



Accompanying the claim, appellant and the employing establishment submitted statements, personnel records, noise exposure data and audiological test results from 1969 through 1997.

Dr. James Fordice, a Board-certified otolaryngologist, examined appellant on August 14, 2002 and audiometric testing on the doctor's behalf was performed on that day. Dr. Fordice stated that the history reported by appellant was positive for noise exposure while he was employed at the employing establishment since 1973. He noted that the audiometric findings were worse at all frequencies bilaterally versus those taken in 1973. Dr. Fordice diagnosed a bilateral sensorineural hearing loss which he attributed to workplace noise exposure. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed the following: right ear -- 20, 20, 25 and 50 decibels; left ear -- 20, 25, 20 and 30 decibels. Dr. Fordice concluded that appellant sustained a 5.63 percent right ear hearing loss and no loss in the left ear. He recommended that appellant wear hearing aids.

On September 13, 2002 an Office medical adviser reviewed the medical report of Dr. Fordice and determined that appellant had a bilateral sensorineural hearing loss with a ratable loss of the right ear. The Office medical adviser calculated a six percent monaural hearing loss in the right ear. He noted maximum medical improvement as of August 14, 2002, the date of Dr. Fordice's examination.

On September 12, 2002 the Office accepted noise-induced hearing loss and authorized hearing aids.

On November 6, 2002 appellant filed a Form CA-7 claim for a schedule award.

By decision dated November 19, 2002, the Office granted appellant a schedule award for a six percent monaural hearing loss of the right ear for the period August 13 through September 3, 2002.

In a letter received January 22, 2003, appellant disagreed with the percentage of the award and requested an oral hearing. He testified at the oral hearing held July 10, 2003. Following receipt of the hearing transcript, the employing establishment controverted appellant's occupational hearing loss claim asserting that appellant had not been exposed to hazardous noise in the workplace since 1981 and that the cause of appellant's loss might be related to factors outside his employment. Appellant also submitted subsequent hearing test results from the employing establishment performed July 3, 2003 and audiological test results performed under the direction of Dr. Karl Studtmann, an attending otolaryngologist on August 7, 2003.

By decision dated October 24, 2003, an Office hearing representative affirmed the November 19, 2002 schedule award, finding that the medical evidence established that appellant sustained a six percent right monaural hearing loss.

### **LEGAL PRECEDENT**

The Federal Employees' Compensation Act schedule award provision set forth the number of weeks of compensation to be paid for permanent loss of use of the members of the

body that are listed in the schedule.<sup>1</sup> 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 a determination is a matter, which rests in the sound discretion of the Office.<sup>2</sup> However, as a matter of administrative practice, the Board has stated: “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.”<sup>3</sup>

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*).<sup>4</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>5</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>6</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>7</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>8</sup> The Board has concurred in the Office’s adoption of this standard for evaluating hearing loss.<sup>9</sup>

### ANALYSIS

The Board finds that the Office medical adviser applied the proper standards to the audiometric findings in Dr. Fordice’s August 14, 2002 report. The Office medical adviser calculated the extent of hearing loss as follows: the decibel losses for the right ear at 500, 1,000, 2,000 and 3,000 cycles per second were 20, 20, 25 and 50 decibels which totaled 115 decibels and divided by 4 to obtain the average hearing loss at those frequencies of 28.75 decibels. The average of 28.75 decibels was reduced by the “fence” of 25 decibels to obtain the average hearing loss at those frequencies of 3.75 decibels, which when multiplied by the established factor of 1.5, totaled a 5.63 percent monaural loss of hearing for the right ear. The decibel loss for the left ear at 500, 1,000, 2,000 and 3, 000 cycles per second were 20, 25, 20 and 30 decibels which totaled 95 decibels and divided by 4 to obtain the average hearing loss at those frequencies of 23.75 decibels, which was reduced to 0 decibels when the “fence” of 25 decibels was

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<sup>1</sup> 5 U.S.C. § 8107.

<sup>2</sup> *Kenneth E. Leone*, 46 ECAB 133 (1994).

<sup>3</sup> *Id.*

<sup>4</sup> *Stuart M. Cole*, 46 ECAB 1011 (1995).

<sup>5</sup> A.M.A., *Guides* 224 (4<sup>th</sup> ed. 1993).

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

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

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

<sup>9</sup> *Supra* note at 2.

subtracted, which was then multiplied by 1.5 to arrive at a 0 percent decibel hearing loss for the left ear. The 5.63 percent hearing loss in the right ear was properly rounded up to 6 percent.<sup>10</sup>

The Board finds that the report and audiogram performed on behalf of Dr. Fordice constitutes the weight of the medical evidence of record and establishes that appellant has no more than a six percent monaural loss of hearing in the right ear for which he received a schedule award.

Appellant submitted additional medical evidence following the schedule award, an audiogram dated August 7, 2003 and a medical report, which was noted in the Office hearing representative's October 24, 2003 decision. The Board notes that the audiogram contained a signature by an audiologist but did not contain a physician's signature. Further, the audiogram was not accompanied with evidence of the audiologist's certification or certification of the equipment. In the accompanying physician's report, Dr. Studtmann, attending otolaryngologist, indicated that testing conducted that day demonstrated a mild low frequency sensorineural hearing loss with a down sloping high frequency sensorineural hearing loss, with excellent discrimination scores and type A tympanograms.<sup>11</sup> He generally stated that appellant had a history of substantial noise exposure with his work and found "most likely etiology is related to noise exposure. [Appellant] has no significant noise exposure outside of his workplace." The Office has set forth requirements for the medical evidence to be used in evaluating occupational hearing loss claims. The requirements, as set forth in the Office's Federal (FECA) Procedure Manual provide that the employee undergo audiological evaluation and otological examination; that the audiological testing precede the otologic examination; that the audiological evaluation and otological examination be performed by different individuals as a method of evaluating reliability of the findings; that the clinical audiologist and otolaryngologist be certified; that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association; that the audiometric test results include both bone conduction and pure-tone air conduction thresholds; speech reception thresholds and monaural discrimination scores; and that the otolaryngologist's report include the date and hour of examination; date and hour of the employee's last exposure to loud noise; a rationalized medical opinion regarding the relationship of the hearing loss to the employment-related noise exposure; and a statement on the reliability of the tests conducted.<sup>12</sup> As the medical evidence submitted by appellant supporting hearing loss does not meet these requirements, the evidence is of diminished probative value in supporting his claim.<sup>13</sup> Appellant is entitled to no more compensation under the Act.

On appeal, appellant contends that the schedule award he received was not adequate compensation for his monaural hearing loss, particularly since he experiences ringing in his ears and noise pitch pain. The A.M.A., *Guides* states that "tinnitus in the presence of unilateral or

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<sup>10</sup> Federal (FECA) Procedure Manual, Part 3 -- *Medical, Schedule Awards*, Chapter 3.700.4b(2)(b) (September 1994).

<sup>11</sup> The Board notes that certification for Dr. Studtmann as an otolaryngology specialist could not be found.

<sup>12</sup> See *Joshua A. Holmes*, 42 ECAB 231 (1990); *George L. Cooper*, 40 ECAB 296 (1988).

<sup>13</sup> See *Kathleen D. Walker*, 42 ECAB 603 (1991).

bilateral hearing impairment may impair speech discrimination. Therefore, up to five percent for tinnitus in the presence of measurable hearing loss may be added if the tinnitus impacts the ability to perform activities of daily living.”<sup>14</sup> However, appellant has not submitted medical evidence from a physical which diagnosed tinnitus or any evidence he is unable in any way to perform daily living activities due to tinnitus. Appellant has therefore not established entitlement to an additional award based upon a diagnosis of tinnitus.

**CONCLUSION**

The Board finds that appellant is entitled to no more than six percent permanent impairment for a right monaural hearing loss for which he received a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers’ Compensation Programs dated October 24, 2003 is affirmed.

Issued: July 1, 2004  
Washington, DC

Colleen Duffy Kiko  
Member

Michael E. Groom  
Alternate Member

A. Peter Kanjorski  
Alternate Member

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<sup>14</sup> A.M.A., *Guides* 250 (5<sup>th</sup> ed. 2001).