

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES D. HICKS and DEPARTMENT OF THE NAVY,  
NAWCAD, Patuxent River, MD

*Docket No. 98-1438; Submitted on the Record;  
Issued December 20, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,  
BRADLEY T. KNOTT

The issue is whether appellant sustained a ratable hearing loss causally related to factors of his federal employment.

On July 10, 1997 appellant, then a 59-year-old aircraft engineering technician, filed a notice of occupational disease and claim for compensation alleging that he sustained bilateral hearing loss as a result of exposure to hazardous noise in the performance of duty. Attached to his CA-2 form, appellant submitted narrative statement describing his noise exposure.<sup>1</sup> He also submitted copies of several Standard Form 171 applications for federal employment which outlined his employment history.

The employing establishment submitted audiograms and audiographic reports dating from 1972 to 1998.<sup>2</sup>

The Office of Workers' Compensation Programs referred appellant, together with a statement of accepted facts, for audiologic and otologic evaluation by Dr. Arnaldo A. Garro, a Board-certified otolaryngologist, on December 8, 1997. In a report dated January 14, 1998, Dr. Garro stated that appellant's physical examination was essentially unremarkable but that an audiometric evaluation revealed "a moderate degree of high frequency sensorineural hearing loss bilaterally, greater on the left with fairly good discrimination." He recommended that appellant

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<sup>1</sup> The Office accepted that appellant was exposed to loud noise from hours spent around hanger noise, aircraft noise and runway noise in his position as an aircraft instrument mechanic apprentice then aircraft mechanic from October, 1956 to October 1963 and from working on aircraft carrier decks and hours spent in military aircraft as an engineering technician from October 1963 to the present.

<sup>2</sup> These audiograms appear to have been prepared by a clinical audiologist; however, the tests were not reviewed or certified by a physician. See *Joshua A. Holmes*, 42 ECAB 231 (1990). The Office is under no obligation to review every uncertified audiogram which has not been prepared in connection with an examination by a medical specialist. See *Alfred Avelar*, 26 ECAB 426 (1975).

avoid further exposure to hazardous noise unless wearing adequate hearing protection. Dr. Garro suggested that he be provided with a hearing aid on the left.

An audiogram dated December 8, 1997, which was submitted along with Dr. Garro's January 14, 1998 report, indicated testing at 500, 1,000, 2,000 and 3,000 hertz (Hz) and revealed in the right ear: losses of 5, 10, 10 and 20 decibels (dBs) respectively: and in the left 10, 15, 20 and 50 dBs respectively.

An Office medical adviser reviewed appellant's December 8, 1997 audiogram and applied the Office's standardized procedures to calculate a nonratable hearing monaural hearing loss in both ears. He reported that appellant had binaural, high tone, sensorineural hearing impairment which was not ratable for the purpose of determining a schedule award. A hearing aid was not authorized but yearly testing was recommended to monitor appellant's hearing loss.

By decision dated March 17, 1998, the Office advised appellant that his claim for a hearing loss due to his employment-related noise exposure had been accepted. However, the Office found that appellant was not entitled to a schedule award as the medical evidence of record failed to establish that he sustained a ratable hearing loss.

The Board has duly reviewed the case record in the present appeal and finds that appellant does not have a ratable hearing loss for schedule award purposes.

The schedule award provisions of the Federal Employees' Compensation Act set forth the number of weeks of compensation to be paid for permanent loss of the use of the members listed in the schedule.<sup>3</sup> The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determinations is a matter which rests in the sound discretion of the Office.<sup>4</sup> However, as a matter of administrative practice and to insure consistent results to all claimants, the Office has adopted and the Board has approved of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*) as the uniform standard applicable to all claimants.<sup>5</sup>

Under the A.M.A., *Guides*, hearing loss is evaluated by determining decibel loss at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz cycles per second. The losses at each frequency are added up and averaged and a "fence" of 25 dBs is deducted since, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech in everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. 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

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<sup>3</sup> 5 U.S.C. § 8107.

<sup>4</sup> *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

<sup>5</sup> *Henry L. King* 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.<sup>6</sup> The Board has concurred in the Office's use of this new standard for evaluating hearing losses for schedule award purposes.<sup>7</sup>

The Office medical adviser applied the Office's standardized procedures to the audiogram obtained for Dr. Garro. Testing for the right ear at 500, 1,000, 2,000 and 3,000 Hz revealed hearing threshold levels of 5, 10, 10 and 20 dBs respectively. These losses total 45 dBs for an average level of 11.5 dBs. Reducing this average by 25 dBs (as discussed earlier) leaves a balance of 0 dBs, meaning that no impairment is presumed to exist in appellant's ability to hear, with his right ear, everyday sounds under everyday listening conditions.

Testing for the left ear at 500, 1,000, 2,000 and 3,000 Hz revealed threshold levels of 10, 15, 20 and 50 dBs respectively. These losses total 95 dBs for an average of 23.75. Reducing this average by 25 dBs (as discussed earlier) leaves a balance of 0 dBs, meaning that no impairment is presumed to exist in appellant's ability to hear, with his left ear, everyday sounds under everyday listening conditions.

Consequently, although it is established in this case, that appellant sustained a hearing loss in both ears as a result of his occupational exposure to hazardous noise, the Office medical adviser properly found that appellant's hearing loss is not severe enough under the protocols of the A.M.A., *Guides* to constitute a compensable impairment. It is for this reason that appellant is not entitled to a schedule award.<sup>8</sup>

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<sup>6</sup> See A.M.A., *Guides* 224 (fourth edition 1993); FECA Program Memorandum No. 272 (issued February 24, 1986).

<sup>7</sup> *Daniel C. Goings, supra* note 4.

<sup>8</sup> If appellant believes that he has sustained additional hearing loss since his examination with Dr. Garro, he may at any time claim additional hearing loss and submit medical evidence supportive of his claim.

The decision of the Office of Workers' Compensation Programs dated March 17, 1998 is hereby affirmed.

Dated, Washington, D.C.  
December 20, 1999

Michael J. Walsh  
Chairman

George E. Rivers  
Member

Bradley T. Knott  
Alternate Member