

related. Appellant first reported his hearing loss on June 23, 1988 and his last day of exposure was January 12, 1988.¹

By letter dated March 18, 2005, the Office referred appellant to Dr. Prasoon Kumar Samaddar, a physician specializing in otolaryngology, for an examination.

In a May 20, 2005 report, Dr. Samaddar opined that appellant's high frequency hearing loss was due to noise exposure in his federal employment.

On September 1, 2005 appellant filed a claim for a schedule award.²

On September 25, 2005 an Office medical adviser applied the Office standards for evaluating the extent of hearing loss to Dr. Samaddar's May 20, 2005 audiogram. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) revealed decibel losses of 15, 20, 20 and 65 respectively. These decibels were totaled at 120 and were divided by 4 to obtain the average hearing loss at those cycles of decibels. The average of 30 decibels was then reduced by 25 decibels to equal 5 which was multiplied by the established factor of 1.5 to compute a 7.5 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 25, 40, 35 and 80 respectively. These decibels were totaled at 170 and were divided by 4 to obtain the average hearing loss at those cycles of 42.5 decibels. The average of 42.5 decibels was then reduced by 25 decibels to equal 17.5 which was multiplied by the established factor of 1.5 to compute a 26.25 percent loss of hearing for the left ear. The Office medical adviser then computed the binaural hearing loss by multiplying the lesser loss, 7.5 by 5, added this to the greater loss, 26.25, and divided this figure by 6 to arrive at a 10.63 percent binaural hearing loss. The Office medical adviser concluded that appellant had an 11 percent bilateral hearing loss based upon the May 20, 2005 report by Dr. Samaddar. He opined the date of maximum medical improvement to be May 20, 2005.

In a decision dated October 6, 2005, the Office granted a schedule award for six percent loss of use of both ears. The Office based its determination on the September 25, 2005 calculation of its medical adviser, who relied on the May 20, 2005 audiological evaluation and report submitted by Dr. Samaddar, a Board-certified otolaryngologist and Office referral physician. The Office awarded compensation for a period of 22 weeks from May 20 to October 1, 2005. The Office based appellant's pay rate as of November 1988, the date of his last exposure to noise.

¹ The Board has held that a program of annual audiometric testing conducted by the employing establishment in conjunction with an employee testing program is sufficient to constructively establish actual knowledge of a hearing loss such as to put the immediate superior on notice of an on-the-job injury. *See James A. Sheppard*, 55 ECAB ____ (Docket No. 03-692, issued May 5, 2004); *Joseph J. Sullivan*, 37 ECAB 526 (1986). Appellant's claim was timely as the physician in charge of the hearing conservation program noted appellant's history of impulse noise exposure to firearms and found a significant threshold shift revealed on audiometric testing at the higher frequency ranges.

² Appellant noted that he began receiving a retirement annuity on January 1, 2005.

LEGAL PRECEDENT

The schedule award provision of the Federal Employees' Compensation Act³ and its implement regulation⁴ sets forth the number of weeks of compensation payable to employees sustaining permanent impairment from loss, or loss of use, of schedule members or functions of the body. The Act, however, does not specify the manner in which the percentage loss of a member 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment* (5th ed.) has been adopted by the Office for evaluating schedule losses.⁵

The Office evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁶ Using the frequencies of 500, 1,000, 2,000 and 3,000 cps, the losses at each frequency are added up and averaged.⁷ 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.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ 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.¹⁰ The Board has concurred in the Office's adoption of this standard for evaluating hearing loss.¹¹

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

⁵ See 20 C.F.R. § 10.404; see also *David W. Ferrall*, 56 ECAB ____ (Docket No. 04-2142, issued February 23, 2005).

⁶ A.M.A., *Guides* 250.

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

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

ANALYSIS

In order to determine the nature and extent of appellant's hearing loss, the Office referred him to Dr. Samaddar who concluded that appellant had sustained a high frequency sensorineural hearing loss resulting from exposure to noise in federal employment.

In reviewing appellant's most recent audiogram dated May 20, 2005, the frequency levels recorded at 500, 1,000, 2,000 and 3,000 cps for the right ear reveal decibel losses of 15, 20, 20 and 65, respectively, for a total of 120 decibels. This figure, when divided by 4 results in an average hearing loss of 30 decibels. The average loss of 30 decibels is reduced by 25 decibels to equal 5, which when multiplied by 1.5 results in a 7.5 percent 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 25, 30, 35 and 80 decibels respectively, for a total of 170 decibels. Utilizing the above-noted formula results in a 26.25 percent left ear monaural hearing loss. The 7.5 percent hearing loss for the right ear (the ear with the lesser loss) when multiplied by 5 yields a product of 37.50. The 37.50 is then added to the 26.25 percent hearing loss for the left ear (the ear with the greater loss) to obtain a total of 63.75, which when divided by 6 represents a binaural loss of hearing of 10.63 percent. This figure was properly rounded to the closest whole number, 11 percent.¹²

The Office medical adviser applied the proper standards to the findings as stated in Dr. Samaddar's report and the accompanying May 20, 2005 audiogram. Accordingly, appellant failed to establish that he has greater than 11 percent binaural hearing loss.

On appeal appellant contends that the Office incorrectly determined May 20, 2005 to be the beginning date of his award. The Board disagrees. The beginning date for schedule awards is determined by the date of maximum medical improvement.¹³ In the instant case the Office medical adviser determined the date of maximum medical improvement was May 20, 2005. The record contains no medical evidence establishing that maximum medical improvement occurred on another date. Thus, the Board finds the Office correctly determined the date of maximum medical improvement based upon the medical evidence of record and properly commenced the running of the schedule award.¹⁴

¹² Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4b(2)(b) (September 1994).

¹³ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Computing Compensation*, Chapter 2.901.14(a) (December 1995). The period of a schedule award commences on the date of maximum medical improvement, which means that the physical condition of the injured member of the body is stabilized and will not improve further. See *Eugenia L. Smith*, 41 ECAB 409 (1990).

¹⁴ Where the medical evidence establishes that the employee did, in fact, reach maximum improvement by such date, the determination is proper, assuming that it is made within a reasonable time after the date of maximum improvement. See *Eugenia L. Smith*, *supra* note 13.

CONCLUSION

The Board finds that the Office properly granted appellant a schedule award for 11 percent binaural hearing loss and correctly determined the beginning date of the award.

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 6, 2005 is affirmed.

Issued: May 11, 2006
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

David S. Gerson, Judge
Employees' Compensation Appeals Board

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