

related noise exposure. He explained that he was exposed to industrial noise on a daily basis and his home life was quiet. Appellant first became aware of his condition and of its relationship to his employment on February 12, 2008.

Appellant explained that he worked at the employing establishment for the past 24 years and was exposed to excessive noise from chipping guns, saws, grinders, deck crawlers, rattle jacks, sand hoppers, cranes, generators and forklifts. He stated that his job kept him at the center of the noise activity and that he did not wear earplugs or earmuffs because he needed to hear what customers needed. Appellant reported that he was exposed to industrial noise nine hours per day, five days a week for the last 24 years. He noted that he had no prior hearing problems and did not participate in any noisy hobbies. Appellant also provided his employment history. From 1972 to 1974, he was employed at the Employment Security Department of Washington and was not exposed to any excess noise. From 1974 to 1977 and 1981 to 1984, appellant worked as a yeoman in the U.S. Navy and was exposed to moderate noise for four hours per day with no hearing protection. From 1977 to 1981, he was a student and was not exposed to any excess noise. From 1984 to 1986, appellant worked at a hardware store and was exposed to moderate noise 40 hours per week with no hearing protection. In 1987, he worked as a salesperson for two months with minimal noise exposure 40 hours a week. On March 17, 1987 appellant began his full-time job as a tools and parts attendant at the employing establishment. He provided a description of his position and an occupational history questionnaire.

By letter dated May 10, 2011, OWCP requested additional factual information from both appellant and the employing establishment. Appellant was requested to provide information regarding his employment history. He was asked to identify when he related his hearing loss to conditions of employment and identify all nonoccupational exposure to noise. OWCP also requested that appellant provide medical documentation pertaining to any prior treatment he received for ear or hearing problems. It requested that the employing establishment provide noise survey reports for each site where he worked, the sources and period of noise exposure for each location and whether he wore ear protection.

Appellant submitted a history of employee health records with audiogram results dated from February 26, 1987 to February 4, 2011. The February 26, 1987 audiogram results revealed the following decibel losses at 500, 1,000, 2,000 and 3,000 Hertz (Hz): 5, 0, 0 and 0 for the right ear and 5, 5, 10 and 0 for the left ear. The February 4, 2011 audiogram results revealed the following decibel losses at 500, 1,000, 2,000 and 3,000 Hz: 5, 0, 15 and 30 for the right ear and 5, 5, 25 and 40 for the left ear.

In a May 18, 2011 letter, the employing establishment confirmed that appellant was employed as a tools and parts attendant from March 17, 1987 until the present and was exposed to continuous noise at a low frequency level of 70 to 80 decibels. It noted that he participated in the hearing conservation program and provided copies of his job sheet, employment records and all medical examination records pertaining to hearing problems.

On September 8, 2011 OWCP referred appellant for a second opinion examination. In an October 12, 2011 report, Dr. Gerald G. Randolph, a Board-certified otolaryngologist, noted that he examined appellant on October 12, 2011 regarding his hearing loss claim. Appellant complained of progressive hearing loss since 1982 and intermittent tinnitus in both ears for

several years. He related that the tinnitus became constant during the past six months and made it difficult for him to understand conversations. Dr. Randolph reported that appellant had difficulty understanding communication in background noise and in a quiet environment unless people were looking at him. Appellant also experienced difficulty communicating by telephone. He noted that he turned the television louder than the comfort level of others. Dr. Randolph reviewed appellant's employment history. From 1974 until 1977 and 1981 until 1983, appellant served active duty with the U.S. Navy and experienced periods of noise exposure to aircrafts. From 1984 to 1986, he worked at a hardware store and was exposed to some intermittent noise exposure. From 1986 to 1987, appellant was employed as a salesperson without any excess noise exposure. From 1987 until the present time, he worked at the employing establishment as a tools and parts attendant. Appellant was exposed to intermittent noise exposure related to being around ship repairs and was unable to use ear protection because he needed to communicate with individuals.

Upon examination, Dr. Randolph observed normal external auditory canals and tympanic membranes. The Weber test did not lateralize and air conduction was greater than bulk conduction bilaterally. An audiogram completed on October 12, 2011 revealed the following decibel losses at 500, 1,000, 2,000 and 3,000 Hz: 5, 10, 20 and 35 for the right ear and 5, 5, 30 and 45 for the left ear. Dr. Randolph diagnosed bilateral sensorineural hearing loss. He also stated that an audiogram revealed bilateral high frequency sensorineural hearing loss with speech reception thresholds of 15 decibels in both ears and discrimination score measured at 88 percent bilaterally. Dr. Randolph stated that this hearing loss was in excess of that which would normally occur on the basis of presbycusis and was part, if not all, due to industrial noise exposure during appellant's federal employment. He reported that the workplace exposure, as described in the noise survey data, was not of sufficient intensity and duration to cause hearing loss but that appellant had a history of significant frequent exposure to ship repair-type equipment. Dr. Randolph concluded that, in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment (A.M.A., Guides)*, appellant had zero percent monaural hearing loss of the right ear and zero percent monaural hearing loss of the left ear, which resulted in zero percent binaural hearing loss. He stated that no additional rating for tinnitus was indicated and that appellant was a candidate for bilateral fitting of appropriate hearing aids.

By decision dated October 27, 2011, OWCP accepted appellant's claim for bilateral sensorineural hearing loss.

In an October 31, 2011 report, Amy M. Becken, an audiologist, examined appellant for a hearing aid evaluation. She related that he experienced hearing loss while employed as a tools and parts attendant at the employing establishment from 1987 to the present. Ms. Becken noted that appellant was exposed to a significant amount of noise that was documented and that hearing test results revealed severe high frequency sensorineural hearing loss bilaterally. She requested hearing devices due to his communication issues and work situation.

On January 10, 2012 an OWCP medical adviser reviewed Dr. Randolph's October 12, 2011 otologic examination report and noted a date of maximum improvement as October 12, 2011. He applied the audiometric data to OWCP's standard for evaluating hearing loss and determined that appellant had zero percent monaural hearing loss in the left ear and zero

percent monaural hearing loss in the right ear, which resulted in zero percent binaural hearing loss. The medical adviser concluded that appellant had no ratable hearing loss and authorized hearing aids.

By decision dated January 10, 2012, OWCP accepted that appellant's hearing loss was work related but denied his schedule award claim finding that his hearing loss was not severe enough to be considered ratable. It authorized hearing aids.

LEGAL PRECEDENT

The schedule award provision of FECA² and its implementing regulations 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. FECA, however, does not specify the manner in which the percentage of loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of OWCP. For consistent results and to ensure 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 A.M.A., *Guides* (6th ed. 2009), has been adopted by OWCP for evaluating schedule losses and the Board has concurred in such adoption.³

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*. 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, 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.⁴ 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. The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.⁵ The Board has also noted OWCP's policy to round the calculated percentage of impairment to the nearest whole number.⁶

Regarding tinnitus, the A.M.A., *Guides* provides that tinnitus is not a disease but rather a symptom that may be the result of disease or injury.⁷ The A.M.A., *Guides* state that if tinnitus interferes with (Activities of Daily Living), including sleep, reading (and other tasks requiring

² 5 U.S.C. §§ 8101-8193.

³ *R.D.*, 59 ECAB 127 (2007); *Bernard Babcock, Jr.*, 52 ECAB 143 (2000); *see also* 20 C.F.R. § 10.404.

⁴ *See* A.M.A., *Guides* 250.

⁵ *E.S.*, 59 ECAB 249 (2007); *Reynaldo R. Lichtenberger*, 52 ECAB 462 (2001).

⁶ *J.H.*, Docket No. 08-2432 (issued June 15, 2009); *Robert E. Cullison*, 55 ECAB 570 (2004). *See* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(b)(2)(b) (September 2010).

⁷ *See* A.M.A., *Guides* 249.

concentration), enjoying of quiet recreation and emotional well-being, up to five percent may be added to a measurable hearing impairment.⁸

ANALYSIS

Appellant filed an occupational disease claim for hearing loss. He was examined by Dr. Randolph to determine whether any hearing loss was work related and the extent of the hearing loss. In an October 12, 2011 report, Dr. Randolph related appellant's complaints of progressive hearing loss since 1982 and intermittent tinnitus in both ears for several years. He reviewed appellant's employment history and health records. Dr. Randolph noted that appellant worked at the employing establishment as a tools and parts attendant since 1987 and was exposed to intermittent noise exposure from being around ship repairs. Appellant was unable to use ear protection because he needed to communicate with individuals. Dr. Randolph diagnosed bilateral sensorineural hearing loss. He opined that this hearing loss was in excess of that which would normally occur on the basis of presbycusis and was part, if not all, due to industrial noise exposure during appellant's federal employment. Dr. Randolph reported that the workplace exposure, as described in the noise survey data, was not of sufficient intensity and duration to cause hearing loss, but that appellant had a history of significant frequent exposure to ship repair-type equipment. He recommended hearing aids.

OWCP's medical adviser concurred with this finding and further concluded that appellant had no ratable hearing loss to warrant a schedule award but recommended hearing aids. OWCP accepted his claim for binaural hearing loss, but denied a schedule award finding that his hearing loss was not severe enough to be considered ratable. Appellant was authorized hearing aids.

The Board finds that OWCP properly denied appellant's schedule award claim. According to the October 12, 2011 audiogram, appellant's hearing thresholds were 5, 10, 20 and 35 on the right and 5, 5, 30 and 45 on the left. These total 70 and 85 decibels, respectively, for averages of 17.5 and 21.25 decibels. Because these averages are below the fence of 25 decibels, appellant is deemed to have no impairment in his ability to hear everyday sounds under everyday listening conditions.⁹ This does not mean that he does not suffer from hearing loss. It means that the extent or degree of loss is not sufficient to show a practical impairment in hearing according to the A.M.A., *Guides*. The A.M.A., *Guides* set a threshold for impairment and appellant's occupational hearing loss did not cross that threshold. Thus, appellant's hearing loss was not ratable. Regarding his diagnosed tinnitus, the A.M.A., *Guides* allow for compensation up to five percent for tinnitus in the presence of measurable hearing loss, if the tinnitus impacts the ability to perform activities of living. Measurable hearing loss must first be established and accepted and then an additional award may be granted. As appellant has no measurable hearing loss, he is not entitled to an award for tinnitus.¹⁰

⁸ *Id.* R.H., Docket No. 10-2139 (issued July 13, 2011); *see also* Robert E. Cullison, *supra* note 6.

⁹ *See* G.M., Docket No. 11-1295 (issued January 25, 2012).

¹⁰ *Id.*

On appeal, appellant relates that his hearing was normal when he first started to work at the employing establishment and worsened due to the nature of his job. He requested monetary compensation for his work-related hearing loss. As noted, however, both Dr. Randolph and the medical adviser determined that appellant's hearing loss was not so severe as to warrant a schedule award under the A.M.A., *Guides*. Thus, the medical evidence does not establish that appellant is entitled to a schedule award for ratable hearing loss. For this reason, the Board finds that OWCP properly denied a schedule award for his nonratable hearing loss.

Appellant may request a schedule award or increased schedule award based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased impairment.

CONCLUSION

The Board finds that appellant has not established a ratable loss of hearing such that he is entitled to a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the January 10, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 19, 2012
Washington, DC

Richard J. Daschbach, Chief Judge
Employees' Compensation Appeals Board

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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