

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RONALD PEREGRIM and DEPARTMENT OF THE ARMY,  
WATERVLIET ARSENAL, Watervliet, N.Y.

*Docket No. 96-817; Submitted on the Record;  
Issued February 6, 1998*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has a compensable loss of hearing causally related to his employment.

The Board finds that the case is not in posture for a decision.

In its October 26, 1995 decision, the Office of Workers' Compensation Programs accepted that appellant had a hearing loss due to his employment-related noise exposure, but that his hearing loss was not severe enough to be considered ratable under the Office's standards.

The Office's determination that appellant's hearing loss was not ratable was based on an Office medical adviser's application of the Office's standards to an August 10, 1995 audiogram from Dr. Edward C. Brandow, Jr., a Board-certified otolaryngologist to whom the Office referred appellant for an evaluation. The Board notes that Dr. Brandow submitted another audiogram dated June 28, 1995, which, according to Dr. Brandow's July 6, 1995 report, showed a 10 percent loss of hearing in appellant's right ear and a 22 percent loss in his left ear.

With regard to situations where there are several contemporaneous audiograms in the case record, the Board has stated, "In making a determination of the percentage of loss of hearing for a schedule award, the Office should explain the reason it selected one audiogram over the others. It should not arbitrarily select one audiogram without explanation."<sup>1</sup>

In the present case, an audiologist reviewed appellant's audiograms for the Office and noted that the results on the August 10, 1995 audiogram were "markedly better than those found on audiograms completed in January and June 1995. ... The August 10[, 1995] audiogram is considered the 'date of maximum improvement' and the ratability of the hearing loss is based on this examination."

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<sup>1</sup> *Herman L. Henson*, 40 ECAB 341 (1988).

The Board finds that the audiologist's statement, quoted above, is not a sufficient basis for selecting Dr. Brandow's August 10, 1995 audiogram rather than his June 28, 1995 audiogram as the basis for determining the extent of appellant's employment-related hearing loss. The case will be remanded for the Office to obtain, if possible, a report from Dr. Brandow addressing which of the two audiograms he performed is a more accurate measurement of appellant's employment-related permanent loss of hearing.

The decision of the Office of Workers' Compensation Programs dated October 26, 1995 is set aside and the case remanded to the Office for further action consistent with this decision of the Board.

Dated, Washington, D.C.  
February 6, 1998

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Alternate Member

A. Peter Kanjorski  
Alternate Member