

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MANUEL F. MORALES and DEPARTMENT OF THE NAVY,
FLEET TECHNICAL SUPPORT CENTER PACIFIC, San Diego, CA

*Docket No. 02-475; Submitted on the Record;
Issued July 11, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, COLLEEN DUFFY KIKO,
MICHAEL E. GROOM

The issue is whether appellant's claimed bilateral hearing loss is causally related to his federal employment.

On February 12, 2001 appellant, a 57-year-old office automation assistant, filed a notice of occupational disease and claim for compensation (Form CA-2) alleging that he suffered from bilateral hearing loss as a result of his federal employment. He attributed his condition to noise exposure while operating a document shredder. Appellant also stated that he was exposed to noise from an engraving machine. He identified October 1991 as the date he first realized his condition was employment related. Appellant retired effective March 30, 2001.

After further development of the record, the Office of Workers' Compensation Programs issued a July 13, 2001 decision denying appellant's claim. The Office found that a condition had not been diagnosed in connection with appellant's employment exposure. Accordingly, the Office held that appellant failed to establish that he sustained an injury as alleged. The Office also determined that appellant was not entitled to a schedule award.

Appellant subsequently requested reconsideration and in a decision dated August 3, 2001, the Office modified the prior decision to reflect that fact of injury had been established. The Office found that the evidence established the presence of bilateral hearing loss. However, the Office denied compensation on the basis that appellant failed to establish a causal relationship between his diagnosed condition and his occupational noise exposure.

Appellant again requested reconsideration on August 8, 2001. The Office reviewed the claim on the merits and denied modification by decision dated October 26, 2001.

The Board finds that appellant failed to establish that his claimed bilateral hearing loss is causally related to his federal employment.

In an occupational disease claim, in order to establish that an injury was sustained in the performance of duty, a claimant must submit the following: (1) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; (2) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; and (3) medical evidence establishing that the employment factors identified by appellant were the proximate cause of the condition for which compensation is claimed or, stated differently, medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the claimant.¹

An award of compensation may not be based on surmise, conjecture or speculation. Neither the fact that appellant's condition became apparent during a period of employment nor the belief that the condition was caused, precipitated or aggravated by her employment is sufficient to establish a causal relationship.² Causal relationship must be established by rationalized medical opinion evidence, which includes a physician's rationalized opinion on the issue of whether there is a causal relationship between the claimant's diagnosed condition and the implicated employment factors. The physician's opinion must be based on a complete factual and medical background of the claimant, the opinion must be expressed in terms of a reasonable degree of medical certainty and must be supported by medical rationale, explaining the nature of the relationship between the diagnosed condition and claimant's specific employment factors.³

In the instant case, the record is devoid of any rationalized medical opinion evidence attributing appellant's bilateral hearing loss to his employment exposure. In fact, no physician of record attributed appellant's current condition to occupational noise exposure.

A May 15, 2000 audiogram noted a three-year history of military service in Vietnam with exposure to weapons fire without hearing protection. Additionally, the audiogram noted an 11-year history of civil service occupational noise exposure from "engraving, operating paper shredder." However, the employing establishment's audiologist further indicated that appellant was "not routinely exposed." The May 15, 2000 audiogram does not specifically address the etiology of appellant's hearing loss. Furthermore, this document does not bear a physician's signature.

The Office referred appellant for examination by Dr. Theodore M. Mazer, a Board-certified otolaryngologist. In a report dated April 24, 2001, Dr. Mazer diagnosed high frequency bilateral sensorineural hearing loss. He further indicated that appellant did not have a ratable hearing impairment in either ear. With respect to the etiology of appellant's condition, Dr. Mazer stated that appellant's October 1990 baseline audiogram established the existence of a significant high frequency loss and that current testing revealed little change in appellant's hearing when compared to the 1990 baseline study.⁴

¹ *Victor J. Woodhams*, 41 ECAB 345 (1989).

² *Id.*

³ *Id.*

⁴ Appellant began working for the employing establishment in 1989.

The Office medical adviser reviewed the claim, including Dr. Mazer's April 24, 2001 report, and concluded that appellant's hearing loss was not causally related to his occupational exposure.

Appellant has failed to submit rationalized medical opinion evidence demonstrating a causal relationship between his claimed bilateral hearing loss and his occupational noise exposure, the Office properly denied appellant's claim for compensation and a schedule award.

The October 26, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
July 11, 2002

Michael J. Walsh
Chairman

Colleen Duffy Kiko
Member

Michael E. Groom
Alternate Member