

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

B.G., Appellant

and

**DEPARTMENT OF THE ARMY, ARMY
AVIATION SUPPORT FACILITY,
Meridian, MS, Employer**

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**Docket No. 06-1176
Issued: August 17, 2006**

Appearances:
B.G., pro se
Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge
MICHAEL E. GROOM, Alternate Judge

JURISDICTION

On April 17, 2006 appellant filed a timely appeal from the January 31, 2006 merit decision of the Office of Workers' Compensation Programs, which found that his hearing loss was unratable. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction to review the schedule award issue.

ISSUE

The issue is whether appellant has a ratable hearing loss, thereby, entitling him to a schedule award.

FACTUAL HISTORY

On April 1, 2005 appellant, then a 57-year-old retired aircraft inspector, filed a claim alleging that his hearing loss was a result of his federal employment. The Office referred him, together with a statement of accepted facts, to Dr. Michael Brooks, an otolaryngologist, for evaluation.

On January 16, 2006 audiometric testing at 500, 1,000, 2,000 and 3,000 cycles per second revealed hearing thresholds of 20, 25, 20 and 25 decibels in the right ear and 20, 20, 25 and 30 decibels in the left. The test results were determined to be valid and representative of appellant's hearing sensitivity. Dr. Brooks diagnosed moderate single-frequency noise-induced sensorineural hearing loss at 4,000 cycles per second in the left ear and mild sensorineural hearing loss between 3,000 and 6,000 cycles per second in the right. He indicated that this was due at least in part to noise exposure encountered in appellant's federal employment: "Although most of the patient's hearing loss can be attributed to age alone, the peak loss in the left ear at 4,000 hertz is classic for that seen with noise exposure. Without this his hearing is essentially normal for age 58 years."

On January 25, 2006 an Office medical adviser reviewed Dr. Brooks' findings and determined that appellant had no ratable impairment.

In a decision dated January 31, 2006, the Office notified appellant that it had accepted his claim for a hearing loss due to his employment-related noise exposure. The Office found, however, that he was not entitled to a schedule award because the hearing loss was not severe enough to be considered ratable.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act¹ authorizes the payment of schedule awards for the loss or loss of use of specified members, organs or functions of the body. Such loss or loss of use is known as permanent impairment. The Office evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*.² Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the losses at each frequency are added up and averaged. Then, 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 listening conditions. The remaining amount is multiplied by a factor of 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 added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.³ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.⁴

¹ 5 U.S.C. § 8107.

² 20 C.F.R. § 10.404 (1999). Effective February 1, 2001 the Office began using the A.M.A., *Guides* (5th ed. 2001). FECA Bulletin No. 01-05 (issued January 29, 2001).

³ A.M.A., *Guides* 250 (5th ed. 2001).

⁴ *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

ANALYSIS

According to the most recent audiometry, obtained on January 16, 2006, appellant's hearing thresholds were 20, 25, 20 and 25 decibels in the right ear and 20, 20, 25 and 30 decibels in the left. These total 90 and 95 decibels, respectively, for averages of 22.5 and 23.75. Because these averages are below the "fence" of 25 decibels, appellant is deemed to have no impairment, according to the A.M.A., *Guides*, in the ability to hear everyday sounds under everyday listening conditions. So while he does have a measurable and accepted bilateral hearing loss, the extent of that loss is not sufficient to constitute a practical impairment in his ability to hear, according to standards applicable to all claimants. For this reason, appellant is not entitled to a schedule award.

CONCLUSION

The Board finds that appellant has no ratable impairment and is not entitled to a schedule award for his accepted bilateral noise-induced hearing loss. The Office properly followed standardized procedures for evaluating appellant's hearing and properly denied a schedule award for permanent impairment.

ORDER

IT IS HEREBY ORDERED THAT the January 31, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 17, 2006
Washington, DC

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

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