

On March 28, 2002 appellant, then a 55-year-old heavy mobile equipment mechanic leader, filed an occupational disease claim, Form CA-2, alleging that he sustained bilateral hearing loss causally related to factors of his federal employment. Appellant indicated that he first became aware of his hearing loss and related it to his employment on September 22, 1988.

On the reverse side of the CA-2 form, the employing establishment indicated that appellant was last exposed to the conditions alleged to have caused his condition on March 31, 2002, the date he retired.

Appellant submitted a March 28, 2002 form indicating his acceptance of light duty; a history of appellant's employment and noise exposure; and a March 28, 2002 supervisor's statement stating that appellant's statements were true and accurate to the best of his knowledge.

On April 8, 2003 the Office received employing establishment audiometric test results covering the period 1984 to 2002 and medical records covering the period 1992 to 2001.

The Office referred appellant to Dr. Clifford N. Steinig, an osteopath who specializes in otolaryngology, for examination and evaluation of medical records. In a May 14, 2002 report, Dr. Steinig reported the findings of his audiologic and otologic evaluation of appellant on that day. He concluded that appellant sustained a bilateral neurosensory hearing loss caused by noise exposure at work. Dr. Steinig found that testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed decibel (dB) levels in the right ear of 10, 10, 25 and 50, respectively; and dB levels in the left ear of 10, 15, 35 and 55, respectively.

In a May 20, 2002 letter, the Office advised appellant that it had accepted his claim for bilateral noise-induced hearing loss. The Office requested that an Office medical adviser review appellant's record and determine his entitlement to a schedule award.

In an August 7, 2002 report, an Office medical adviser applied the standards of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5<sup>th</sup> ed. 2001), to the findings of Dr. Steinig to find that appellant had a six percent hearing loss of the left ear and no ratable hearing loss of his right ear.

In a May 28, 2003 decision, appellant was granted a schedule award for a six percent hearing loss in the left ear. The award ran from May 14 to June 4, 2002 for a total of 3.12 weeks.<sup>1</sup>

### **LEGAL PRECEDENT**

The schedule award provisions of the Federal Employees' Compensation Act<sup>2</sup> and its implementing regulation<sup>3</sup> 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 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

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<sup>1</sup> The Board notes that the May 28, 2003 award stated 3.1 weeks, instead of 3.12 weeks. However, the period of the award remains unchanged.

<sup>2</sup> 5 U.S.C. § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

uniform standards applicable to all claimants. The A.M.A., *Guides* has been adopted by the implementing regulation as the appropriate standard for evaluating schedule losses.<sup>4</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>5</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>6</sup> Then, the “fence” of 25 dBs is deducted because, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech under everyday conditions.<sup>7</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>8</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>9</sup> The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.<sup>10</sup>

### ANALYSIS

The Board finds that appellant has no more than a six percent monaural (left ear) hearing loss for which he received a schedule award.

To determine the nature and extent of hearing loss, the Office referred appellant to Dr. Steinig, an osteopath specializing in otolaryngology. Following audiological and otological evaluations, Dr. Steinig concluded on May 14, 2002 that appellant had sustained a bilateral neurosensory loss of hearing due to his exposure to noise at work.

The Office medical adviser applied the Office’s standardized procedures to the May 14, 2002 audiogram performed for Dr. Steinig. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses at 10, 10, 25 and 50, respectively. These decibels were totaled at 95 and were divided by 4 to obtain the average hearing loss at those cycles of 23.75 decibels. The average of 23.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 0 which was multiplied by the established factor of 1.5 to compute a 0 percent loss of hearing 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 10, 15, 35 and 55, respectively. These decibels were totaled at 115 and were divided by 4 to obtain

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<sup>4</sup> Donald E. Stockstad, 53 ECAB \_\_\_\_ (Docket No. 01-1570, issued January 23, 2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

<sup>5</sup> Stuart M. Cole, 46 ECAB 1011 (1995).

<sup>6</sup> A.M.A., *Guides* at 250 (5<sup>th</sup> ed. 2001).

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

<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> See *supra* note 4.

the average hearing loss at those cycles of 28.75 decibels. The average of 28.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 3.75 which was multiplied by the established factor of 1.5 to compute a 5.625 percent loss of hearing for the left ear. Accordingly, pursuant to the Office's standardized procedures, the Office medical adviser properly determined that appellant has a six percent hearing loss of his left ear and the Office properly granted appellant a schedule award for a six percent hearing loss of his left ear.<sup>11</sup>

On appeal, appellant contends that the schedule award he received was not adequate compensation for his monaural hearing loss. The schedule award provisions of the Act provides for compensation to employees sustaining permanent impairment from loss of use of specified members of the body.<sup>12</sup> The Act establishes a maximum of 52 weeks of compensation as the award for total monaural hearing loss.<sup>13</sup> A partial loss of hearing is compensated at a proportionate rate,<sup>14</sup> so appellant's award of compensation for a 6 percent monaural hearing loss entitles him to 6 percent of 52 weeks of compensation, or 3.12 weeks of compensation, the amount appellant received. Appellant is entitled to no more under the Act.

### **CONCLUSION**

The Board finds that the Office medical adviser properly applied the appropriate standards to the findings provided in Dr. Steinig's report dated May 14, 2002 and the accompanying audiogram. This resulted in a calculation of a nonratable hearing loss in the right ear and a six percent hearing loss in the left ear.

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<sup>11</sup> See FECA Program Memorandum No. 49 (issued May 1, 1967). The Office rounded the 5.625 percent up to 6 percent.

<sup>12</sup> 5 U.S.C. § 8107(c) and implementing regulations at 20 C.F.R. § 10.404 (2003).

<sup>13</sup> 5 U.S.C. § 8107(c)(13)(A).

<sup>14</sup> 5 U.S.C. § 8107(c)(19).

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated May 28, 2003 is affirmed.

Issued: February 9, 2004  
Washington, DC

Alec J. Koromilas  
Chairman

David S. Gerson  
Alternate Member

Michael E. Groom  
Alternate Member