

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of EDGAR PATRICK and TENNESSEE VALLEY AUTHORITY,
SHAWNEE FOSSIL PLANT, West Paducah, KY

*Docket No. 01-1940; Submitted on the Record;
Issued May 2, 2002*

DECISION and ORDER

Before ALEC J. KOROMILAS, DAVID S. GERSON,
WILLIE T.C. THOMAS

The issue is whether appellant has a ratable bilateral hearing loss.

On August 29, 2000 appellant, then a 54-year-old production supervisor, filed a notice of occupational disease, claiming that his hearing loss was caused by noise exposure in the course of his federal employment. Appellant stated that he had worked around loud machinery since 1977 for approximately 8 to 12 hours a day. He submitted copies of audiograms dated from 1977 to 1999.

Appellant's case was referred to a second opinion otolarygologist for review. In a report dated February 20, 2001, Dr. Shawn Jones, a Board-certified otolaryngologist, diagnosed appellant with mild high frequency sensorineural hearing loss and opined that appellant's hearing loss was due all or in part to his federal employment. Accompanying her report was a February 13, 2001 audiogram. The Office of Workers' Compensation Programs furnished the evidence of record to its medical adviser for review. On March 6, 2001 the medical adviser found a zero percent binaural hearing loss.

By decision dated April 12, 2001, the Office accepted appellant's claim, but found that his hearing loss was not severe enough to be considered ratable.

The Board finds that appellant has no ratable binaural hearing loss.

The schedule award provision of the Federal Employees' Compensation Act¹ and its implementing regulation² 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

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999).

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*³ has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.

The Office properly considered the medical evidence submitted and applied the most recent edition of the A.M.A., *Guides* to find a zero percent hearing loss in both ears.

The February 20, 2001 medical report from Dr. Jones conforms to the applicable criteria. The accompanying audiogram demonstrates losses at the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, which were added to reach appellant's total decibel loss in both ears. The A.M.A., *Guides* converts the sum of the total decibel losses in Table 11-2 to reach appellant's binaural hearing loss for schedule award purposes.⁴ The sum of the above-mentioned-frequencies for the worse ear is read at the side and the sum of the frequencies for the better ear is read at the bottom. At the intersection of the row for the worse ear and the column for the better ear is the hearing impairment percentage. For levels recorded in the right ear of 10, 15, 15 and 20, the sum of 60 is read from the side and for levels recorded in the left ear of 10, 10, 10 and 25, the sum of 55 is read from the bottom. The intersection at 60 read from the side and 55 read from the bottom results in a 0 percent hearing loss.⁵ Therefore, the Office properly determined that appellant's bilateral hearing loss was not severe enough to be considered ratable.

The Board notes that, if the hearing loss is determined to be nonratable for schedule award purposes, "other benefits will still be payable if any causally related hearing loss exists" such as a hearing aid⁶ and that appellant is entitled to medical benefits. In this case, Dr. Jones recommended hearing protection and yearly testing. There is no medical evidence of record that appellant requires a hearing aid.

³ A.M.A., *Guides*, 5th ed. (2001)

⁴ A.M.A., *Guides*, 248, Table 11-2.

⁵ The Board notes that the levels of appellant's hearing loss are so low that they fall below the minimum numbers on the chart. *Id.*

⁶ *Raymond H. VanNett*, 44 ECAB 480 (1993).

The April 12, 2001 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
May 2, 2002

Alec J. Koromilas
Member

David S. Gerson
Alternate Member

Willie T.C. Thomas
Alternate Member