

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of CHARLES NORRIS and DEPARTMENT OF THE AIR FORCE,
McCLELLAN AIR FORCE BASE, CA

*Docket No. 00-1454; Submitted on the Record;
Issued March 13, 2001*

DECISION and ORDER

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

The issue is whether appellant has more than a 15 percent monaural hearing loss of the left ear, for which he received a schedule award.

On August 26, 1999 appellant, then a 52-year-old fuels distribution worker, filed a notice of occupational disease (Form CA-2), claiming hearing loss caused by noise exposure in the course of his federal employment. Appellant was exposed to high levels of noise from 1984 to 1986 as a warehouse worker and from 1986 to 1998 as a fuels distribution worker at the employing establishment. Appellant did not submit any audiograms with his claim.

The Office of Workers' Compensation Programs referred appellant to Dr. Stuart Gherini, a Board-certified otolaryngologist, to determine the nature and extent of appellant's hearing loss and its relationship to his federal employment. In a report dated December 8, 1999, Dr. Gherini diagnosed appellant with "right ear moderately severe, noise-induced, high frequency sensorineural hearing loss," "left ear severe, noise-induced, high frequency sensorineural hearing loss," and "bilateral tinnitus." Dr. Gherini also indicated that appellant is a borderline candidate for the use of hearing aids. He suggested that appellant use hearing aids if his hearing is interfering with his ability to enjoy life, otherwise, he could wait. Eventually, he stated, appellant would require hearing aids in both ears. Dr. Gherini also submitted an audiogram dated December 8, 1999.

By memorandum dated January 3, 2000, the Office furnished a statement of accepted facts and evidence of record to its medical adviser for review. On January 16, 2000 the medical adviser found a 15 percent monaural hearing loss in the left ear, and stated that a hearing aid is borderline recommended.

On February 9, 2000 the Office granted appellant a schedule award for a 15 percent loss of hearing in the left ear. The period of the award ran for 7.80 weeks from December 8, 1999, the date of the audiogram performed by Dr. Gherini, to February 1, 2000. The Office also authorized a hearing aid for appellant's left ear.

The Board finds that appellant has no more than a 15 percent monaural hearing loss of the left ear for which he received a schedule award.

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.¹ 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.² 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.³ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁴ The binaural loss is determined by calculating the loss in each ear using the formula for monaural loss; the lesser loss is multiplied by 5, then added to the greater loss and the total is divided by 6 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

The district medical adviser applied the Office’s standardized procedures to the December 8, 1999 audiogram performed by Dr. Gherini. Testing for the right ear revealed decibel losses of 10, 15, 20 and 55 respectively. These decibel losses were totaled at 100 and divided by 4 to obtain the average hearing loss at those cycles of 25. The average of 25 was then reduced by 25 decibels (the first decibels were discounted as discussed above) to equal 0 decibels for the right ear. Testing for the left ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 15, 30, 25 and 70 respectively. These decibel losses were totaled at 140 decibels and divided by 4 to obtain the average hearing loss at those cycles of 35 decibels. The average of 35 was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 10 decibels which was multiplied by the established factor 1.5 to compute a 15 percent loss of hearing for the left ear. Accordingly, pursuant to the Office’s standardized procedures, the district medical adviser determined that appellant had a zero percent hearing loss in his right ear and a fifteen percent monaural loss of hearing in his left ear.

The Board finds that the district medical adviser applied the proper standards to the findings stated in Dr. Gherini’s December 8, 1999 report and his December 8, 1999 audiogram. This resulted in a 15 percent monaural hearing loss in the left ear. The right ear was not ratable

¹ A.M.A., *Guides* at 224 (4th ed. 1993).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ *Id.*

⁶ *Donald A. Larson*, 41 ECAB 947, 951 (1990).

under these standards and, therefore, not compensable. None of the medical evidence of record documents a greater hearing loss.⁷

On appeal appellant contends that he is entitled to hearing aids for both ears since his hearing interferes with living a normal life. Section 8103 of the Federal Employees' Compensation Act states in pertinent part:

“The United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduce the degree or the period of disability, or aid in lessening the amount of the monthly compensation.”⁸

In interpreting this section of the Act, the Board has recognized that the Office has broad discretion in approving services provided under the Act.⁹ The only limitation on the Office's authority is that of reasonableness.¹⁰

Appellant referred to page 9 of Dr. Gherini's December 8, 1999 report which stated: “if he finds that his hearing is interfering with his ability to enjoy life, then I would suggest that he use hearing aids.” Dr. Gherini continued, however, with the statement that “eventually as he ages, he will require a hearing aid in both ears.” Dr. Gherini's opinion is not conclusive that appellant requires hearing aids in both ears at the present time. As appellant has a nonratable hearing loss in the right ear, and as appellant has not documented medically that his right sided hearing loss interferes with his daily life, appellant has not established that he requires a hearing aid for the right ear. The Board finds that the Office did not abuse its discretion in only authorizing a hearing aid for appellant's left ear.

Appellant further contends that he is entitled to more compensation for his employment-related loss of hearing. The Act¹¹ provides that for a total of 100 percent loss of hearing in one ear, an employee shall receive 52 weeks of compensation.¹² Accordingly, the amount payable for a 15 percent monaural hearing loss would be 15 percent of 52 weeks, or 7.8 weeks of compensation, which is what appellant was awarded. He is entitled to no more under the Act.

⁷ Appellant also submitted audiograms on January 27, 2000 dated March 6, 1995, January 16, 1997 and February 3, 1998. These audiograms documented a less severe hearing loss.

⁸ 5 U.S.C. § 8103(a).

⁹ See *Daniel J. Perea*, 42 ECAB 214 (1990).

¹⁰ *Id.*

¹¹ 5 U.S.C. §§ 8101-8193.

¹² 5 U.S.C. § 8107(c)(13)(A).

The decision of the Office of Workers' Compensation Programs dated February 9, 2000 is hereby affirmed.

Dated, Washington, DC
March 13, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member