U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of YUN HO YI and DEPARTMENT OF THE NAVY,
NADEP NORTH ISLAND, San Diego, CA

Docket No. 00-1153; Submitted on the Record;
Issued February 9, 2001

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has a ratable bilateral hearing loss.

On June 15, 1999 appellant, then a 53-year-old machinist, filed a notice of occupational disease (Form CA-2) claiming that he had loss of hearing and ringing in his ears. The Office of Workers' Compensation Programs accepted that appellant sustained bilateral hearing loss due to hazardous noise exposure from 1979 to 1999 while employed at the employing establishment.

By decision dated January 6, 2000, the Office denied appellant's claim for a schedule award stating that his level of hearing loss was noncompensable.

The Office medical adviser applied the Office's standardized procedures to an audiogram performed by audiologist Beth C. Amaral, dated October 19, 1999, and a medical report dated November 1, 1999 from Dr. Theodore Mazer, a Board-certified otolaryngologist.[1] The audiologist found "essentially normal AD, borderline normal/mild sensorineural hearing loss."

The Board finds that appellant has no ratable bilateral hearing loss.

The Federal Employees' Compensation Act schedule award provisions set forth the number of weeks' of compensation to be paid for the permanent loss of use of the members of the body that are listed in the schedule.[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

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[1] Additional audiograms and a magnetic resonance imaging report are contained in the record, all noting "normal examination" and "normal hearing." The record also contains a note dated May 18, 1999 from Dr. Victor F. Shorn, which indicates that appellant has a high frequency hearing loss, yet does not provide an audiogram or any type of analysis.

[2] 5 U.S.C. § 8107.

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] 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 October 19, 1999 audiogram and found a zero percent hearing loss in both ears. Testing for the right ear revealed decibel losses of 15, 15, 10 and 25 respectively. These decibel losses were totaled at 65 and divided by 4 to obtain the average hearing loss to those cycles of 16.25. The average of 16.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 decibels for the right ear. Testing for the left ear revealed decibel losses of 20, 25, 25 and 30 respectively. These decibel losses were totaled at 100 and divided by 4 to obtain the average hearing loss to those cycles of 25. The average of 25 decibels was then reduced by 25 decibels to equal 0 decibels for the left ear. Accordingly, pursuant to the Office's standardized procedures, the district medical Director determined that appellant had a nonratable loss of hearing in both ears.

[3] *Richard Larry Enders*, 48 ECAB 184 (1996).

[4] *Id*.

[5] *Id.*

[6] A.M.A., *Guides* 174-75 (4th ed. rev., 1993).

[7] *Id*.

[8] *Id*.

[9] *Id*.

[10] *Donald A. Larson*, 41 ECAB 947, 951 (1990).

The Board finds that the district medical Director applied the proper standards to the findings stated in the audiogram performed on October 19, 1999. Since both ears were not ratable under these standards, the extent of hearing loss is not compensable.[11]

The Board notes that, following medical evaluation of a claim, if the hearing loss is determined to be nonratable for schedule award purposes, "other benefits will still be payable if any causally related hearing loss exists" such as a hearing aid[12] and that appellant is entitled to medical benefits. Dr. Mazer did recommend annual audiological follow-up testing and reevaluation for further threshold shifts or upon termination of noise exposure employment. There is no medical evidence of record that appellant requires a hearing aid, but Dr. Mazer stated that continued use of hearing protection is critical.

The decision of the Office of Workers' Compensation Programs dated January 6, 2000 is hereby affirmed.

Dated, Washington, DC
February 9, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member

[11] It should be noted that evidence of other audiograms was submitted after the Office's January 6, 2000 final decision.

[12] *Raymond H. VanNett*, 44 ECAB 480 (1993).