

ISSUE

The issue is whether appellant has met his burden of proof to establish binaural sensorineural hearing loss causally related to the accepted factors of his federal employment.

FACTUAL HISTORY

On March 8, 2017 appellant, then a 63-year-old lead shift operations supervisor, filed an occupational disease claim (Form CA-2) alleging that he sustained hearing loss and tinnitus while in the performance of duty. He explained that he worked in close proximity to equipment that produced hazardous noise. Appellant further explained that, even in the control room, he was exposed to very loud noise from turbines. He identified June 15, 2011 as the date he first became aware of his claimed condition, and September 15, 2015 as the date he first realized its relation to factors of his federal employment. Appellant voluntarily retired effective April 30, 2017.

OWCP received audiogram results dated September 12, 2016 and April 6, 2017.

At the request of the employing establishment, Whitney R. Mauldin, Ph.D., an audiologist, reviewed appellant's federal and private sector occupational noise exposure, his reported recreational exposure to firearms, as well as a series of audiograms from 1991 through 2017. In an April 27, 2017 report, Dr. Mauldin concluded that appellant was not exposed to levels of occupational noise that would be considered hazardous. Consequently, Dr. Mauldin found that appellant's current hearing loss was not work related.

After further development of the record regarding appellant's occupational noise exposure, OWCP prepared a June 8, 2017 statement of accepted facts (SOAF) and referred appellant to Dr. Joseph A. Motto, a Board-certified otolaryngologist, for a second opinion evaluation.

In a July 12, 2017 report, Dr. Motto examined appellant and noted his exposure to noise. He diagnosed mild high frequency symmetric sensorineural hearing loss at 4,000, 6,000, and 8,000 Hertz (Hz). Dr. Motto advised that the external auditory canals were dry and noted reduced drum motility. He noted that there was no evidence of acoustic neuroma or Meniere's disease. Audiometric testing was conducted on the doctor's behalf and testing at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz revealed the following: right ear 15, 15, 15, and 15 decibels (dBs); left ear 15, 20, 15, and 15 dBs. Dr. Motto noted the audiogram was within low normal range with the exception of mild-high frequency loss beginning at 4,000 Hz. He further noted that appellant developed hearing loss which was not consistent with noise-induced hearing loss. Dr. Motto described the workplace exposure as of insufficient intensity and duration to have caused the hearing loss. He provided a graph detailing appellant's hearing loss. Dr. Motto opined that the pattern of hearing loss was not typical of noise exposure and did not suggest that it was causally related to his occupational exposure.

In a July 18, 2017 decision, OWCP denied the claim finding that the medical evidence of record was insufficient to establish that appellant's hearing loss was causally related to his workplace noise exposure.

LEGAL PRECEDENT

An employee seeking benefits under FECA³ 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 timely filed within the applicable time limitation of FECA,⁴ that an injury was sustained in the performance of duty as alleged, and that any disability or medical condition for which compensation is claimed is causally related to the employment injury.⁵ 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.⁶

To establish that an injury was sustained in the performance of duty in an occupational disease claim, 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 identified employment factors.⁷

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.⁸ A physician's opinion on whether there is a causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.⁹ Additionally, the physician's opinion must be expressed in terms of a reasonable degree of medical certainty, and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and appellant's specific employment factor(s).¹⁰

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish binaural sensorineural hearing loss causally related to the accepted factors of his federal employment.

³ *Id.*

⁴ *J.P.*, Docket No. 19-0129 (issued April 26, 2019); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *Joe D. Cameron*, 41 ECAB 153 (1989).

⁵ *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

⁶ *R.R.*, Docket No. 19-0048 (issued April 25, 2019); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

⁷ *M.S.*, Docket No. 18-1554 (issued February 8, 2019); *Victor J. Woodhams*, 41 ECAB 345, 352 (1989).

⁸ *E.M.*, Docket No. 18-1599 (issued March 7, 2019); *Robert G. Morris*, 48 ECAB 238 (1996).

⁹ *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *Victor J. Woodhams*, *supra* note 7.

¹⁰ *Id.*

OWCP referred appellant to Dr. Motto a second opinion physician, who in a report dated July 12, 2017, determined that appellant developed mild high frequency symmetric sensorineural hearing loss at 4,000, 6,000, and 8,000 Hz. Dr. Motto noted there was no evidence of acoustic neuroma or Meniere's disease. Audiometric testing was conducted on the doctor's behalf and he noted the audiogram was within low normal range with the exception of mild high frequency loss beginning at 4,000 Hz. Dr. Motto noted that he developed hearing loss which was not consistent with noise-induced hearing loss. He described the workplace exposure as of insufficient intensity and duration to have caused the hearing loss. Dr. Motto opined that the pattern of hearing loss was not typical of noise exposure and did not suggest that it was causally related to his occupational exposure.

The Board finds that Dr. Motto had specific knowledge of appellant's employment factors and opined, with rationale, that appellant's hearing loss was not causally related to his federal employment but was consistent with presbycusis and therefore carries the weight of the medical evidence. As indicated, appellant must present medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.¹¹ There is no other medical evidence establishing causal relationship between appellant's hearing loss and his federal employment. Consequently, appellant has not met his burden of proof to establish his claim for employment-related hearing loss.

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 binaural sensorineural hearing loss causally related to the accepted factors of his federal employment.

¹¹ *Id.*

ORDER

IT IS HEREBY ORDERED THAT the July 18, 2017 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 9, 2019

Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge
Employees' Compensation Appeals Board