

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of EDWARD FRAZIER, JR. and DEPARTMENT OF THE NAVY,  
NAVAL AIR STATION, Jacksonville, FL

*Docket No. 02-2104; Submitted on the Record;  
Issued January 2, 2003*

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DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
MICHAEL E. GROOM

The issue is whether appellant has more than an eight percent bilateral hearing loss for which he received a schedule award.

On August 28, 2001 appellant, then a 62-year-old aircraft engineer examiner, filed a notice of occupational disease (Form CA-2) claiming hearing loss caused by noise exposure in the course of his federal employment. Appellant continued to work until he retired in May 2002.

The employing establishment furnished the Office of Workers' Compensation Programs with copies of appellant's job description and his audiogram results from December 7, 1976 to April 5, 2001. The Office referred appellant to Dr. James Green, Jr., Board-certified in otolaryngology, for otologic evaluation and audiologic testing. The Office provided Dr. Green with a statement of accepted facts and copies of all medical reports.

Dr. Green performed an otologic evaluation of appellant on October 15, 2001 and audiometric testing was conducted on his behalf that same day. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 25, 30, 35 and 35 decibels; and left ear 20, 30, 35 and 35 decibels. In his October 15, 2001 report, Dr. Green stated that the auditory assessment revealed a sensorineural hearing loss, mid and high frequency, mild with noise factor. He also noted a finding of tinnitus. Dr. Green indicated that appellant had a normal audio at the beginning of his civilian employment however noise exposure caused loss.

An Office medical adviser reviewed Dr. Green's report and audiometric test results and concluded that appellant had an employment-related sensorineural binaural hearing loss. After applying the Office's current standards for evaluating hearing loss to the results of the October 15, 2001 audiologic tests, the Office medical adviser determined that appellant had an eight percent binaural loss.

On October 30, 2001 the Office accepted the claim for noise-induced hearing loss. On November 1, 2001 appellant filed a claim for a schedule award. On November 19, 2001 the

Office granted appellant a schedule award for eight percent permanent bilateral hearing loss. The period of the award ran for 16 weeks from October 15, 2001 to February 3, 2002.

In a letter dated April 12, 2002, appellant requested reconsideration of the schedule award. Appellant indicated that he obtained an audiogram on February 19, 2002, which he argued classified his hearing loss as permanent. Appellant submitted a February 26, 2002 hearing conservation disposition form from G.M. Cavalli, Lt. MSC/USN and a reference audiogram dated February 19, 2002.

In a letter dated April 29, 2002, the Office requested additional information concerning appellant's request for reconsideration. The Office indicated that it was unclear whether or not appellant requested reconsideration of the November 19, 2001 award of a schedule award of eight percent permanent impairment for bilateral hearing loss, or if appellant was asking for an additional award due to increased hearing loss after October 14, 2001. The Office advised that appellant should respond within 20 days of its request. The Office received no further information in response to its inquiry.

By decision dated May 28, 2002, the Office denied modification of the prior decision.

The Board finds that appellant has no more than an eight percent bilateral hearing loss for which he received 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, the losses at each frequency are added up and averaged.<sup>2</sup> 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.<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>

Dr. Green applied the Office's standardized procedures to the October 15, 2001 audiogram performed on his behalf. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibels losses of 25, 30, 35 and 35

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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.)

respectively. These decibels were totaled at 125 and were divided by 4 to obtain an average hearing loss at those cycles of 31.25 decibels. The average of 31.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 6.25, which was multiplied by the established factor of 1.5 to compute 9.38 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 cycles per second revealed decibels losses of 20, 30, 35 and 35 respectively. These decibels were totaled at 120 and were divided by 4 to obtain the average hearing loss at those cycles of 30 decibels. The average of 30 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 5, which was multiplied by the established factor of 1.5 to compute a 7.5 percent hearing loss for the left ear, which was rounded to 8 percent.

The Board finds that Dr. Green applied the proper standards in his report of October 15, 2001 and the accompanying audiogram performed on his behalf. The result is an eight percent binaural hearing loss as set forth above.

In support of his reconsideration request, appellant resubmitted previous audiograms of record, an audiogram dated February 19, 2002 and a hearing conservation disposition form dated February 26, 2002.

According to Office procedures, when a schedule award is paid before exposure terminates, no additional award will be paid for periods of less than one year from the beginning date of the last award or the date of the last exposure, whichever comes first.<sup>7</sup> If a claimant requests review of a hearing loss schedule award, he or she will be asked to clarify whether the request is for review of the award or for additional compensation subsequent to the prior award. If the claimant is requesting additional compensation, the Office will inform the claimant that a new claim should be filed one year after the beginning date of the last award or the date of last exposure, whichever occurs first.<sup>8</sup>

The Office in this case advised appellant following his request for reconsideration that it was unclear whether or not he was asking for reconsideration of the eight percent awarded or if he was asking for an additional award due to increased hearing loss after October 14, 2001. Further, the Office advised appellant to provide the requested information within 20 days; however, no additional information was submitted.

The Board notes that as a schedule award was paid in this case beginning October 15, 2001, the Office properly found that no additional award could be issued in this case. If appellant intended his April 12, 2002 request for reconsideration to be construed as a request for an additional award, because it has been made in a period less than one year from the date of the last award or date of last exposure, it would not be allowable here. Therefore, the Office properly denied further consideration of the schedule award.

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<sup>7</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.7 a, b (March 1995).

<sup>8</sup> *Id.* at 2.808.7a, b.

With regard to the February 26, 2002 audiogram, the Board notes that it was unaccompanied by a medical report; therefore, it was incomplete and of little probative value,<sup>9</sup> and accordingly insufficient to require a reopening of the present case for further merit review by the Office.<sup>10</sup>

The May 28, 2002 and November 19, 2001 decisions of the Office of Workers' Compensation Programs are hereby affirmed.

Dated, Washington, DC  
January 2, 2003

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

Michael E. Groom  
Alternate Member

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<sup>9</sup> *Burnice Gish*, 32 ECAB 281 (1980).

<sup>10</sup> *Nathaniel Milton*, 33 ECAB 1087 (1982).