

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of JAMES A. CARNAHAN and DEPARTMENT OF THE ARMY,  
ARMY NATIONAL GUARD, Tacoma, WA

*Docket No. 98-1466; Submitted on the Record;  
Issued October 14, 1999*

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DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,  
A. PETER KANJORSKI

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

The Board has duly reviewed the evidence contained in the case record presented on appeal and finds that appellant does not have a ratable hearing loss causally related to factors of his federal employment.<sup>1</sup>

The schedule award provisions of the Federal Employees' Compensation Act<sup>2</sup> sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body. The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. The method of determining this percentage rests in the sound discretion of the Office.<sup>3</sup> To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of uniform standards applicable to all claimants.<sup>4</sup>

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4<sup>th</sup>

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<sup>1</sup> On January 15, 1998 the Office of Workers' Compensation Programs issued a decision accepting appellant's occupational disease claim for an employment-related hearing loss due to noise exposure. The Office found that medical evidence of file failed to establish that appellant had a ratable hearing loss which would entitle him to a schedule award. In addition, the Office found that appellant was entitled to further medical care and hearing aids for his left ear only.

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

<sup>4</sup> *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

ed. 1993), using the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added up and averaged. Then a “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 sounds under everyday conditions.<sup>5</sup> The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural 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 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 adoption of this standard for evaluating hearing loss.<sup>7</sup>

The district medical adviser correctly applied the Office’s standard procedures to the December 17, 1997 audiogram obtained by Dr. Stephen A. Habener, a Board-certified otolaryngologist to whom the Office referred appellant. The district medical adviser also agreed with Dr. Habener’s medical diagnosis which revealed “a high frequency sensorineural hearing loss in both ears, left greater than right,” causally related to appellant’s employment-related noise exposure.

Testing for the right ear at the relevant frequencies revealed decibel losses of 20, 10, 5 and 10 for a total of 45, which was divided by 4 for an average hearing loss of 11.25 decibels; the average was reduced by the fence of 25 (the first 25 decibels were discounted as discussed above) to arrive at 0 or a nonratable loss of hearing in the right ear.<sup>8</sup> The hearing loss in the right ear was not ratable under these standards and, therefore, not compensable.

Testing for the left ear at the same frequencies revealed decibel losses of 10, 10, 10 and 60 decibels respectively for a total of 90. This figure was divided by 4 for an average hearing loss of 22.5 decibels; the average was reduced by the fence of 25 (the first 25 decibels were discounted) to arrive at 0 or a nonratable loss of hearing in the left ear.<sup>9</sup> The hearing loss in the left ear was not ratable under these standards and, therefore, not compensable.

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<sup>5</sup> The A.M.A., *Guides* points out that the losses 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; see A.M.A., *Guides* 224 (4th ed. 1993); see also *Kenneth T. Esther*, 25 ECAB 335; *Terry A. Wethington*, 25 ECAB 247.

<sup>6</sup> FECA Program Memorandum No. 272 (issued February 24, 1986).

<sup>7</sup> *Danniel C. Goings*, *supra* note 3.

<sup>8</sup> See A.M.A., *Guides* 224 (4th ed. 1993).

<sup>9</sup> *Id.*

The decision of the Office of Workers' Compensation Programs dated January 15, 1998 is affirmed.

Dated, Washington, D.C.  
October 14, 1999

Michael J. Walsh  
Chairman

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member