U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MARIO DECRISTOFORO and U.S. POSTAL SERVICE,
POST OFFICE, Phoenix, AZ

Docket No. 02-2162; Submitted on the Record;
Issued December 23, 2002

DECISION and ORDER

Before MICHAEL J. WALSH, DAVID S. GERSON,
MICHAEL E. GROOM

The issue is whether appellant is entitled to an additional schedule award for increased hearing loss causally related to his work-related bilateral hearing loss condition.

On June 14, 1994 appellant, then a 63-year-old postal supervisor, filed a notice of occupational disease and claim for compensation for exposure to heavy machinery noise in the performance of duty. Appellant's last day of hazardous noise exposure was May 19, 1994. The Office of Workers' Compensation Programs accepted the claim for bilateral hearing loss. On June 29, 1995 the Office issued a schedule award for 50 percent bilateral hearing loss. The period of the award was from December 28, 1994 to November 26, 1996.

Appellant filed a Form CA-7 claim for an additional hearing loss on July 12, 2000.

Appellant submitted a previous medical report from Dr. David Nielsen, an otologist, dated June 12, 1995. Dr. Nielsen noted the possibility that there might be some progression of hearing loss due to severe noise exposure after the noise exposure had stopped. He specifically stated:

> "The theory behind this is that portions of the inner ear have been damaged enough to shorten their life span without causing an immediate hearing loss. This phenomenon is controversial among our specialty but there is enough evidence to suggest that, in some people, progressive hearing loss due to noise exposure can occur for years after the noise exposure has been discontinued."

In a report dated May 11, 2000, Dr. Joel Cohen noted that he had seen appellant for problems related to ongoing hearing loss. Dr. Cohen provided findings based on a complete

otolaryngology and audiological evaluation. He opined that appellant's hearing had deteriorated significantly from 50 to 70 percent. He stated:

> "It is my opinion that [appellant] suffers from mild to profound down-sloping high frequency sensorineural hearing loss, which was probably caused by noise. Progression hearing loss can occur after the noise exposure has been discontinued because some portions of the inner ear have been damaged enough to shorten their life span without causing immediate hearing loss. This progression can occur for years after the noise exposure has been discontinued, but increasing age cannot be ruled out of this progression."

In a decision dated December 20, 2000, the Office denied appellant's claim for an additional schedule award.

On January 14, 2001 appellant requested a hearing and a review of the written record. It appears that the Office later clarified that appellant sought a review of the written record.

Appellant submitted a January 31, 2001 report from Dr. Charles S. Meinstein. The physician indicated that he had completed an otolaryngology and audiological evaluation on January 30, 2000 and a copy of an audiogram was attached to his report. Dr. Meinstein discussed appellant's history of noise exposure. Physical findings included normal tympanic membranes and external canals. He opined that appellant's audiogram revealed marked bilateral hearing loss in both ears. He stated that "Because of the possibility of appellant's hearing loss getting worse, it is recommended that he learn lip reading and sign language."

In a decision dated September 13, 2001, an Office hearing representative affirmed the Office's December 20, 2000 decision.

The Board finds that appellant is not entitled to an additional schedule award for increased hearing loss causally related to his work-related bilateral hearing loss condition

The Board has long recognized that if a claimant's employment-related hearing loss worsens in the future, he or she may apply for an additional schedule award for any increased permanent impairment. Furthermore, in hearing loss claims, a claim for an additional schedule award based on an additional period of exposure constitutes a new claim. The Board has recognized that a claimant may be entitled to an award for an increased hearing loss, even after exposure to hazardous noise has ceased, if causal relationship is supported by the medical evidence of record. In this latter instance, the request for an increased schedule award is not deemed a new claim.[1]

[1] *Paul Fierstein*, 51 ECAB 381 (2000).

Appellant has not submitted sufficient rationalized medical evidence to support his claim for compensation based on an increased schedule award.[2] The Board has carefully reviewed the medical opinion evidence and finds that none of the physicians provided a reasoned medical opinion on causal relationship from which to conclude that appellant has suffered additional hearing loss since the date of his last noise exposure that it attributable to his accepted, work-related bilateral hearing condition. Dr. Nielsen provided only a general remark that there was a possibility that appellant's hearing loss could progress over time. The report from Dr. Cohen finds an increase in appellant's hearing loss from 50 to 70 percent, but the physician's opinion is equivocal at best.[3] Dr. Cohen speculates that appellant's increased hearing loss is due to his work-related noise exposure, but is unable to rule out age as a factor in that hearing loss. He makes no affirmative, reasoned statement that appellant has increased hearing loss due to his work-related hearing condition. Finally, Dr. Meinstein does not offer an opinion as to whether appellant's hearing loss has progressed since the time of his original schedule award. He only notes that possibility that appellant's hearing loss could progress so he recommended that appellant take precautionary measures of learning lip reading and sign language.

Thus, in the absence of reasoned medical opinion evidence to establish that appellant has increased hearing loss causally related to his work injury, the Office properly denied his request for an additional schedule award.

The September 13, 2001 decision of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC
December 23, 2002

Michael J. Walsh
Chairman

David S. Gerson
Alternate Member

Michael E. Groom
Alternate Member

[2] A medical opinion not fortified by medical rationale is of little probative value. *Caroline Thomas*, 51 ECAB 451 (2000).

[3] The Board has held that medical opinions based upon an incomplete history or which are speculative or equivocal in character have little probative value. *See Vaheh Mokhtarians*, 51 ECAB 190 (1999).