

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of MICHAEL G. MORROW and DEPARTMENT OF THE AIR FORCE,
AIR TRAINING COMMAND, ALTUS AIR FORCE BASE, OK

*Docket No. 02-1837; Submitted on the Record;
Issued February 5, 2003*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, DAVID S. GERSON,
A. PETER KANJORSKI

The issue is whether appellant sustained greater than a 24 percent binaural hearing loss for which he received a schedule award.

On July 26, 2001 appellant, then a 50-year-old fireman, filed a notice of occupational disease alleging that he sustained a bilateral hearing loss as a result of exposure to hazardous noise in the performance of duty. He stated that he worked several years as a lead rescue man and was constantly subjected to aircraft engine noise. Appellant also indicated that he was retiring effective August 1, 2001.

The Office of Workers' Compensation Programs referred appellant for an evaluation with Dr. Joseph Motto, a Board-certified otolaryngologist, who, in a report dated April 3, 2002, diagnosed bilateral, moderately severe sensorineural hearing loss. An audiogram was obtained in conjunction with his evaluation and was also dated April 3, 2002. Testing of the left ear at frequency levels recorded at 500, 1000, 2000 and 3000 hertz revealed decibel losses of 15, 20, 40 and 60, respectively. Testing for the right ear at the frequency levels of 500, 1000, 2000 and 3000 hertz revealed decibel losses of 75, 70, 70 and 90, respectively. Dr. Motto indicated that appellant had a 76/50 monaural impairment of the right ear and a 13.50 monaural impairment of the left ear.

By decision dated April 26, 2002, the Office advised appellant that his claim had been accepted for a work-related binaural hearing loss.

On May 2, 2002 appellant filed a Form CA-7 claim for a schedule award.

An Office medical adviser reviewed the April 3, 2002 audiogram and determined that appellant had a 24 percent binaural hearing loss.

In a May 23, 2002 decision, the Office issued a schedule award for a 24 percent permanent binaural hearing loss. The period of the award was April 3 to June 29, 2002.

The Board finds that appellant has no greater than a 24 percent binaural hearing loss for which he received a schedule award.

Section 8107 of the Federal Employees' Compensation Act¹ sets forth 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 of determining this percentage rests in the sound discretion of the Office.² To ensure consistent results and equal justice under the law to all claimants, good administrative practice requires the use of 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*). Utilizing the hearing levels recorded at frequencies of 500, 1000, 2000 and 3000 hertz, 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.⁴ The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss.⁵ Binaural hearing loss for schedule award purposes, is determined by calculating the loss in each ear using the formula for monaural hearing 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.⁶ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁷

In the instant case, the Office medical adviser properly applied the Office's standardized procedures to the audiogram obtained for Dr. Motto's April 3, 2002 evaluation. The frequency levels recorded at 500, 1000, 2000 and 3000 hertz for the left ear revealed decibel losses of 15, 20, 40 and 60, respectively, for a total of 135 decibels. When this figure is divided by 4 the result is an average hearing loss of 33.75 decibels. The average loss of 33.75 is reduced by 25 decibels to equal 8.75, which when multiplied by the established factor of 1.5 results in a 13.1 monaural hearing loss of the left ear. Testing for the right ear at the frequency levels of 500, 1000, 2000 and 3000 hertz revealed decibel losses of 75, 70, 70 and 90, respectively, for a total of 305 decibels. When this figure is divided by 4 the result is an average hearing loss of 76.25 decibels. The average loss of 76.25 is reduced by 25 decibels to equal 51.25, which when multiplied by the established factor of 1.5 results in a 76.9 monaural hearing loss of the right ear. The 13.1 percent hearing loss of the right ear (the ear with the lesser loss) when multiplied by 5,

¹ 5 U.S.C. § 8107.

² *Ausbon N. Johnson*, 50 ECAB 304 (1999); *Danniel C. Goings*, 37 ECAB 781 (1986).

³ *Johnson*, *supra* note 2; *Henry L. King*, 25 ECAB 39 (1973).

⁴ See A.M.A., *Guides*, page 246 (5th ed.), which is to be used by the Office effective February 1, 2001.

⁵ FECA Program Memorandum No. 272 (issued February 24, 1986).

⁶ *Donald C. Swiger*, 50 ECAB 462 (1999).

⁷ *Johnson*, *supra* note 2.

yields a product of 65.5. The 65.5 is added to the 76.9 percent hearing loss of the right ear (the ear with the greater loss) to obtain a total of 142.4. The total of 142.4 is then divided by 6 in order calculate a binaural hearing loss of 23.73 percent, which is rounded up to 24 percent.⁸ Accordingly, the Board finds that the Office correctly calculated for schedule award purposes that appellant has 24 percent binaural hearing loss.

The decision of the Office of Workers' Compensation Programs dated May 23, 2002 is hereby affirmed.

Dated, Washington, DC
February 5, 2003

Colleen Duffy Kiko
Member

David S. Gerson
Alternate Member

A. Peter Kanjorski
Alternate Member

⁸ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.7000.4(b)(2)(b) (September 1994).