected from presbycusis.²

By decision dated July 19, 2016, OWCP accepted that appellant was exposed to noise from firearms, boat engines, and processing centers as alleged, but denied appellant's claim because he had not established a medical condition causally related to noise exposure at work.

LEGAL PRECEDENT

An employee seeking benefits under FECA has the burden of proof to establish 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 filed within the applicable time limitation, that an injury was sustained while in the performance of duty as alleged, and that any disability and/or specific condition for which compensation is claimed are causally related to

² Dr. Golden also determined that appellant did not have ratable hearing loss according to the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) (6th ed. 2009).

the employment injury.³ These are the essential elements of each and every compensation claim regardless of whether the claim is predicated on a traumatic injury or an occupational disease.⁴

An occupational disease is defined as a condition produced by the work environment over a period longer than a single workday or shift.⁵ 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 the claimant.⁶

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.⁷

ANALYSIS

Appellant claimed that he sustained bilateral hearing loss due to exposure to weapons fire, boat engines, and crowded processing centers on or before June 1, 2012. In support of his claim, appellant submitted industrial hygiene surveys documenting his exposure to gunfire from 130.0 to 151.9 decibels (dB). OWCP accepted the identified noise exposures as factual, but denied the claim by decision dated July 19, 2016, finding that the medical evidence of record was insufficient to establish causal relationship.

In support of his claim, appellant submitted a May 27, 2015 employing establishment audiogram demonstrating a mild bilateral sensorineural hearing loss. As this audiogram was not signed or reviewed by a physician, it does not constitute medical evidence.⁸ OWCP then sought a second opinion from Dr. Golden, a Board-certified otolaryngologist. Dr. Golden provided a July 12, 2016 report diagnosing a mild bilateral sensorineural hearing loss due to presbycusis.

³ *Joe D. Cameron*, 41 ECAB 153 (1989).

⁴ *See Irene St. John*, 50 ECAB 521 (1999); *Michael E. Smith*, 50 ECAB 313 (1999).

⁵ 20 C.F.R. § 10.5(q).

⁶ *Solomon Polen*, 51 ECAB 341 (2000).

⁷ *Victor J. Woodhams*, 41 ECAB 345 (1989).

⁸ *Merton J. Sills*, 39 ECAB 572 (1983); *Charley V.B. Harley*, 2 ECAB 208, 211 (1949) (where the Board held that medical opinion, in general, can only be given by a qualified physician).

He opined that, based on audiometry, the medical record, and the statement of accepted facts, occupational noise exposure did not cause appellant's hearing loss as the degree and pattern of decibel losses did not exceed expected age-related changes. Dr. Golden thus negated causal relationship between the accepted exposures to hazardous noise at work and the diagnosed hearing loss.

OWCP notified appellant by March 4, 2016 letter of the need to submit medical evidence diagnosing a condition related to the identified work factors. As appellant did not submit such evidence, OWCP properly denied the claim.

On appeal appellant contends that the majority of his hearing loss was due to exposure to hazardous noise at the employing establishment. However, as set forth above, Dr. Golden found that appellant's mild hearing loss was not due to industrial acoustic trauma.

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 bilateral hearing loss causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Program dated July 19, 2016 is affirmed.

Issued: April 24, 2017
Washington, DC

Christopher J. Godfrey, Chief Judge
Employees' Compensation Appeals Board

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

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