



By letter dated October 19, 2004, the Office advised appellant that the evidence submitted was insufficient to establish his claim and provided him 30 days to submit medical evidence. Appellant submitted numerous reports of audiograms performed by the employing establishment from February 13, 1984 through June 23, 2003, reflecting hearing loss in both ears. On October 4, 2004 the employing establishment submitted noise level information, which the Office accepted as establishing that appellant was exposed to noise greater than 85 decibels.

On November 17, 2004 the Office referred appellant, together with a statement of accepted facts, to Dr. Meredith Pang a Board-certified otolaryngologist, for an evaluation to determine the cause and extent of his hearing loss. Dr. Pang examined appellant and obtained an audiogram on December 16, 2004. In a report of that date, Dr. Pang reviewed the results of the audiogram and opined that appellant had a "right mild low and bilateral moderate-severe high-frequency sensorineural (inner ear nerve-type) hearing loss." He noted that the audiogram revealed speech discrimination scores of 92 percent in the right ear and 94 percent in the left ear. Dr. Pang opined that appellant's workplace noise exposure was sufficient in intensity and duration to have aggravated or caused his hearing loss. Referencing the results of his December 16, 2004 audiogram, Dr. Pang opined that appellant had a zero percent loss of hearing in both ears for rating purposes.

The results of the December 16, 2004 audiogram accompanied Dr. Pang's report. Testing of the right ear at frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed decibel losses of 0, 30, 25 and 55, respectively and in the left ear decibel losses of 5, 15, 20 and 50, respectively.

On January 3, 2005 the Office referred the case record to Dr. Brian Schindler, a Board-certified otolaryngologist, for a consultant review. In a report dated January 22, 2005, Dr. Schindler concurred with Dr. Pang's opinion that appellant's hearing loss was causally related to work-related noise exposure. Based upon the results of the December 16, 2004 audiogram, Dr. Schindler calculated appellant's hearing loss pursuant to Form CA-51 provided by the Office. Appellant's decibel losses for the left ear were totaled at 90 and divided by 4 to obtain the average hearing loss per cycle of 22.5. The average of 22.5 was then reduced by the 25 decibel fence to equal 0 decibels for the left ear. The 0 was then multiplied by 1.25, resulting in a 0 percent loss for the left ear. Accordingly, Dr. Schindler opined that appellant had no ratable loss in the left ear. Appellant's decibel losses for the right ear were totaled at 110 and divided by 4 to obtain the average hearing loss per cycle of 27.5. The average of 27.5 was then reduced by the 25 decibel fence to equal 2.5 decibels for the right ear. The 2.5 was then multiplied by 1.25, resulting in a 3.8 percent loss for the right ear, which was rounded up to 4 percent. Accordingly, Dr. Schindler opined that appellant had a four percent loss in the right ear for schedule award purposes.

On January 27, 2005 the Office accepted appellant's claim for bilateral high frequency sensorineural hearing loss. By decision dated August 24, 2005, the Office found that appellant did not sustain a ratable hearing loss in his left ear and determined that appellant was not entitled to a schedule award under the Act.

By decision dated August 29, 2005, the Office granted appellant a schedule award for a four percent hearing loss of the right ear. The award ran for 2.08 weeks from February 24 to March 17, 2005.

### **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>1</sup> provides for compensation to employees sustaining permanent loss or loss of use, of specified members of the body. 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. For consistent results and to insure equal justice, the Board has authorized 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*, (A.M.A., *Guides*), (5<sup>th</sup> ed. 2001) has been adopted by the Office for evaluating schedule losses and the Board has concurred in such adoption.<sup>2</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>3</sup> 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.<sup>4</sup> The average is then reduced by the 25 decibel fence.<sup>5</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>6</sup> 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.<sup>7</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>8</sup>

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<sup>1</sup> 5 U.S.C. §§ 8101-8193.

<sup>2</sup> See 20 C.F.R. § 10.404; *Bernard A. Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>3</sup> A.M.A., *Guides* 250.

<sup>4</sup> *Id.*

<sup>5</sup> The decibel "fence" is subtracted as it has been shown that the ability to hear everyday sounds under everyday listening conditions is not impaired when the average of the designated hearing levels is 25 decibels or less. See *supra* note 3 at 250.

<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> See *David W. Farrall*, 56 ECAB \_\_\_\_ (Docket No. 04-2142, issued February 23, 2005). See also, *Donald E. Stockstad*, 53 ECAB 301 (2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002); *Reynaldo R. Lichtenberger*, 52 ECAB 462 (2001).

Regarding tinnitus, the A.M.A., *Guides* states:

“Tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, add up to five percent for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform activities of daily living.”<sup>9</sup>

### ANALYSIS

Dr. Schindler properly applied the Office’s standardized procedures to the December 16, 2004 audiogram performed for Dr. Pang. Testing for the left ear revealed decibel losses of 5, 15, 20 and 50 respectively. These decibel losses were totaled at 90 and divided by 4 to obtain the average hearing loss per cycle of 22.5. The average of 22.5 was then reduced by the 25 decibel fence to equal 0 decibels for the left ear. The 0 was multiplied by 1.5, resulting in a 0 percent loss for the left ear. Testing for the right ear revealed decibel losses of 0, 30, 25 and 55 respectively. These decibel losses were totaled at 110 and divided by 4 to obtain the average hearing loss per cycle of 27.5. The average of 27.5 was then reduced by 25 decibels to equal 2.5 decibels for the right ear. The 2.5 was multiplied by 1.5 resulting in a 3.8 percent loss for the right ear. Dr. Schindler properly rounded up to find a four percent monaural loss for the right ear.<sup>10</sup>

The Board finds that Dr. Schindler applied the proper standards to the findings stated in Dr. Pang’s report and accompanying audiogram. The result is a four percent monaural hearing loss in the right ear and a zero percent monaural hearing loss in the left ear. The Board further finds that Dr. Schindler properly relied upon the December 16, 2004 audiogram as it was part of Dr. Pang’s evaluation and met all of the Office’s standards.<sup>11</sup>

The schedule award provision of the Act specifies the number of weeks of compensation to be awarded for loss of hearing. For total loss of hearing in one ear, the Act provides for 52 weeks of compensation. Any loss less than a total loss is compensated at a proportionate rate; therefore, a 4 percent monaural hearing loss equals 2.08 weeks of compensation.

On appeal appellant notes that he has a constant ringing in both ears. He contends that his tinnitus adversely affects his quality of life. The fifth edition of the A.M.A., *Guides* provides that tinnitus in the presence of monaural or binaural hearing impairment may impair speech discrimination and states that up to five percent for tinnitus may be added in the presence of measurable hearing loss if the tinnitus impacts the ability to perform the activities of daily

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<sup>9</sup> *Supra* note 3 at 246.

<sup>10</sup> The Office rounds the calculated percentage of impairment to the nearest whole point. Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3(b) (June 2003).

<sup>11</sup> See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirement for Medical Reports*, Chapter 3.600.8(a)(2) (September 1994).

living.<sup>12</sup> The A.M.A., *Guides* advises that, when information regarding limitations in the ability to perform daily activities is subjective and possibly misinterpreted, it should not serve as the sole criterion upon which decisions about impairment are made. Rather, objective data about the severity of the findings and the limitations should be obtained and integrated with the subjective data to estimate the degree of permanent impairment.”<sup>13</sup>

Although appellant alleges a degree of impairment due to tinnitus, Dr. Pang found that he had normal speech discrimination scores. It is the job of the examining physician to integrate any subjective complaints with objective data to estimate the degree of permanent impairment due to tinnitus. There is no medical evidence of record establishing that appellant’s tinnitus impacts his ability to perform the activities of daily living. The Board finds that appellant is not entitled to an award for tinnitus in his left ear for the additional reason that the hearing loss in his left ear is not ratable.<sup>14</sup>

### **CONCLUSION**

The Board finds that appellant has failed to establish that he sustained a ratable hearing loss in his left ear entitling him to a schedule award. The Board also finds that appellant has no more than a four percent loss of hearing in the right ear for which he received a schedule award.

### **ORDER**

**IT IS HEREBY ORDERED THAT** the decisions of the Office of Workers’ Compensation Programs dated August 29 and August 24, 2005 are affirmed.

Issued: February 10, 2006  
Washington, DC

David S. Gerson, Judge  
Employees’ Compensation Appeals Board

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

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<sup>12</sup> *Supra* note 3 at 246.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*