

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ROBERT L. ANDREWS and DEPARTMENT OF THE AIR FORCE, AIR
FORCE SYSTEMS COMMAND, BROOKS AIR FORCE BASE, TX

*Docket No. 99-2404; Submitted on the Record;
Issued September 25, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
VALERIE D. EVANS-HARRELL

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

On July 10, 1998 appellant, then a 50-year-old electronic industrial controls mechanic, filed a notice of occupational disease and claim for compensation, Form CA-2, alleging that he sustained a hearing loss in the course of his federal employment. Appellant stated that he first became aware of his illness on December 3, 1988. On the reverse of the form, the employing establishment did not indicate that appellant had not stopped work, but did note that the employing establishment became aware of appellant's hearing condition when appellant failed his hearing examination for medical retirement. Medical and factual evidence in the record included test results from periodic audiograms performed by the employing establishment between May 20, 1985 and April 10, 1998 and documents indicating that appellant was exposed to loud noise at work.

By letter dated March 17, 1999, the Office of Workers' Compensation Programs referred appellant, the case record and a statement of accepted facts to Dr. Susan A. Marenda, a Board-certified otolaryngologist, for otologic evaluation and audiometric testing.

Dr. Marenda performed otologic evaluation of appellant and audiometric testing was conducted on the doctor's behalf on May 11, 1999. Testing at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (c.p.s.) revealed the following: right ear -- 10, 10, 10 and 35 decibels; left ear -- 15, 10, 20 and 50 decibels. The audiogram results noted a calibration date of May 7, 1999.

In her report, Dr. Marenda noted that appellant had evidence of a bilateral mild to moderately severe mild to high frequency hearing loss, which she opined was related to appellant's occupational history. Using the American Academy of Otolaryngology Hearing Handicap Scale, she diagnosed a 10 percent hearing handicap for the left ear, a 0 percent hearing

handicap for the right ear, and a binaural handicap of 1 percent. She also diagnosed tinnitus. Dr. Marenda recommended the use of binaural hearing aids in an attempt to mask the tinnitus, and avoidance of further noise exposure, in addition to continued control over appellant's blood pressure, and cessation of smoking.

The Office accepted the claim for bilateral sensorineural hearing loss.

In a report dated June 15, 1999, an Office medical adviser reviewed the medical evidence of record. Applying the Office's standardized guidelines to the May 11, 1999 findings, the district medical adviser determined that appellant did not have a ratable hearing loss.

By decision dated June 17, 1999, the Office determined that appellant sustained a hearing loss in the performance of duty but that, under the fourth edition of the A.M.A., *Guides*,¹ appellant's hearing loss was not ratable.

The Board finds that appellant has not sustained a compensable hearing loss causally related to factors of his federal employment.

The schedule award provision of the Federal Employees' Compensation Act provides for compensation to employees sustaining impairment from loss, or loss of use of, specified members of the body.² The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.³ 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 a uniform standard applicable to all claimants.⁴ The A.M.A., *Guides* has been adopted by the Office,⁵ and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁶

Under the A.M.A., *Guides*,⁷ hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 c.p.s. The losses at each frequency are added up and averaged and a "fence" of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday sounds in everyday listening conditions.⁸ The remaining amount is multiplied by 1.5 to arrive at the

¹ American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993), hereafter A.M.A., *Guides*

² 5 U.S.C. § 8107.

³ See *Arthur E. Anderson*, 43 ECAB 691 (1992).

⁴ See *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

⁵ FECA Program Memorandum No. 272 (issued February 24, 1986); see *Jimmy B. Newell*, 39 ECAB 181 (1987).

⁶ *Danniel C. Goings*, 37 ECAB 781 (1986).

⁷ A.M.A., *Guides* (4th ed. 1993).

⁸ *Id.* at 224.

percentage of monaural hearing 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 the binaural hearing loss.⁹

The medical evidence of record does not support appellant's claim that he sustained a compensable hearing loss.

The Office medical adviser applied the Office's standardized procedures to the May 11, 1999 audiogram obtained by Dr. Marenda. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 c.p.s. revealed losses of 10, 10, 10 and 35 decibels, respectively. These losses were totaled at 65 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 16.25 decibels. The average of 16.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent 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 c.p.s. revealed losses of 15, 10, 20 and 50 decibels. These losses were totaled at 95 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 23.75 decibels. The average of 23.75 was then reduced by 25 decibels, as discussed above, to equal 0 which indicated a 0 percent loss of hearing in the left ear. The Office medical adviser then computed the binaural hearing loss by multiplying the zero by five to equal zero which was added to zero. Finally, the Office medical adviser divided this figure by six to arrive at a zero percent binaural hearing loss.

The Board finds that the Office medical adviser applied the proper standards, which were applied to all employees in hearing loss claims under the Act,¹⁰ to the findings stated in Dr. Marenda's May 11, 1999 report and the accompanying audiogram. This resulted in a calculation of a nonratable hearing loss as set forth above. The record contains no other properly certified audiogram¹¹ indicating that appellant has a compensable hearing loss. Thus, while appellant clearly has an employment-related hearing loss, it is not severe enough to be ratable under the standards used by the Office for determining schedule awards.

⁹ *Id.*; see also *Danniel C. Goings*, *supra* note 6.

¹⁰ See 5 U.S.C. § 8107(13).

¹¹ See *Joshua A. Holmes*, 42 ECAB 231, 236-37 (1990).

The June 17, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC
September 25, 2000

Michael J. Walsh
Chairman

David S. Gerson
Member

Valerie D. Evans-Harrell
Alternate Member