

A statement of accepted facts dated July 26, 2006 indicated that appellant had been exposed to hazardous noise while working for the employing establishments in various positions from November 1972 through July 30, 2005.

On August 4, 2006 the Office referred appellant and a statement of accepted facts to Dr. James A. Hamp, a Board-certified otolaryngologist, for an audiologic and otologic evaluation.

The audiologist performing the August 21, 2006 audiogram for Dr. Hamp noted findings on audiological evaluation. At the frequencies of 500, 1,000, 2,000 and 3,000 hertz (Hz), the following thresholds were reported: right ear -- 15, 20, 15 and 30 decibels; left ear -- 20, 20, 15 and 30 decibels.

On January 15, 2007 an Office medical adviser, relying on Dr. Hamp's audiogram results and calculations, determined that appellant had a zero percent binaural hearing loss.

In a decision dated January 26, 2007, the Office found that appellant had not sustained a ratable hearing loss causally related to factors of his federal employment.

On February 20, 2007 appellant requested reconsideration of the October 26, 2004 decision. He submitted results from a February 15, 2007 audiogram. The audiogram was not certified as accurate by a physician.

By decision dated May 2, 2007, the Office denied appellant's request for modification of the January 26, 2007 decision, finding that he failed to submit medical evidence establishing that he was entitled to a schedule award for his employment-related hearing loss.

LEGAL PRECEDENT

The schedule award provision of the Federal Employee's Compensation Act¹ and the implementing federal regulation² set forth the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body listed in the schedule.³ However, neither the Act nor the regulations specify the manner in which the percentage loss of a member, function or organ shall be determined. The method of determining this percentage rests in the sound discretion of the Office.⁴ To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.⁵

¹ 5 U.S.C. § 8107 *et seq.*

² 20 C.F.R. § 10.304.

³ See *Donald A. Larson*, 41 ECAB 947 (1990); *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

⁴ *Id.*

⁵ *Henry King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

Under the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz. The losses at each frequency are added up and averaged and a “fence” of 25 decibels is deduced since, as the A.M.A., *Guides* point out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions.⁶ Then the remaining amount is multiplied by 1.5 to arrive at the percentage loss of monaural loss. 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 binaural hearing loss.⁷

ANALYSIS

An Office medical adviser applied the Office’s standardized procedures to the August 21, 2006 audiogram obtained by Dr. Hamp, a Board-certified otolaryngologist.⁸ According to the Office’s standardized procedures, testing at frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed hearing losses in the right ear of 15, 20, 15 and 30 respectively. These totaled to 80 decibels which, when divided by 4, obtains an average hearing loss of 20 decibels. The average of 20 decibels, when reduced by 25 decibels (the first 25 decibels are discounted as discussed above), equals 0 decibels, which, when multiplied by the established factor of 1.5 totals a 0 percent hearing loss in the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed decibel losses of 20, 20, 15 and 30 respectively. These totaled 85, which, when divided by 4, obtains an average hearing loss of 21.25 decibels. The average of 21.25 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 0 decibels, which, when multiplied by the established factor of 1.5 totals a 0 percent hearing loss in the left ear. The Office medical adviser therefore determined that appellant did not have a ratable hearing loss causally related to factors of his federal employment.

The Board notes that both Dr. Hamp and the Office medical adviser properly used the applicable standards of the A.M.A., *Guides*, to determine that appellant has a zero percent binaural hearing loss. The Board will affirm the January 26, 2007 Office decision finding that appellant did not sustain a ratable hearing loss causally related to factors of his federal employment.

Following the January 26, 2007 decision, appellant requested reconsideration and submitted the February 15, 2007 audiogram results. However, this audiogram was not certified by physician as being accurate. It is well established that the Office does not have to review every uncertified audiogram submitted to the record. It is appellant’s burden to submit a

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

⁷ *Id.* See also *Danniel C. Goings*, *supra* note 2.

⁸ The record contains several audiograms obtained by the employing establishment, but none of these were certified by a physician as accurate. The Board has held that, if an audiogram is prepared by an audiologist, it must be certified by a physician as being accurate before it can be used to determine the percentage of hearing loss. *Joshua A. Holmes*, 42 ECAB 231, 236 (1990).

properly certified audiogram for review.⁹ The Office is not required to rely on this evidence in determining the degree of appellant's hearing loss.

As there is no other probative medical evidence establishing that appellant sustained any permanent impairment, the Office properly found that appellant was not entitled to compensation for a binaural hearing loss. The Board therefore affirms the January 26 and May 2, 2007 Office decisions.

CONCLUSION

The Board finds that appellant did not sustain a ratable hearing loss causally related to factors of his federal employment.

ORDER

IT IS HEREBY ORDERED THAT the May 2 and January 26, 2007 decisions of the Office of Workers' Compensation Programs be affirmed.

Issued: November 1, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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

⁹ See *Robert E. Cullison*, 55 ECAB 570 (2004); *James A. England*, 47 ECAB 115 (1995).