

U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of KENNETH D. EATON and DEPARTMENT OF THE AIR FORCE,  
MONTANA NATIONAL AIR GUARD, MT

*Docket No. 00-357; Submitted on the Record;  
Issued June 7, 2001*

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DECISION and ORDER

Before WILLIE T.C. THOMAS, MICHAEL E. GROOM,  
BRADLEY T. KNOTT

The issue is whether the Office of Workers' Compensation Programs properly denied appellant's claim for a schedule award for hearing loss.

On April 15, 1999 appellant, then a 53-year-old air technician, filed a notice of occupational disease and claim for compensation (CA-2) alleging that he sustained permanent hearing loss while in the performance of duty. He became aware of his hearing loss on April 15, 1999 and related it to his employment at that time. Appellant continued to work.

In an accompanying statement, appellant listed his history of employment, indicating that he had been exposed to excessive noise for a 28-year period beginning in 1972 until the present time. He noted, as a material control specialist from 1972 to 1978, he was exposed to aircraft noise, air compressor noise and generator noise for four hours per day whereby muff hearing protection was provided. As a power support systems mechanic from 1978 to 1987, he was exposed to noise from F-16 aircraft, air compressor and generator noise for six hours per day whereby muff protection was provided. As a production controller of aircraft from 1987 to the present, he was exposed to noise from F-16 aircraft for one hour per day whereby he was provided with double ear protection. Appellant submitted audiograms from February 3, 1974 to December 7, 1996 performed by the employing establishment.

The employing establishment furnished the Office with copies of appellant's job description, employment records and employee medical reports. The employing establishment indicated that appellant worked in the aerospace ground equipment section from 1971 to 1978 where ground equipment was run daily; from 1978 to 1987 appellant worked as a mechanic in the aerospace ground equipment section where he worked on and operated a variety of ground equipment and towed ground equipment within 10 to 15 feet from fighter jet aircraft; from 1987 to the present appellant has worked in the main hanger where power units are run for aircraft repair and where jet aircraft are being run on the flight line in front of the hangar.

In a statement of accepted facts dated June 3, 1999, the Office noted that appellant's job as an air technician exposed him to hazardous noise. The Office indicated the most recent audiogram was done in 1996.

By letter dated June 15, 1999, the Office referred appellant to Dr. James E. Jarrett, a Board-certified otolaryngologist, for otologic examination and audiological evaluation. The Office provided Dr. Jarrett with a statement of accepted facts, available exposure information and copies of all medical reports and audiograms.

Dr. Jarrett performed an otologic evaluation of appellant on June 28, 1999 and audiometric testing was conducted on his behalf on August 17, 1999. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 Hertz revealed the following: right ear 5, 10, 5 and 20 decibels; left ear 5, 10, 0 and 45 decibels. Dr. Jarrett determined that appellant sustained bilateral sensorineural hearing loss mild in degree. He did not recommend a hearing aid at this time.<sup>1</sup>

On August 30, 1999 an Office medical adviser reviewed Dr. Jarrett's report and the audiometric test of August 17, 1999. The medical adviser concluded that appellant sustained a sensorineural hearing loss which was caused or made worse by exposure to occupational noise. However, the medical adviser determined that appellant's hearing loss was not ratable for a schedule award after applying the Office's standards for evaluating hearing loss to the results of the August 17, 1999 audiology test. Dr. Jarrett determined that appellant had a zero percent monaural hearing loss in the left ear and zero percent monaural hearing loss in the right ear and no binaural hearing loss. The medical adviser noted reviewing the medical record and concluded that the August 17, 1999 audiogram was used for adjudication as it met all Office standards and was part of Dr. Jarrett's evaluation.

By decision dated September 7, 1999, the Office determined that the hearing loss was employment related but not severe enough to be considered ratable for purposes of a schedule award.

The Board finds that the Office properly denied appellant's claim for a schedule award for hearing loss.

Section 8107(c) of the Federal Employees' Compensation Act<sup>2</sup> specifies 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 of loss of a member, function or organ shall be determined. The method used in making such a determination is a matter, which rests in the sound discretion of the Office.<sup>3</sup> For consistent results and to ensure equal justice under the law to all claimants, good administrative practice

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<sup>1</sup> Initially, a nurse at Dr. Jarrett's office conducted an audiogram on June 28, 1999. Subsequently, the Office referred appellant for the August 17, 1999 audiogram by a certified audiologist. In a report received August 23, 1999, Dr. Jarrett and the audiologist noted the results of the audiometric testing performed on August 17, 1999.

<sup>2</sup> 5 U.S.C. §§ 8101-8193, § 8107(c).

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

necessitates the use of a single set of tables so that there may be uniform standards applicable to all claimants.<sup>4</sup>

The Office evaluates permanent hearing loss in accordance with the standards contained in the A.M.A., *Guides*,<sup>5</sup> 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 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. Each amount is then multiplied by 1.5. The amount of the better ear is multiplied by five and added to the amount from the worse ear. The entire amount is then divided by six to arrive at a percentage of binaural hearing loss.<sup>6</sup> In addition, the federal procedure manual requires that all claims for hearing loss due to its acoustic trauma, requires an opinion from a Board-certified specialist in otolaryngology.<sup>7</sup> The procedure manual further indicates that audiological testing is to be performed by persons possessing certification and ideology from the American Speech Language Hearing Association, or state licensure as an audiologist.<sup>8</sup>

An Office medical adviser applied the Office’s standardized procedures to the August 17, 1999 audiogram performed for Dr. Jarrett. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibels losses of 5, 10, 5 and 20 respectively. These decibels were totaled at 40 and were divided by 4 to obtain an average hearing loss at those cycles of 10 decibels. The average of 10 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent loss of hearing for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed decibels losses of 5, 10, 0 and 45 respectively. These decibels were totaled at 60 and were divided by 4 to obtain the average hearing loss at those cycles of 15 decibels. The average of 15 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0, which was multiplied by the established factor of 1.5 to compute a 0 percent hearing loss for the left ear.

The Board finds that the Office medical adviser applied the proper standards to the findings stated in Dr. Jarrett’s report and the August 17, 1999 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth above.<sup>9</sup>

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

<sup>5</sup> 20 C.F.R. § 10.404.

<sup>6</sup> A.M.A., *Guides*, page 166 (4<sup>th</sup> ed. 1994).

<sup>7</sup> Federal (FECA) Procedural Manual, Part 2 -- Claims, *Causal Relationship*, Chapter 2.805.3(d)(6) (June 1995).

<sup>8</sup> Federal (FECA) Procedural Manual, Part 3 -- Medical, *Requirement for Medical Reports*, Chapter 3.600.8(a)(2) (September 1994).

<sup>9</sup> This decision does not affect appellant’s entitlement to medical benefits for the accepted employment injury.

The September 7, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
June 7, 2001

Willie T.C. Thomas  
Member

Michael E. Groom  
Alternate Member

Bradley T. Knott  
Alternate Member