

**United States Department of Labor
Employees' Compensation Appeals Board**

H.D., Appellant

and

**DEPARTMENT OF THE ARMY,
FORT GILLEM, GA, Employer**

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**Docket No. 06-962
Issued: September 7, 2006**

Appearances:
H.D., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
DAVID S. GERSON, Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On February 22, 2006 appellant filed a timely appeal of an Office of Workers' Compensation Programs' decision dated January 10, 2006 with respect to a hearing loss claim. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3(d)(2), the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has more than a 53 percent binaural hearing loss, for which he received schedule awards.

FACTUAL HISTORY

The case was before the Board on a prior appeal. By decision dated May 13, 2005, the Board affirmed a July 22, 2004 Office decision, finding that appellant did not have more than a

53 percent binaural hearing loss.¹ The history of the case is provided in the Board's prior decision and is incorporated herein by reference.

Appellant requested reconsideration and submitted a June 8, 2005 audiogram. The audiogram did not provide calibration information with respect to the audiometric equipment, nor was it accompanied by a medical report. By decision dated September 28, 2005, the Office reviewed the case on its merits and denied modification.

On November 8, 2005 appellant again requested reconsideration and submitted an audiogram dated October 13, 2005. No calibration information was provided. The record also contains an unsigned and undated form report with the name Dr. Harold Moss circled and a diagnosis of progressive hearing loss.

By decision dated January 10, 2006, the Office reviewed the case on its merits and denied modification. The Office found that the medical evidence was insufficient to establish more than a 53 percent binaural hearing loss.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act provides for compensation to employees sustaining impairment from loss, or loss of use of, specified members of the body.² The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office.³ 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 a uniform standard applicable to all claimants.⁴ The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office,⁵ and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁶

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides* using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The levels at each frequency are added up and averaged and the "fence" of 25 decibels is deducted since, as the A.M.A., *Guides* point out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the 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

¹ Docket No. 05-452 (issued May 13, 2005).

² 5 U.S.C. § 8107.

³ *Richard Beggs*, 28 ECAB 387 (1977).

⁴ *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

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

⁶ *Danniel C. Goings*, 37 ECAB 781 (1986).

added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.

ANALYSIS -- ISSUE 1

Appellant has received compensation under schedule awards representing a 53 percent binaural hearing loss. He submitted audiometric testing reports dated June 8 and October 13, 2005 and contends that he has more than a 53 percent binaural hearing loss. The audiometric reports, however, are of diminished probative value in determining the degree of employment-related hearing loss. The Office has established requirements for medical evidence in hearing loss cases. For example, audiological equipment used for testing must meet the calibration protocol of the American Speech Language Hearing Association (ASHA) and the audiologist must certify the equipment used met the standards.⁷ The audiograms submitted do not provide equipment calibration information. In addition, there must be a medical report of otological examination by a Board-certified otolaryngologist.⁸ In this case, there is only an unsigned form report that does not provide any relevant evidence regarding the extent of an employment-related hearing loss under the A.M.A., *Guides*.⁹

The Board finds that the record does not contain any probative evidence that appellant has more than a 53 percent binaural hearing loss causally related to noise exposure in federal employment. Appellant is not entitled to an additional schedule award based on the evidence of record.

CONCLUSION

Appellant did not establish more than a 53 percent binaural hearing loss, for which he had received schedule awards.

⁷ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8(a) (September 1994).

⁸ *Id.*

⁹ An unsigned medical report with no adequate indication that it was completed by a physician is not considered probative medical evidence. See *Merton J. Sills*, 39 ECAB 572, 575 (1988).

ORDER

IT IS HEREBY ORDERED THAT the decisions of the Office of Workers' Compensation Programs dated January 10, 2006 and September 28, 2005 are affirmed.

Issued: September 7, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

Michael E. Groom, Alternate Judge
Employees' Compensation Appeals Board