

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of VINCENT A. MORELLI and DEPARTMENT OF THE NAVY,
NAVAL AIR STATION, Patuxent River, MD

*Docket No. 00-889; Submitted on the Record;
Issued February 6, 2001*

DECISION and ORDER

Before DAVID S. GERSON, A. PETER KANJORSKI,
PRISCILLA ANNE SCHWAB

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

In a decision dated October 27, 1999, the Office of Workers' Compensation Programs advised appellant that, while his claim had been accepted for a hearing loss due to employment-related noise exposure, the hearing loss was not severe enough to be considered ratable. Consequently, appellant was not entitled to a schedule award. This determination was based upon the July 28, 1999 calculation of the Office's medical adviser, who reviewed a May 26, 1999 audiological evaluation and reports submitted by Dr. Arnaldo A. Garro, a Board-certified otolaryngologist.

The Board finds that appellant does not have a ratable hearing loss causally related to his federal employment.

Section 8107 of the Federal Employees' Compensation Act¹ 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.² 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.³

¹ 5 U.S.C. § 8107.

² *Daniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

³ *Henry L. King*, 25 ECAB 39, 44 (1973); *August M. Buffa*, 12 ECAB 324, 325 (1961).

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993). Utilizing the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 hertz, the losses at each frequency are added up and averaged, and 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.⁴ 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 the greater loss and the total is divided by six, to arrive at the amount of the binaural hearing loss.⁵ The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.⁶

In reviewing appellant’s most recent May 26, 1999 audiogram, the frequency levels recorded at 500, 1,000, 2,000 and 3,000 hertz for the right ear reveal decibel losses of 5, 10, 10 and 0 decibels respectively, for a total of 25 decibels. When this figure is divided by 4, the result is an average hearing loss of 6.25 decibels. The average loss of 6.25 is reduced by 25 decibels to equal -- 18.75, which when multiplied by the established factor of 1.5, results in a 0 percent monaural hearing loss for the right ear.⁷ Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibel losses of 5, 5, 0 and 5 decibels respectively, for a total of 15 decibels. Utilizing the same above-noted formula results in a 0 percent monaural hearing loss for the left ear.⁸ Accordingly, pursuant to the Office’s standardized procedures, the Office’s medical adviser determined that appellant had a nonratable hearing loss in both ears.

The Board finds that the Office medical adviser applied the proper standards to the findings in Dr. Garro’s reports and the accompanying May 26, 1999 audiogram. This resulted in a calculation of a nonratable hearing loss. Consequently, the Office properly determined that appellant was not entitled to a schedule award.

⁴ See A.M.A., *Guides* 224 (4th ed. 1993); see also *Kenneth T. Esther*, 25 ECAB 335 (1974); *Terry A. Wethington*, 25 ECAB 247 (1974).

⁵ FECA Program Memorandum No. 272 (issued February 24, 1986).

⁶ *Danniel C. Goings*, *supra* note 2.

⁷ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4b(2)(b) (September 1994).

⁸ *Id.*

The October 27, 1999 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
February 6, 2001

David S. Gerson
Member

A. Peter Kanjorski
Alternate Member

Priscilla Anne Schwab
Alternate Member