

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of FRANK SAUCEDO and DEPARTMENT OF AGRICULTURE,
IOWA BEEF PACKERS, INC., Amarillo, TX

*Docket No. 00-1663; Submitted on the Record;
Issued June 25, 2001*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
BRADLEY T. KNOTT

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

On October 12, 1999 appellant, then a 47-year-old meat grader, filed an occupational disease claim (Form CA-2) alleging that he sustained hearing loss in both ears due to exposure to noise in the course of his federal employment. He stated that he first became aware that he had a hearing loss problem and related it to his employment in April 1999. Accompanying the claim, the employing establishment submitted an April 5, 1999 audiogram; and an April 26, 1999 letter to appellant advising him of the abnormal audiogram and recommending a complete hearing evaluation.

By letters dated August 10, 1999, the Office of Workers' Compensation Programs requested additional information from appellant and the employing establishment.

By decision dated September 15, 1999, the Office denied appellant's claim on the grounds that the evidence of record failed to identify the employment factors to which appellant attributed his condition and, therefore, failed to establish fact of injury.

On September 30, 1999 the record was supplemented with an August 26, 1999 letter from the employing establishment in response to the Office's request for additional information. The employing establishment stated that appellant was exposed to noise levels of between 84 and 92 decibels at IBP, Inc., but was unable to provide noise exposure levels at another location.

By an undated letter received October 1, 1999, appellant provided factual information in response to the Office's August 10, 1999 request for additional information. He also requested a review of the written record by an Office hearing representative.

On November 29, 1999 the record was supplemented with an October 7, 1999 report by Dr. Geoffrey L. Wright, a Board-certified otolaryngologist, who reported his findings on

examination and review of an April 1999 audiogram, that appellant has noise-induced hearing loss. Dr. Wright recommended annual audiograms.

By decision dated January 18, 2000, the hearing representative set aside the September 15, 1999 decision and remanded the case to the Office for further development of the evidence. Specifically, to refer appellant to a Board-certified otolaryngologist for a complete otological and audiological evaluation.

On remand the Office referred appellant, along with the case record and a statement of accepted facts to Dr. Dale B. Smith, a Board-certified otolaryngologist for an examination and evaluation of medical records. In a report dated February 22, 2000, Dr. Smith reported the findings of his examination of appellant that day and stated that appellant suffered from mild to severe high frequency sensorineural hearing loss in the right ear and mild sensorineural hearing loss, left ear, most likely related to noise exposure.

Dr. Smith found that testing at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz (Hz): in the right ear decibel levels of 0, 5, 0 and 30, respectively; and in the left ear, decibel levels of 0, 0, 0 and 10, respectively.

On March 9, 2000 a district medical adviser applied the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* to the findings of Dr. Smith to determine that appellant had a nonratable hearing loss bilaterally. The district medical adviser indicated the date of maximum medical improvement was February 22, 2000.

By decision dated March 10, 2000, the Office accepted appellant's claim for a hearing loss due to his employment-related noise exposure. The Office determined, however, that appellant's hearing loss was nonratable under the standards of the A.M.A., *Guides* and that, therefore, he was not entitled to a schedule award under the Federal Employees' Compensation Act. The Office also found that appellant was entitled to medical benefits.

The Board finds that appellant does not have a compensable hearing loss.

The schedule award provision of the Act¹ and its implementing regulation² set forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of scheduled members or functions of the body. However, the Act does not specify the manner in which the percentage of loss shall be determined. 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. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

Under the A.M.A., *Guides*, hearing loss is evaluated by determining dBs loss at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz. The losses at each frequency are added up

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

and averaged and a “fence” of 25 dBs is deducted since, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech in everyday conditions.³ 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.⁴

The district medical adviser applied the Office’s standardized procedures to the February 22, 2000, audiogram performed for Dr. Smith. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed dBs levels of 0, 5, 0 and 30 respectively. These dBs were totaled at 35 and were divided by 4 to obtain the average hearing loss at those cycles of 8.75 dBs. The average of 8.75 dBs was then reduced by 25 dBs (the first 25 dBs 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 Hz revealed dBs levels of 0, 0, 0 and 10, respectively. These dBs were totaled at 10 and were divided by 4 to obtain the average hearing loss at those cycles of 2.5 dBs. The average of 2.5 was then reduced by 25 dBs (the first 25 dBs 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 left ear. Accordingly, pursuant to the Office’s standardized procedures, the Office medical adviser determined that appellant had a nonratable hearing loss in both ears.

The Board finds that the district medical adviser properly applied the appropriate standards to the findings provided in Dr. Smith’s report dated February 22, 2000 and the accompanying audiogram. This resulted in a calculation of a nonratable hearing loss as set forth above.

³ A.M.A., *Guides*, 224.

⁴ *Id*; see also *Danniel C. Goings*, *supra* note 3 at 784.

The decisions of the Office of Workers' Compensation Programs dated March 10 and January 18, 2000 are affirmed.

Dated, Washington, DC
June 25, 2001

David S. Gerson
Member

Willie T.C. Thomas
Member

Bradley T. Knott
Alternate Member