

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of RICHARD T. GARCIA and DEPARTMENT OF THE AIR FORCE,  
SAN ANTONIO AIR LOGISTIC CENTER, KELLY AIR FORCE BASE, TX

*Docket No. 01-135; Submitted on the Record;  
Issued February 12, 2002*

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DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,  
WILLIE T.C. THOMAS

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

On July 29, 1999 appellant then a 50-year-old production controller, filed a notice of occupational disease and claim for compensation (Form CA-2), alleging that his hearing loss was caused by exposure to hazardous noise levels in the course of his federal employment. He stated that he first became aware of a hearing-loss injury on April 12, 1997 and that it was caused or aggravated by his employment on July 7, 1999. On the reverse of the form the employing establishment indicated that appellant had not stopped work. Medical and factual records provided by the employing establishment included test results from periodic audiograms performed by the employing establishment between March 31, 1975 and April 28, 1983 and documents indicating that appellant was exposed to loud noise at work.

By letter dated December 29, 1999, the Office of Workers' Compensation Programs referred appellant, the case record and a statement of accepted facts to a Board-certified otolaryngologist, for otologic examination and audiological evaluation.

Dr. Diana H. Henderson, the audiologist performing the audiogram on February 11, 2000, noted testing at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed the following: right ear -- 5, 10, 20 and 55 decibels; left ear -- 10, 10, 15 and 50 decibels.

In her report, Dr. Henderson noted that appellant had a noise-induced high-frequency sensorineural hearing loss. She stated:

“[The] [a]udiogram performed in my office was consistent with those audiograms provided. There is normal hearing to the 2,000 Hz (hertz) range, at 3,000, 4,000 Hz, there is precipitous elevation of the thresholds in each ear. This change is symmetric. H[is] speech reception threshold in each ear is 10 decibels. His

speech discrimination in the right ear is 100 percent, and it is 96 percent in the left ear.

“[W]ith comparison to the audiogram data provided from 1975, there is relatively little change.... This hearing loss, therefore, appears to be preexisting. The hearing loss has been stable, and [appellant] has reached maximum medical improvement. He is no longer exposed to hazardous noise. As the lower frequency thresholds are within normal range, I do not recommend a hearing aid at this time.”

In a report dated March 9, 2000, an Office medical adviser reviewed the medical record, including the February 11, 2000 audiogram. Applying the Office’s standardized guidelines to the February 11, 2000 findings, the Office medical adviser determined that appellant sustained a nonratable employment-related hearing loss.

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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* 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 provisions of the Act<sup>1</sup> and its implementing regulation<sup>2</sup> 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>3</sup>

Under the A.M.A., *Guides*<sup>4</sup> hearing loss is evaluated by determining decibel loss at the frequency levels 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 since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday sounds in everyday listening conditions.<sup>5</sup> The remaining amount is multiplied by 1.5 to arrive at the

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> 20 C.F.R. § 10.404 (1999).

<sup>3</sup> *Id.*

<sup>4</sup> A.M.A., *Guides* (4<sup>th</sup> ed. 1993).

<sup>5</sup> *Id.* at 224.

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.<sup>6</sup>

The medical evidence of record does not support appellant's claim that he sustained a ratable hearing loss.

The Office medical adviser applied the Office's standardized procedures to the February 11, 2000 audiogram performed for Dr. Henderson. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz revealed losses of 10, 10, 15 and 50 decibels respectively. These losses were totaled at 85 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 21.25 decibels. The average of 21.25 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 losses of 5, 10, 20 and 55 decibels respectively. These losses were totaled at 90 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 22.5 decibels. The average of 22.5 decibels was then reduced by 25 decibels, as discussed above, to equal 0 which indicated a 0 percent loss of hearing in the left ear. The Office medical adviser then computed the binaural hearing loss by multiplying the 0 by 5 to equal 0 which was added to 0. Finally, the Office medical adviser divided this figure by six to arrive at a zero percent binaural hearing loss.

The Board finds that the Office medical adviser applied the proper standards, applicable to all employees in hearing loss claims under the Act,<sup>9</sup> to the findings stated in Dr. Henderson's February 11, 2000 report and the accompanying audiograms. This resulted in a calculation of a nonratable hearing loss as set forth above. The record contains no other properly certified audiogram<sup>10</sup> indicating that appellant has a compensable hearing loss. Thus, while appellant has shown that he does have an employment-related hearing loss, it is not ratable under the standards used by the Office for determining schedule awards.

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<sup>6</sup> See *Joshua A. Holmes*, 42 ECAB 231, 236-37 (1990).

The March 10, 2000 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
February 12, 2002

Michael J. Walsh  
Chairman

Alec J. Koromilas  
Member

Willie T.C. Thomas  
Alternate Member