

He became aware of his hearing loss on January 1, 1994 and was exposed to noise at his federal employment until his retirement on October 12, 2007.¹

The employing establishment submitted employing establishment audiograms dated April 28, 1975 to February 23, 2007 which revealed progressive bilateral sensorineural hearing loss. A March 16, 2007 audiogram revealed sensorineural hearing loss in the right ear and sensorineural hearing loss in the left ear between 3,000 and 4,000 cycles per second (cps). He also submitted an industrial hygiene assessment report.

Appellant submitted an employment history with job descriptions for positions held including a yarn tender, material handler, airframe repairman, electrician's helper and hydrotechnician. In an accompanying statement, he indicated working at the employing establishment since July 1989 as an electrician and hydrotechnician. Appellant was exposed to noise from screw compressor chillers, air blast breakers and turbine generators for 90 percent of his workday. He noted his hearing condition had worsened and that his prior claim for hearing loss was denied.

A February 28, 2008 statement of accepted facts set forth appellant's noise exposure during his employment with the employing establishment.

By letter dated March 4, 2008, the Office referred appellant and the statement of accepted facts to Dr. Jeffrey A. Paffrath, a Board-certified otolaryngologist, for an otologic examination and an audiological evaluation. Dr. Paffrath performed an examination of appellant on April 2, 2008 and audiometric testing was conducted on his behalf on the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed the following: right ear 25, 15, 20 and 65 decibels; left ear 10, 10, 10 and 60 decibels. Dr. Paffrath determined that appellant sustained bilateral sensorineural hearing loss which was in part due to the noise exposure encountered in his federal employment. He recommended a hearing aide evaluation and placement in the right ear, hearing conservation techniques and yearly audiograms.

On April 16, 2008 an Office medical adviser reviewed Dr. Paffrath's report and the audiometric test of April 2, 2008. Under the fifth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,² (A.M.A., *Guides*), he found that appellant had a bilateral sensorineural hearing loss with right monaural hearing loss of nine percent. The Office medical adviser noted that the condition found on examination on April 2, 2008 was aggravated by conditions of appellant's federal employment. He also recommended authorizing a trial of a hearing aid for the right ear.

In a decision dated April 14, 2008, the Office accepted appellant's claim for bilateral sensorineural hearing loss. On July 29, 2008 appellant filed a claim for a schedule award.

¹ On November 8, 2005 appellant filed a claim for hearing loss which was accepted by the Office; however, the loss was not ratable, claim number xxxxxx475.

² A.M.A., *Guides* (5th ed. 2001).

In a decision dated September 3, 2008, the Office granted appellant a schedule award for nine percent monaural hearing loss of the right ear. The period of the award was from April 2 to May 4, 2008, representing 4.68 weeks of compensation.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act³ and its implementing regulations⁴ set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁶ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁷ Then, the "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by five, then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.¹⁰ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹¹

ANALYSIS

The Office referred appellant to Dr. Paffrath for evaluation of his hearing loss. An Office medical adviser reviewed Dr. Paffrath's findings and agreed that appellant's hearing loss was aggravated by his employment. The medical adviser applied the Office's standardized

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

⁵ *Id.* See also *Jacqueline S. Harris*, 54 ECAB 139 (2002).

⁶ A.M.A., *Guides* 250 (5th ed. 2001).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

procedures to the April 2, 2008 audiogram obtained by Dr. Paffrath. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibels losses of 25, 15, 20 and 65, respectively. These decibels were totaled at 125 and were divided by 4 to obtain an average hearing loss at those cycles of 31.25 decibels. The average of 31.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as noted above) to equal 6.25, which was multiplied by the established factor of 1.5 to compute a 9.38 percent monaural loss of hearing for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibels losses of 10, 10, 10 and 60 respectively. These decibels were totaled at 90 and were divided by 4 to obtain the average hearing loss at those cycles of 22.5 decibels. The average of 22.5 decibels was then reduced by 25 decibels (the first 25 decibels were discounted) to equal 0, which was multiplied by the established factor of 1.5 to compute a 0 percent hearing monaural loss for the left ear.

The Board finds that the Office medical adviser applied the proper standards to the April 2, 2008 audiogram and found that appellant has nine percent hearing loss in his right ear. Under the Office's standardized procedures, there is no evidence of greater impairment. On appeal appellant notes that his records showed loss of hearing in both ears prior to April 2, 2008. However, as noted, the extent of hearing loss to his left ear is not ratable for purposes of a schedule award.

CONCLUSION

The Board finds that the Office properly determined that appellant sustained nine percent monaural hearing loss of the right ear.

ORDER

IT IS HEREBY ORDERED THAT the September 3, 2008 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 28, 2009
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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