

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GARY L. CLYMA and DEPARTMENT OF THE NAVY,  
MARE ISLAND NAVAL SHIPYARD, Vallejo, CA

*Docket No. 00-1948; Submitted on the Record;  
Issued May 14, 2001*

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DECISION and ORDER

Before DAVID S. GERSON, BRADLEY T. KNOTT,  
PRISCILLA ANNE SCHWAB

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

On September 7, 1999 appellant, then a 48-year-old retired nuclear inspector foreman, filed an occupational disease claim alleging that he sustained bilateral hearing loss as a result of exposure to hazardous noise in the performance of duty. Appellant asserted that from 1969 until his retirement in 1994 he was regularly exposed to noise from the grinding, chipping and use of pneumatic tools. Appellant submitted the results of the annual audiograms administered as a condition of his employment and several more recent audiograms administered after his retirement from the employing establishment.

The Office of Workers' Compensation Programs referred appellant, with a statement of accepted facts, for evaluation by Dr. Gregory G. Porter, a Board-certified otolaryngologist. In a report dated January 4, 2000, Dr. Porter stated that physical examination revealed clear ear canals and tympanic membranes, which were clear and mobile to pneumotoscopy. He reported audiometric test results, also performed on January 4, 2000, and reviewed the results of appellant's past audiometric testing. Dr. Porter opined that appellant suffered from high-frequency, down sloping, sensorineural hearing loss of a mild to severe degree bilaterally, compatible with employment-related noise exposure. Dr. Porter explained, however, that because most of appellant's hearing loss was at frequencies not used for calculation of hearing impairment, use of the hearing impairment calculation worksheet resulted in zero binaural hearing loss. He added that, because of the steeply down sloping nature of appellant's hearing loss, appellant would be a difficult to fit for hearing aids.

An audiogram dated January 4, 2000, indicated testing at 500, 1,000, 2,000 and 3,000 hertz (Hz) and revealed in the right ear, losses of 5, 10, 0 and 50 decibels, (dBs) respectively, and in the left ear, losses of 0, 0, 5 and 10 dBs, respectively.

An Office medical adviser reviewed appellant's January 4, 2000, audiogram, as well as the complete report of Dr. Porter, and applied the Office's standard procedures to calculate a nonratable monaural hearing loss in both ears. He reported that appellant had a bilateral high frequency neurosensory hearing loss resulting from the conditions of his federal employment, but the loss was not ratable for the purpose of determining a schedule award.

By decision dated April 12, 2000, the Office advised appellant that his claim for a hearing loss due to his employment-related noise exposure had been accepted. However, in a separate decision dated April 12, 2000, the Office found that appellant was not entitled to a schedule award because the medical evidence of record failed to establish that he sustained a ratable hearing loss.

The Board finds that appellant does not have a ratable hearing loss for schedule award purposes.

The schedule award provisions of the Federal Employees' Compensation Act<sup>1</sup> set forth the number of weeks of compensation to be paid for permanent loss of the use of the members listed in the schedule.<sup>2</sup> 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 determinations is a matter which rests in the sound discretion of the Office.<sup>3</sup> However, as a matter of administrative practice and to ensure consistent results to all claimants, the Office has adopted and the Board has approved of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) as the uniform standard applicable to all claimants.<sup>4</sup>

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz cycles per second. The losses at each frequency are added up and averaged and a "fence" of 25 dBs is deducted because, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech in everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the 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.<sup>5</sup> The Board has concurred in the Office's use of this standard for evaluating hearing losses for schedule award purposes.<sup>6</sup>

In this case, the Office medical adviser applied the Office's standard procedures to the audiogram obtained for Dr. Porter's examination. Testing for the right ear at 500, 1,000, 2,000

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

<sup>4</sup> *Henry L. King* 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324-25 (1961).

<sup>5</sup> See A.M.A., *Guides* 224 (4<sup>th</sup> ed. 1993); FECA Program Memorandum No. 272 (issued February 24, 1986).

<sup>6</sup> *Daniel C. Goings*, *supra* note 3.

and 3,000 Hz revealed hearing threshold levels of 5, 10, 0 and 50 dBs respectively. These losses total 65 for an average of 16.25 dBs. Reducing this average by 25 dBs leaves a balance of 0 decibels, meaning that no impairment is presumed to exist in appellant's ability to hear, with his right ear, everyday sounds under everyday listening conditions.

Testing for the left ear at 500, 1,000, 2,000 and 3,000 Hz revealed hearing threshold levels of 0, 0, 5 and 10 dBs respectively. These losses total 15 for an average of 3.75 dBs. Reducing this average by 25 dBs leaves a balance of 0 decibels, meaning that no impairment is presumed to exist in appellant's ability to hear, with his left ear, everyday sounds under everyday listening conditions.

Consequently, although appellant has a hearing loss in both ears as a result of his occupational exposure to hazardous noise, the Office medical adviser properly found that appellant's hearing loss is not severe enough under the protocols of the A.M.A., *Guides* to constitute a compensable impairment. It is for this reason that appellant is not entitled to a schedule award.<sup>7</sup>

The April 12, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC  
May 14, 2001

David S. Gerson  
Member

Bradley T. Knott  
Alternate Member

Priscilla Anne Schwab  
Alternate Member

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<sup>7</sup> The Board notes that the Office medical adviser used the most recent audiogram of record, which was performed on January 4, 2000, in conjunction with Dr. Porter's examination, using equipment which was calibrated on January 4, 2000. This audiogram is the most advantageous to appellant, as the next most recent audiogram, dated April 14, 1999 and submitted by appellant in support of his claim, reveals lower levels of hearing loss at the frequencies used by the Office for the calculation of schedule awards.