



On July 19, 2006 the Office referred appellant to Dr. Montra Kanok, a Board-certified otolaryngologist, for audiometric testing and otologic evaluation. Dr. Kanok submitted a report detailing the examination on August 8, 2006 with an accompanying audiogram obtained on that day. He found that appellant had high frequency sensorineural hearing loss in both ears associated with mild sensory hearing loss on the low and median frequencies. The audiogram reflected testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) and revealed the following: right ear decibels 25, 15, 25 and 65; left ear decibels 15, 15, 25 and 55. Dr. Kanok opined that the audiogram demonstrated a bilateral symmetric sensorineural hearing loss due in part to noise exposure during appellant's federal employment.

In a September 7, 2006 decision, the Office accepted appellant's claim for noise-induced hearing loss. On September 13, 2006 appellant filed a Form CA-7, claim for compensation, requesting a schedule award for his hearing loss.

The Office referred the case file to Dr. David N. Schindler, a Board-certified otolaryngologist, to determine if appellant's accepted hearing loss was sufficient to warrant a schedule award. In a report dated November 12, 2006, Dr. Schindler found that appellant had a five percent binaural hearing loss.

In a December 6, 2006 decision, the Office granted a schedule award for a five percent binaural loss of hearing. The period of the award ran from January 3 through March 13, 1997.

### **LEGAL PRECEDENT**

Section 8107 of the Federal Employees' Compensation Act 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.<sup>1</sup> The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the appropriate standard for evaluating schedule losses.<sup>2</sup> Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).<sup>3</sup>

Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.<sup>4</sup> Then, the "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

---

<sup>1</sup> The Act provides that, for complete, or 100 percent loss of hearing in one ear, an employee shall receive 52 weeks' compensation. For complete loss of hearing of both ears, an employee shall receive 200 weeks' compensation. 5 U.S.C. § 8107(c)(13) (2000).

<sup>2</sup> 20 C.F.R. § 10.404 (2006).

<sup>3</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003).

<sup>4</sup> A.M.A., *Guides* 250 (5<sup>th</sup> ed. 2001).

everyday speech under everyday conditions.<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, and 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>

### ANALYSIS

In reviewing appellant's August 8, 2006 audiogram, the frequency levels recorded at 500, 1,000, 2,000 and 3,000 cps for the right ear reveal decibel losses of 25, 15, 25 and 65, respectively, for a total of 130 decibels. This figure when divided by 4 results in an average hearing loss of 32.5 decibels. The average loss of 32.5 is reduced by 25 decibels to 7.5, and then multiplied by the factor of 1.5, which results in an 11.3 percent ratable monaural hearing loss for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 15, 15, 25 and 55 decibels respectively, for a total of 110 decibels. Utilizing the above-noted formula, 110 decibels divided by 4 results in an average loss of 27.5 decibels. This average loss is reduced by the fenced of 25 to reach a 2.5 decibel loss and then multiplied by the factor of 1.5 to result in a 3.8 monaural loss for the left ear. To determine the binaural loss, the lesser loss of 3.8 decibels is multiplied by 5 to reach a product of 19 which is then added to the greater loss of 11 decibels to reach a sum of 30, which is then divided by 6 to reach a binaural loss of 5 percent. Accordingly, appellant's most recent audiogram establishes a ratable hearing loss of five percent for both ears.

Under the Act, the maximum award for binaural hearing loss is 200 weeks of compensation.<sup>8</sup> Since the binaural hearing loss in this case is five percent, appellant would be entitled to five percent of 200 weeks or 10 weeks of compensation. Appellant's schedule award ran from January 3 through March 13, 1997, or 10 weeks of compensation. The Office properly determined the number of weeks of compensation to which appellant is entitled under the schedule award. This binaural loss is greater than the individual monaural loss which would only result in payment of eight weeks of compensation.

### CONCLUSION

The Board finds that appellant did not meet his burden of proof to establish that he is entitled to a schedule award for his employment-related hearing loss greater than the five percent awarded.

---

<sup>5</sup> *Id.*

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

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

<sup>8</sup> 5 U.S.C. § 8107(c)(13)(B). Monaural loss allows a maximum of 52 weeks of compensation.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated December 6, 2006 be affirmed.

Issued: May 18, 2007  
Washington, DC

David S. Gerson, Judge  
Employees' Compensation Appeals Board

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

James A. Haynes, Alternate Judge  
Employees' Compensation Appeals Board