

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JUAN A. TREVINO and DEPARTMENT OF THE ARMY,  
CORPUS CHRISTI ARMY DEPOT, Corpus Christi, TX

*Docket No. 02-1602; Submitted on the Record;  
Issued January 17, 2003*

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DECISION and ORDER

Before DAVID S. GERSON, MICHAEL E. GROOM,  
A. PETER KANJORSKI

The issue is whether appellant has a ratable loss of hearing which would entitle him to a schedule award.

On August 3, 2001 appellant, then a 52-year-old production controller, filed an occupational disease claim alleging that he sustained hearing loss due to factors of his federal employment. Appellant did not stop work.

In support of his claim, appellant submitted a report dated July 24, 2001 from Dr. Randall S. Zane, a Board-certified otolaryngologist, who interpreted a July 19, 2001 audiogram as showing severe high frequency hearing loss. He opined that appellant's hearing loss was "consistent with noise exposure."

By letter dated January 29, 2002, the Office of Workers' Compensation Programs referred appellant to Dr. Michael Jaindl, a Board-certified otolaryngologist, for a second opinion evaluation. In a report dated April 1, 2002, he diagnosed "high frequency symmetrical moderate sensorineural hearing loss" which he attributed to noise exposure during appellant's federal employment. Dr. Jaindl reviewed an April 1, 2002 audiogram and found that appellant had no ratable impairment in the right or left ear. He found, however, that appellant had a five percent binaural impairment due to tinnitus. He further opined that appellant would not benefit from hearing aids.

On April 11, 2002 an Office medical consultant reviewed Dr. Jaindl's April 1, 2002 report and audiogram. He found that appellant did not have a ratable impairment in either ear. The Office medical adviser explained that he used Dr. Jaindl's April 1, 2002 audiogram to determine the extent of appellant's hearing loss because it was the most recent and met the Office's requirements for audiograms.

The Board finds that appellant does not have a ratable loss of hearing which would entitle him to a schedule award.

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.<sup>1</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second (cps), the losses at each frequency are added up and averaged.<sup>2</sup> Then, the “fence” of 25 decibels (dB) 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.<sup>3</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>4</sup> 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 adoption of this standard for evaluating hearing loss.<sup>6</sup>

The Office medical consultant applied the Office’s standardized procedures to the April 1, 2002 audiogram. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed dBs losses of 15, 10, 15 and 55, respectively. These dBs were totaled at 95 and divided by 4 to obtain the average hearing loss of 23.75 dBs. The average loss was reduced by the 25 dBs fence to equal 0, which was multiplied by the established factor 1.5 to compute a 0 percent monaural loss for the right ear.

Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed dBs losses of 15, 15, 10 and 55, respectively. These dBs were totaled at 95 and divided by 4 to obtain the average hearing loss of 23.75 dBs. The average loss was reduced by the 25 dBs fence to equal 0, which was multiplied by the established factor 1.5 to compute a 0 percent monaural loss for the left ear.

Regarding Dr. Jaindl’s finding that appellant has a five percent binaural hearing loss due to tinnitus, the A.M.A., *Guides* states:

“*Tinnitus* in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, add up to 5 [percent] for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform activities of daily living.”<sup>7</sup>

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<sup>1</sup> A.M.A., *Guides* at 250 (5<sup>th</sup> ed. 2001).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

<sup>4</sup> *Id.*

<sup>5</sup> *Id.*

<sup>6</sup> *Donald E. Stockstad*, 53 ECAB \_\_\_\_ (Docket No. 01-1570, issued January 23, 2002); *petition granted*, Docket No. 01-1570 (issued August 13, 2002).

<sup>7</sup> A.M.A., *Guides* at 246.

As appellant's hearing loss is not ratable, he is not entitled to the additional award for tinnitus. Therefore, although appellant's claim for hearing loss was accepted and he is entitled to medical benefits related to this loss, his hearing loss is not now ratable under the Federal Employees' Compensation Act. Consequently, appellant is not entitled to a schedule award.

The decision of the Office of Workers' Compensation Programs dated May 9, 2002 is affirmed.

Dated, Washington, DC  
January 17, 2003

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member