

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of IRA L. MISSILDINE and DEPARTMENT OF THE ARMY,
RED RIVER ARMY DEPOT, Texarkana, TX

*Docket No. 98-1256; Submitted on the Record;
Issued October 8, 1999*

DECISION and ORDER

Before GEORGE E. RIVERS, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

The issue is whether appellant is entitled to a schedule award due to his employment-related hearing loss.

The Board has duly reviewed the case on appeal and finds that appellant is not entitled to a schedule award for his employment-related hearing loss.

Appellant filed a claim on July 15, 1997 alleging that he had developed a loss of hearing due to factors of his federal employment. By decision dated October 30, 1997, the Office of Workers' Compensation Programs accepted that appellant had sustained a hearing loss due to his federal employment, but found that his hearing loss was not severe enough to warrant a schedule award.¹ The Office further found that appellant did not currently require hearing aids and that he was not entitled to further medical treatment.²

The Office referred appellant for evaluation with Dr. Charles Hollingsworth, a Board-certified otolaryngologist. In his report, Dr. Hollingsworth diagnosed bilateral severe high frequency sensorineural hearing loss. He did not recommend hearing aids. The Office medical adviser reviewed Dr. Hollingsworth's report and concluded that appellant's hearing loss was causally related to his employment exposures.

¹ Following the Office's final decision, appellant submitted additional new evidence. As the Office did not consider this evidence in reaching a final decision, the Board may not consider it for the first time on appeal. 20 C.F.R. § 501.2(c).

² Appellant filed an appeal with the Board on February 26, 1998. The Office issued a decision on March 17, 1998 denying modification of its October 30, 1997 decision. The Office may not issue a decision regarding the same issue on appeal before the Board. *Arlonia B. Taylor*, 44 ECAB 591 (1993). Therefore, the Office did not have authority to issue the March 17, 1998 decision and such decision is null and void.

The Office properly considered the medical evidence submitted in support of appellant's claim and applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment*. The medical report submitted by Dr. Hollingsworth conforms to applicable criteria. The losses at the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second were added and averaged and the "fence of 25 decibels was deducted."³ The remaining amount was multiplied by 1.5 to arrive at the percentage of monaural hearing loss. For levels recorded in the left ear of 15, 5, 15 and 40, the above formula derives 0 percent monaural loss and for levels recorded in the right ear of 15, 5, 10 and 30, the above formula derives 0 percent monaural loss. As appellant does not have a ratable loss of hearing in accordance with the A.M.A., *Guides*, the Office properly denied his request for a schedule award.

The Office properly noted that the Office medical adviser who evaluated Dr. Hollingsworth's report indicated that a hearing aid was not authorized at that time. The Board notes that appellant has not submitted any rationalized medical evidence to support his claim that he is currently in need of hearing aids. Appellant bears the burden of establishing by the submission of rationalized medical evidence that his condition has worsened, possibly necessitating the prescription of hearing amplification devices. Since he has not done so, hearing aids cannot now be approved.

The Board additionally finds, however, that appellant is entitled to any further medical evaluation and treatment as required by his accepted condition of hearing loss.

The Office's procedure manual explains that where a diagnosis is accepted, as the diagnosis of bilateral high frequency sensorineural hearing loss was accepted by the Office in this case, it is incumbent upon the Office to initiate payment of any appropriate medical and wage-loss benefits.⁴

Medical expenses, along with transportation and other expenses incidental to securing medical care, are covered by section 8103 of the Federal Employees' Compensation Act.¹² This section provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree of the period of any disability, or aid in lessening the amount of any monthly compensation. These services, appliances, and supplies shall be furnished by or on the order of the United States medical officers and hospital, or at the employee's option, by or on the order of physicians and hospitals designated or approved by the Secretary. The employee may be furnished necessary and reasonable transportation and expenses incident to the securing of such services, appliances, and supplies.¹³

³ The A.M.A., *Guides* points out that the loss below an average of 25 decibels is deducted as it does not result in impairment in the ability to hear everyday sounds under everyday listening conditions.

⁴ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Occupational Illness*, Chapter 2.806.8(a) (September 1997).

As appellant's claim was accepted by the Office for hearing loss, any medical expenses for services, appliances, and supplies required for the monitoring, evaluation or treatment of this condition should be authorized by the Office.

The October 30, 1997 decision of the Office of Workers' Compensation Programs is affirmed in regard to the findings that appellant is not entitled to a schedule award nor hearing aids and is reversed with respect to the finding that he is not entitled to further medical treatment as a result of his accepted hearing loss. The March 17, 1998 decision is set aside as null and void.

Dated, Washington, D.C.
October 8, 1999

George E. Rivers
Member

Willie T.C. Thomas
Alternate Member

A. Peter Kanjorski
Alternate Member