

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JOHN R. DEHLBOM and DEPARTMENT OF INTERIOR,
BUREAU OF RECLAMATION, Ashland, OR

*Docket No. 99-1470; Submitted on the Record;
Issued August 15, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On August 5, 1997 appellant, then a 52-year-old power plant operator/maintenance journeyman filed a notice of occupational disease and claim for compensation (Form CA-2) alleging hearing loss caused by noise exposure in the course of his federal employment. He stated that over the years his hearing worsened due to exposure to noise in power plants. Appellant did not lose any time from work.

Accompanying the claim, appellant and the employing establishment submitted statements, personnel records, noise exposure data and audiological test results.

By letter dated December 2, 1997, the Office of Workers' Compensation Programs referred appellant and the case record, including a statement of accepted facts, to Dr. John Traynor, a Board-certified otolaryngologist, for otologic and audiologic testing and an opinion on the issue of whether appellant sustained an employment-related hearing loss.

An audiogram was performed by a qualified audiologist on January 13, 1998.

In a February 26, 1998 medical report, Dr. Traynor noted that on January 13, 1998 he had examined appellant and reviewed appellant's medical reports and the statement of accepted facts. Dr. Traynor stated that appellant had bilateral moderate to severe mid through high tone sensorineural hearing loss consistent with noise exposure encountered in appellant's federal employment.

In a report dated March 18, 1998, an Office medical adviser reviewed the medical record including the January 13, 1998 audiogram submitted by Dr. Traynor. Applying the Office's standardized guidelines to the January 13, 1998 findings, the Office medical consultant

determined that appellant did not have a ratable hearing loss, however, hearing aids were authorized/recommended.

By decision dated March 23, 1998, the Office advised appellant that his claim was accepted for hearing loss due to his employment-related noise exposure. However, the Office found that it was not severe enough to be ratable and, therefore, he was not entitled to a schedule award. Furthermore, the Office indicated that the evidence established that appellant would benefit from hearing aids and advised appellant to see an audiologist if he would like to acquire them.

The Board finds that appellant has not sustained a ratable hearing loss causally related to factors of federal employment.

The Federal Employees' Compensation Act, schedule award provisions set forth the number of weeks of compensation to be paid for permanent loss of use of the members of the body that are listed in the schedule.¹ 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 a determination is a matter, which rests in the sound discretion of the Office.² However, as a matter of administrative practice, the Board has stated: For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants.³ The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office⁴ and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁵

In addition to the standard by which it computes the percentage of hearing loss, the Office has delineated requirements for the type of medical evidence used in evaluating hearing loss. The requirements, as set forth in the Office's procedure manual, are *inter alia*, that the employee undergo both audiometric and otologic examination; that the audiometric testing precede the otologic examination, that the audiometric testing be performed by an appropriately certified audiologist; that the otologic examination be performed by an otolaryngologist certified or eligible for certification by the American Academy of Otolaryngology; that the audiometric and otologic examination be performed by different individuals as a method of evaluating the reliability of the findings; that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association, that the audiometric test results include both bone conduction and pure-tone air conduction thresholds, speech reception thresholds and monaural discrimination scores; and the otolaryngologist's report must include: Date and hour of examination, date and hour of

¹ 5 U.S.C. § 8107.

² *Kenneth E. Leone*, 46 ECAB 133 (1994).

³ *Id.*

⁴ FECA Program Memorandum No. 272 (issued February 24, 1986); see *Jimmy B. Newell*, 39 ECAB 181 (1987).

⁵ *Danniel C. Goings*, 37 ECAB 781 (1986).

employee's last exposure to loud noise, a rationalized medical opinion regarding the relation of the hearing loss to the employment-related noise exposure and a statement of the reliability of the tests.⁶

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁷ 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.⁸ 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.⁹ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.¹⁰ The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss, the lesser loss is multiplied by 5, then added to the greater loss and the total is divided by 6 to arrive at the amount of the binaural hearing loss.¹¹ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹²

The medical evidence of record does not support appellant's claim that he sustained a ratable hearing loss in the performance of duty.

The Office medical consultant applied the Office's standardized procedures to the January 13, 1998 audiogram obtained by Dr. Traynor. Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 revealed decibel losses of 5, 10, 10 and 70 respectively. These decibel losses were totaled to 95 and divided by 4 to obtain the average hearing loss at those cycles of 23.75. The average of 23.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 decibels for the right ear, which was multiplied by the established factor 1.5 to compute a 0 percent loss of hearing for the right ear. Testing for the left ear at frequency levels of 500, 1000, 2,000 and 3,000 revealed decibel losses of 10, 10, 15 and 55 decibels respectively. These decibel losses were totaled at 90 decibels and divided by 4 to obtain the average hearing loss at those cycles of 22.5 decibels. The average of 22.5 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 decibels, which was multiplied by the established factor 1.5 to compute a 0 percent loss of hearing for the left ear. The consultant then multiplied the 0 percent loss in the left ear (the ear with the lesser loss) by 5, added it to the 0 percent loss in the right ear (the ear with the greater loss) and divided the sum by 6 to calculate appellant's binaural hearing loss at 0 percent.

⁶ *Raymond H. VanNett*, 44 ECAB 480 (1993); Federal (FECA) Procedure Manual, Part 4 -- Medical Management, *Hearing Loss*, Chapter 4.300 (May 1991).

⁷ *Stuart M. Cole*, 46 ECAB 1011 (1995).

⁸ A.M.A., *Guides* 224 (4th ed. 1993).

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Supra* note 4.

The Board finds that the Office medical adviser applied the proper standards, which are applied to all employees in hearing loss claims under the Act,¹³ to the findings stated in Dr. Traynor's February 26, 1998 report and the accompanying January 13, 1998 audiogram. The record contains no other properly certified audiogram¹⁴ indicating that appellant has a compensable hearing loss.¹⁵

The March 23, 1998 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, D.C.
August 15, 2000

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

¹³ 5 U.S.C. § 8107(13).

¹⁴ See *Joshua A. Holmes*, 42 ECAB 231, 236-37 (1990).

¹⁵ On appeal, appellant asserts that he is entitled to hearing aids. The Board notes that the Office's March 23, 1998 decision found that appellant would benefit from hearing aids and authorized appellant to see a clinical audiologist of his choice for an evaluation to determine the hearing aids that would be appropriate.