

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of RAMON P. BARELA and DEPARTMENT OF THE AIR FORCE,
12TH MAINTENANCE SQUADRON, RANDOLPH AIR FORCE BASE, TX

*Docket No. 01-20; Submitted on the Record;
Issued August 2, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a six percent binaural hearing loss for which he was granted a schedule award.

On February 2, 2000 appellant, then a 53-year-old aircraft engine mechanic, filed a notice of occupational disease claiming hearing loss caused by noise exposure in the course of his federal employment. The Office of Workers' Compensation Programs accepted the claim for bilateral sensorineural hearing loss on June 21, 2000. On June 27, 2000 he filed a claim for a schedule award.

By letter dated May 1, 2000, the Office referred appellant to Dr. Brian Perry, Board-certified in otolaryngology, for otologic evaluation and audiologic testing. The Office provided Dr. Perry with a statement of accepted facts and copies of all medical reports.

Dr. Perry evaluated appellant on May 23, 2000 and audiometric testing was conducted. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed the following: right ear 30, 25, 25 and 30 decibels; left ear 35, 35, 30 and 40 decibels. In his May 24, 2000 report, Dr. Perry stated that the auditory assessment revealed a sensorineural hearing loss of a mild to moderate degree in the left ear and a mild degree in the right ear. He noted that appellant had a ratable loss of 4.5 percent in the right ear and 15 percent in the left ear with a binaural loss of 6.25 percent.

An Office medical adviser reviewed Dr. Perry's report and audiometric test results and concluded that appellant had an employment-related sensorineural binaural hearing loss. After applying the Office's current standards for evaluating hearing loss to the results of the May 23, 2000 audiologic tests, the Office medical adviser determined that appellant had a 5.6 percent binaural hearing loss.

On August 15, 2000 the Office granted appellant a schedule award for a six percent binaural hearing loss. The period of the award ran for 12 weeks from May 23 to August 14, 2000.

The Board finds that appellant has no more than a six percent binaural hearing loss for which he received a schedule award.

The Federal Employees' Compensation Act schedule award provisions set forth the number of weeks' compensation to be paid for permanent loss of use of the members of the body that are listed in the schedule.¹ Where the loss of use is less than 100 percent the amount of compensation is paid in proportion to the percentage loss of use.² 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.³ 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."⁴

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.⁵ 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.⁶ 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.⁷ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁸ 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.⁹ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹⁰

The Office medical adviser applied the Office's standardized procedures to the May 23, 2000 audiogram performed for Dr. Perry. Testing for the left ear revealed decibel losses of 35, 35, 30 and 40 respectively. These decibel losses were totaled at 140 and divided by 4 to obtain the average hearing loss at those cycles of 35. The average of 35 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 10 decibels for the left ear. The 10 was multiplied by 1.5 resulting in a 15 monaural loss for the left ear.

¹ 5 U.S.C. § 8107.

² *Id.* § 8107 (c)(19).

³ *Id.*

⁴ *Id.*

⁵ *Richard Larry Enders*, 48 ECAB 184 (1996).

⁶ A.M.A., *Guides* at 224 (4th ed. 1993).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

Testing for the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 revealed decibel losses of 30, 25, 25 and 30 decibels respectively. These decibel losses were totaled at 110 decibels and divided by 4 to obtain the average hearing loss at those cycles of 27.5 decibels. The average of 27.5 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 2.5 decibels for the right ear.¹¹ The 2.5 was multiplied by 1.5 resulting in a 3.75 monaural hearing loss for the right ear. The Office medical adviser then multiplied the 3.75 percent loss in the right ear (the ear with the lessor loss) by 5, added it to the 15 percent loss in the left ear (the ear with the greater loss) and divided the sum by 6 to calculate the appellant's binaural hearing loss at 5.6 percent.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Perry's May 24, 2000 report and the accompanying May 23, 2000 audiometric evaluation that Dr. Perry reviewed.¹² This resulted in a calculation of a 5.6 percent binaural hearing loss, which was rounded to 6 percent by the Office in granting a schedule award.

The decision of the Office of Workers' Compensation Programs dated August 15, 2000 is hereby affirmed.

Dated, Washington, DC
August 2, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Priscilla Anne Schwab
Alternate Member

¹¹ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4b(2)(b) (September 1994).

¹² The Board notes that Dr. Perry's calculation of a ratable hearing loss of 4.5 percent in the right ear appears to be a mathematical error as the Office medical adviser correctly calculated the hearing loss in the right ear as 3.75 percent based upon the audiogram provided by Dr. Perry.