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<b>V.A., Appellant</b>	)	
	)	
<b>and</b>	)	<b>Docket No. 08-605</b>
	)	<b>Issued: October 7, 2008</b>
<b>DEPARTMENT OF THE AIR FORCE,</b>	)	
<b>HICKHAM AIR FORCE BASE, HI, Employer</b>	)	
	)	

### Case Submitted on the Record

Before:  
DAVID S. GERSON, Judge  
MICHAEL E. GROOM, Alternate Judge  
JAMES A. HAYNES, Alternate Judge

On December 2, 2007 appellant filed a timely appeal from October 16 and November 2, 2007 merit decisions of the Office of Workers' Compensation Programs that granted him a schedule award for two percent monaural impairment of the left ear. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the schedule award issue.

The issue is whether appellant met his burden of proof in establishing that he has more than two percent monaural impairment in the left ear, for which he received a schedule award, and that he had a ratable hearing impairment in the right ear.

On April 26, 2007 appellant, then a 61-year-old fuel distribution system worker, filed an occupational disease claim stating that he developed binaural hearing loss in the performance of duty. He noted that he first realized his condition on April 10, 2007. Appellant did not stop work. In an April 23, 2007 statement, he explained that he had worked for the employing

establishment since 1980 and had been exposed to aircraft noise. Appellant stated that, although he wore hearing protection, it was insufficient to prevent his noise exposure. The employing establishment provided personnel records, noise survey results and audiometric testing data. The evidence submitted established that appellant worked for the employing establishment since 1980 and was exposed to noise from various sources, specifically from aircraft.

On August 3, 2007 the Office referred appellant to Dr. Meredith Pang, a Board-certified otolaryngologist, for a second opinion to determine the cause and extent of his claimed hearing loss. In an August 23, 2007 report, Dr. Pang noted appellant's history of noise exposure in federal civilian employment. She explained that appellant was exposed to loud noises from aircraft while working at the employing establishment and that, although he wore hearing protection, it was inadequate. Dr. Pang also noted that appellant had prior noise exposure while in military service and later in federal civilian employment as a laborer. She performed a physical examination and diagnosed left mild low and bilateral moderate-severe high frequency sensorineural hearing loss. Dr. Pang opined that appellant's workplace noise exposure was sufficient in severity and duration to cause his hearing loss. An audiogram conducted on her behalf reflected testing at the 500, 1,000, 2,000 and 3,000 cycles per second (cps) levels and showed the following decibel losses: 15, 20, 20 and 50 in the right ear and 20, 20 30 and 25 in the left ear. Dr. Pang concluded that appellant had 1.9 percent hearing impairment in the right ear and 0 percent hearing impairment in the left ear.

By decision dated September 4, 2007, the Office accepted appellant's claim for noise-induced hearing loss. On the same day it requested an opinion from the Office medical adviser concerning appellant's impairment for schedule award purposes.

In a September 24, 2007 report, the Office medical adviser noted Dr. Pang's diagnosis of bilateral high frequency hearing loss, consistent in part with hearing loss due to noise exposure. He determined that appellant's hearing impairment was caused by his federal employment. Applying the standards set forth in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, fifth edition<sup>1</sup> (A.M.A., *Guides*), the medical adviser concluded that appellant had 1.9 percent monaural hearing impairment in the right ear, rounded to 2 percent, and 0 percent monaural hearing impairment in the left ear, for a total of 2.2 percent binaural hearing impairment. He recommended that the Office grant appellant a schedule award and concluded that hearing aids were indicated.

By decision dated October 16, 2007, the Office denied appellant's schedule award claim for the left ear.

In a November 2, 2007 decision, the Office granted appellant a schedule award for two percent monaural hearing impairment in the left ear.<sup>2</sup>

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<sup>1</sup> A.M.A., *Guides* (5<sup>th</sup> ed. 2001).

<sup>2</sup> The Board notes that, while the decision stated that appellant's schedule award for two percent monaural impairment of the left ear, this is a typographical error as the record reflects that appellant's ratable hearing loss was in the right ear rather than the left ear.

## **LEGAL PRECEDENT**

The schedule award provision of the Federal Employees' Compensation Act<sup>3</sup> and its implementing regulation<sup>4</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 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>5</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>6</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>7</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 everyday speech under everyday conditions.<sup>8</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>9</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>10</sup> The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.<sup>11</sup>

## **ANALYSIS**

The Office medical adviser applied the Office's standard procedures, detailed above, to the August 23, 2007 audiometric findings obtained on Dr. Pang's behalf. Appellant's August 23, 2007 audiogram tested decibel losses at the 500, 1,000, 2,000 and 3,000 cps levels and recorded decibel losses of 15, 20, 20 and 50 respectively for the right ear. The total decibel loss in the right ear is 105 decibels.<sup>12</sup> When divided by 4, the result is an average hearing loss of 26.25

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<sup>3</sup> 5 U.S.C. § 8107

<sup>4</sup> 20 C.F.R. § 10.404 (2002).

<sup>5</sup> *Id.* See *B.C.*, 58 ECAB \_\_\_\_ (Docket No. 06-925, issued October 13, 2006).

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

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

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

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

<sup>10</sup> *Id.*

<sup>11</sup> *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

<sup>12</sup> The Board notes that in his June 8, 2007 calculations, the Office medical adviser added incorrectly to determine that appellant's total loss was 85 decibels, which yielded no ratable monaural hearing loss for the right ear.

decibels. The average loss of 26.25 decibels is reduced by the “fence” of 25 decibels to equal 1.25 decibels, which when multiplied by the established factor of 1.5, results in a 1.875 percent monaural hearing loss, rounded up to 2 percent monaural hearing loss for the right ear.

Testing for the left ear at the frequencies of 500, 1,000, 2,000 and 3,000 cps revealed decibel losses of 20, 20, 30 and 25 decibels respectively, for a total decibel loss of 95 decibels. When divided by 4, the result is an average hearing loss of 23.75 decibels. The average loss of 23.75 decibels is reduced by the “fence” of 25 decibels, to equal 0 decibels and, accordingly, no monaural hearing loss for the left ear.

Although the Office medical adviser stated that appellant had 2.2 percent binaural hearing loss, this was error as the formula for binaural hearing loss, noted above, as applied to the findings obtained for Dr. Pang results in no binaural hearing loss. The zero percent monaural hearing loss for the left ear, when multiplied by five (as it is the lesser loss), yielded a product of zero. The zero was then added to the 1.9 percent hearing loss for the right ear.<sup>13</sup> The 1.9 percent was then divided by six, in order to calculate a binaural hearing loss of 0.32 percent, which is rounded to 0 percent. Thus, the Board finds that the Office medical adviser incorrectly calculated appellant’s bilateral hearing loss at 2.2 percent. Therefore, appellant’s impairment for monaural hearing loss in his right ear is greater than his impairment for binaural hearing loss, and the Office properly granted him a schedule award based on monaural impairment.

The Board finds that the evidence establishes that appellant has no ratable hearing loss in his left ear and that he has two percent impairment of his right ear for which he was granted a schedule award.

### **CONCLUSION**

The Board finds that appellant has no more than two percent hearing loss in his right ear, for which he received a schedule award. The Office’s November 2, 2007 decision is modified to reflect that appellant’s ratable hearing loss is in his right ear. The Board further finds that appellant has no ratable hearing loss in his left ear.

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<sup>13</sup> Percentages should not be rounded until the final percent for award purposes is obtained. Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(b)(2)(b) (March 1994).

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 16, 2007 decision of the Office of Workers' Compensation Programs is affirmed and the November 2, 2007 decision is affirmed as modified.

Issued: October 7, 2008  
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