

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

---

In the Matter of HAROLD McCAFFREY and DEPARTMENT OF THE AIR FORCE,  
McCLELLAN AIR FORCE BASE, Calif.

*Docket No. 96-1139; Submitted on the Record;  
Issued May 4, 1998*

---

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,  
BRADLEY T. KNOTT

The issue is whether appellant has established that his hearing loss is causally related to factors of his federal employment.

On October 26, 1994 appellant, then a 63-year-old retired utility systems repairman, filed an occupational disease claim, alleging that he sustained a hearing loss within the performance of duty that he first became aware of on October 28, 1989. In a supplemental statement, appellant indicated that he had been exposed to other noise sources while employed as an air condition, engine and boiler operator and oiler/fireman and while enlisted in the United States Department of the Navy from June 1948 to July 1984.

The employing establishment submitted a copy of appellant's medical records, including audiograms taken during appellant's employment, any relevant reports concerning said audiograms, and a noise data survey report for appellant's occupation.

The Office of Workers' Compensation Programs referred appellant to Dr. Stuart Gherini, a Board-certified otolaryngologist, for an examination, including audiometric testing. In a report dated June 14, 1995, Dr. Gherini noted appellant's history of noise exposure and work history and reviewed his medical records. The report indicated that an audiometric evaluation was performed on equipment that was last calibrated to standards on December 9, 1994. He reported that there was difficulty in performing a reliable audiogram as appellant was either unwilling or unable to complete the test in a reliable fashion. However, the testing for the right ear at 500, 1,000, 2,000 and 3,000 cycles per second showed decibel losses of 10, 15, 25 and 30, respectively, while testing for the left ear revealed decibel losses of 15, 10, 30 and 20, respectively. Dr. Gherini opined that it was altogether possible that appellant's hearing could be better than reported. He diagnosed bilateral moderate to severe high-frequency sensorineural hearing loss and binaural tinnitus and noted that the statement of accepted facts demonstrated that appellant was exposed to 86 decibels time-weighted average. Dr. Gherini reported that at this noise level with the use of hearing protection, it was his opinion that appellant's work with

the employing establishment had “not caused, aggravated, accelerated, or lighted up a hearing loss, nor has it aggravated, accelerated, or lighted up [appellant’s] tinnitus.” In a letter dated June 26, 1995, Dr. Gherini reconfirmed his prior findings.

In a decision dated August 7, 1995, the Office denied appellant’s claim on the grounds that the medical evidence did not establish a causal relationship between his claimed condition and factors of his federal employment.

Appellant requested reconsideration and submitted a note from Dr. John R. Macri, a Board-certified otolaryngologist, who indicated that appellant had sensorial hearing loss due to noise trauma and an audiometric evaluation from Dr. E. Gregory Cehan, a Board-certified otolaryngologist, who diagnosed bilateral moderate to severe sloping sensorineural hearing loss “2 [percent] to noise exposure (+ presbycusis).” He noted that appellant had many years of exposure to noise in boiler and engine rooms, from age 17.

In a merit decision dated October 3, 1995, the Office denied appellant’s request for reconsideration on the grounds that the evidence submitted was not sufficient to require modification of the prior decision.

Appellant again request reconsideration and submitted office notes dated October 30, 1995 by Dr. Gherini, together with his referral for appellant to receive hearing aids.

In a merit decision dated January 18, 1996, the Office denied appellant’s request for reconsideration on the grounds that no basis for modification was established.

The Board finds that appellant has not established a causal relationship between his hearing loss and factors of his federal employment.

An award of compensation may not be based on surmise, conjecture, speculation, or appellant’s belief of causal relationship.<sup>1</sup> The Board has held that the mere fact that a disease or condition manifests itself during a period of employment does not raise an inference of causal relationship between the condition and the employment.<sup>2</sup> Neither the fact that the condition became apparent during a period of employment nor appellant’s belief that employment caused or aggravated his condition is sufficient to establish causal relationship.<sup>3</sup> While the medical opinion of a physician supporting causal relationship does not have to reduce the cause or etiology of a disease or condition to an absolute certainty,<sup>4</sup> neither can such opinion be speculative or equivocal. The opinion of a physician supporting causal relationship must be one of reasonable medical certainty that the condition for which compensation is claimed is causally related to federal employment and such relationship must be supported with affirmative

---

<sup>1</sup> *Williams Nimitz, Jr.*, 30 ECAB 567, 570 (1979); *Miriam L. Jackson Gholikely*, 5 ECAB 537, 538-39 (1953).

<sup>2</sup> *Edward E. Olson*, 35 ECAB 1099, 1103 (1984).

<sup>3</sup> *Joseph T. Gulla*, 36 ECAB 516, 519 (1985).

<sup>4</sup> *See Kenneth J. Deerman*, 34 ECAB 641 (1983).

evidence, explained by medical rationale and be based upon a complete and accurate medical and factual background of the claimant.<sup>5</sup>

In the present case, appellant submitted two medical reports which indicated that his hearing loss was due to noise trauma and exposure to noise from boiler rooms and engines from Drs. Macri and Cehan, respectively. Dr. Macri's note which indicated that appellant's hearing loss was due to noise trauma, without further explanation, is not sufficient to meet appellant's burden of proof as there is no rationale for this conclusion and since it is not clear whether he was aware of appellant's history of exposure to noise or his preexisting hearing loss at the time he was employed by the employing establishment.<sup>6</sup> Dr. Cehan's report is not sufficient to discharge appellant's burden since he generally related appellant's hearing loss to noise exposure and the affects of aging without specifically finding it causally related to appellant's federal employment and also has not indicated that he was aware of appellant's preexisting hearing loss at the time appellant began work for the employing establishment. In contrast, Dr. Gherini provided a well-reasoned and rationalized report in which he noted the specific working environment in which appellant performed his duties and concluded that appellant's hearing loss was not related to this exposure in light of the level of noise and his use of protective gear. Despite appellant's assertions to the contrary in his second request for reconsideration, Dr. Gherini did not indicate that he had changed his opinion regarding the cause of appellant's hearing loss in his office notes from October 1995. Thus, appellant has not met his burden of proof to establish a hearing loss causally related to factors of his federal employment.

The decisions of the Office of Workers' Compensation Programs dated January 18, 1996, October 3 and August 7, 1995 are hereby affirmed.

Dated, Washington, D.C.  
May 4, 1998

George E. Rivers  
Member

Willie T.C. Thomas  
Alternate Member

Bradley T. Knott  
Alternate Member

---

<sup>5</sup> See *Margaret A. Donnelly*, 15 ECAB 40 (1963); *Morris Scanlon*, 11 ECAB 384 (1960).

<sup>6</sup> *James A. Wyrich*, 31 ECAB 1805 (1980).