U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VERNON BROWN and DEPARTMENT OF THE NAVY, NORFOLK NAVAL SHIPYARD, Portsmouth, VA

Docket No. 02-1352; Submitted on the Record;
Issued January 24, 2003

DECISION and ORDER

Before COLLEEN DUFFY KIKO, MICHAEL E. GROOM, A. PETER KANJORSKI

The issue is whether appellant has more than a 15 percent monaural hearing loss in his right ear for which he received a schedule award.

On May 29, 2001 appellant, then a 54-year-old painter and sandblaster, filed an occupational disease claim for a hearing loss which he attributed to his exposure to noise in his federal employment. His claim was accepted by the Office of Workers' Compensation Programs for a bilateral sensorineural hearing loss. Following submission of medical evidence, the Office issued a schedule award on February 11, 2002 for a 15 percent permanent hearing loss of the right ear, which equated to 7.80 weeks of compensation.

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

Section 8107 of the Federal Employees' Compensation Act specifies the number of weeks of compensation to be paid for permanent loss of use of specified members, functions and organs of the body.[1] The Act does not, however, specify the manner by which the percentage loss of a member, function or organ shall be determined. The method used in making such a determination is a matter which rests in the sound discretion of the Office.[2] 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 uniform standards applicable to all claimants.[3]

---

[1] 5 U.S.C. § 8107(c).

[2] *See Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

[3] *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.[4] Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged.[5] Then, the "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech under everyday conditions.[6] The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.[7] 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.[8] The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.[9]

The Office has also set forth requirements for the type of medical evidence used in evaluating hearing loss. These include that the employee undergo both audiometric and otologic examination; that the audiometric testing precede the otologic examination; that the audiometric testing be performed by an appropriately certified audiologist; that the otologic examination be performed by an otolaryngologist certified or eligible for certification by the American Academy of Otolaryngology; that the audiometric and otologic examination be performed by different individuals as a method of evaluating the reliability of the findings; that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association; that the audiometric test results include both bone conduction and pure tone air conduction thresholds, speech reception thresholds and monaural discrimination scores; and that the otolaryngologist's report must include: date and hour of examination, date and hour of employee's last exposure to loud noise, a rationalized medical opinion regarding the relation of the hearing loss to the employment-related noise exposure and a statement of the reliability of the tests.[10] The Office further advises that a certification must accompany each audiological battery indicating that the instrument calibration and the environment in which the tests were conducted met the accreditation standards of the Professional Services Board of the ASHA (ANSI S3.6 (1969) and S.1 (1977)), respectively. The calibration standards require daily, monthly, quarterly and annual testing.[11]

---

[4] A.M.A., *Guides* at 250 (5th ed. 2001). *See* 20 C.F.R. § 10.404.

[5] *Id.*

[6] *Id.*

[7] *Id.*

[8] *Id.*

[9] *Donald E. Stockstad*, 53 ECAB ___ (Docket No. 01-1570, issued January 23, 2002); *petition granted*, Docket No. 01-1570 (issued August 13, 2002).

[10] *See* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirement for Medical Records*, Chapter 3.600.08 (September 1996).

[11] *Id.*

In the present case, in addition to the results of annual audiograms conducted by the employing establishment physicians between 1985 and 2001, appellant submitted a medical report and audiogram from his treating physician, whom the employing establishment advised him to consult after a recent audiogram showed a significant hearing change. In a March 12, 2001 report, Dr. Edilberto O. Pelausa, appellant's treating Board-certified otolaryngologist, stated that audiometric testing performed on March 12, 2001 revealed bilateral mid to high frequency sensorineural hearing loss, due to occupational noise exposure. The audiometric test results obtained for Dr. Pelausa revealed the following decibel losses at the 500, 1,000, 2,000 and 3,000 frequency levels: right ear of 15, 25, 40 and 60 decibels; left ear of 15, 15, 20 and 45 decibels.

On December 3, 2001 an Office medical adviser reviewed Dr. Pelausa's findings and applied the Office's standardized procedures to the March 12, 2001 audiogram.

The Board finds, however, that the March 12, 2001 audiometric test performed by Dr. Pelausa, upon which the Office relied, was not a proper basis for computation of appellant's hearing loss, as no calibration information was provided. While in referring Dr. Pelausa's report and audiogram to the Office medical adviser for review, the Office noted that calibration was performed on May 10, 2000. This in fact was the calibration date associated with a January 17, 2001 audiogram performed by the employing establishment, and not the audiogram utilized by the Office.

Furthermore, Office procedures contemplate that, when evidence submitted by the claimant in a hearing loss claim does not meet all of the Office's requirements for adjudication, the Office should refer the claimant for an examination by a qualified specialist.[12]

On remand, the Office shall further develop the evidence as necessary by ensuring that the testing conducted to assess the scope and degree of appellant's hearing loss adheres to the requirements contained in the Federal (FECA) Procedure Manual consistent with Board precedent. Following such further development, the Office should issue a *de novo* decision regarding the schedule award issue.

[12] Federal (FECA) Procedure Manual, Part 2 -- Claims, *Occupational Illness*, Chapter 2.806.5(a) (October 1995).

The decision of the Office of Workers' Compensation Programs dated February 11, 2002 is hereby set aside and the case is remanded to the Office for further development consistent with this decision of the Board.

Dated, Washington, DC
January 24, 2003

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member