

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of ISSAC HORNE and DEPARTMENT OF THE AIR FORCE,
ROBINS AIR FORCE BASE, Warner Robins, GA

*Docket No. 01-1419; Submitted on the Record;
Issued January 25, 2002*

DECISION and ORDER

Before DAVID S. GERSON, WILLIE T.C. THOMAS,
A. PETER KANJORSKI

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

On August 31, 2000 appellant, then a 53-year-old aircraft electrician, filed a claim for hearing loss from noise exposure in the employing establishment. In an accompanying statement, appellant indicated that he had started at the employing establishment in the paint department and was exposed to the noise of paint sanders, sandblasters, air drills, hydraulic tool generators and compressors. He noted that he worked in the F-15 jet functional test area and was exposed to the noise of the jet engines. He stated that in his current position as an aircraft electrician he worked in different departments and was exposed to hazardous noise 60 to 80 percent of his shift.

The Office of Workers' Compensation Programs referred appellant to Dr. Christopher J. Mann, an otolaryngologist, for an examination. In a January 16, 2001 report, Dr. Mann indicated that appellant's audiogram was normal through 2,000 Hertz with a moderate high frequency sensorineural hearing loss bilaterally, slight worse in the left ear. He compared appellant's audiogram with previous hearing tests and noted that appellant's hearing loss had progressed over time. He stated that the progression of appellant's hearing loss was consistent with the excessive noise exposure he had while employed as an aircraft electrician.

In a March 7, 2001 decision, the Office issued a schedule award for a four percent monaural hearing loss of the left ear.

The Board finds that appellant has no more than a four percent monaural hearing loss of the left ear.

Section 8107 of the Federal Employees' Compensation Act¹ 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 loss of a member, function or organ shall be determined. The method used in making such a determination is a matter that rests in the sound discretion of the Office.² 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.³

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*) 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. This would provide the percentage of hearing loss for each ear. To determine the percentage for a binaural hearing loss, 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 the percentage of binaural hearing loss. The Act's implementing regulation has adopted the A.M.A., *Guides* as the appropriate standard for evaluating schedule losses.⁴

The Office medical adviser correctly applied the Office's standard procedures to the audiogram obtained by Dr. Mann. Testing for the right ear at frequencies of 500, 1,000, 2,000 and 3,000, cycles per second revealed decibel losses of 15, 15, 15 and 55, respectively for a total of 100 decibels. These losses were divided by 4 for an average hearing loss of 25 decibels. The average was reduced by 25 decibels (the first 25 decibels are deducted, as explained above) to equal 0 decibels, which was multiplied by 1.5 to arrive at a 0 percent loss for the right ear. Testing for the left ear at the same frequencies revealed decibel losses of 15, 15, 15 and 65, decibels respectively for a total of 110 decibels. These losses were divided by 4 for an average hearing loss of 27.5 decibels. The average was reduced by 25 decibels (as explained above) to equal 2.5 decibels, which was multiplied by 1.5 to arrive at a 3.75 percent loss for the

¹ 5 U.S.C. § 8107(c).

² *Danniel C. Goings*, 37 ECAB 781 (1986); *Richard Beggs*, 28 ECAB 387 (1977).

³ *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

⁴ 20 C.F.R. § 10.404 (1999).

left ear, which was rounded up to 4 percent. The Office's determination of the extent of appellant's hearing loss was done properly in accordance with the Office's standards for evaluating the extent of a hearing loss.⁵

The decision of the Office of Workers' Compensation Programs dated March 7, 2001 is hereby affirmed.

Dated, Washington, DC
January 25, 2002

David S. Gerson
Member

Willie T.C. Thomas
Member

A. Peter Kanjorski
Alternate Member

⁵ The Board notes that, in this case, the Office based its March 7, 2001 decision on the fourth edition of the A.M.A., *Guides*. However, under FECA Bulletin 01-5 (issued January 29, 2001), any new schedule award decision issued after February 1, 2001 must be based on the fifth edition on the A.M.A., *Guides*. A comparison of the fourth and fifth edition of the A.M.A., *Guides* show that the section for calculating schedule awards for hearing loss remains unchanged. A.M.A., *Guides* pp. 224-27 (4th ed. 1993); pp. 246-50 (5th ed. 2000). Therefore, it was harmless error for the Office to use the fourth edition, rather than the fifth edition to the A.M.A., *Guides* to calculate a schedule award in this case.