

award.¹ In response, the Office referred the case file to Dr. David N. Schindler, a Board-certified otolaryngologist, to determine if appellant's accepted hearing loss was sufficient to warrant a schedule award. In a report dated April 30, 2006, Dr. Schindler found that, based on the January 27, 2005 audiogram, appellant did not have a ratable hearing loss. In a decision dated September 5, 2006, the Office denied appellant's claim for a schedule award. The Office explained that appellant's accepted hearing loss was not severe enough to be considered ratable.

LEGAL PRECEDENT

Section 8107 of the Federal Employees' Compensation Act sets forth the number of weeks of compensation to be paid for the permanent loss of use of specified members, functions and organs of the body.² The Act, however, does not specify the manner by which the percentage loss of a member, function or organ shall be determined. To ensure consistent results and equal justice under the law, good administrative practice requires the use of uniform standards applicable to all claimants. The implementing regulations have adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment* as the appropriate standard for evaluating schedule losses.³ Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5th ed. 2001).⁴

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.⁵ 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.⁶ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁷ 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, and then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.⁸

ANALYSIS

In reviewing appellant's January 27, 2005 audiogram, the frequency levels recorded at 500, 1,000, 2,000 and 3,000 hertz for the right ear reveal decibel losses of 15, 10, 10 and 30,

¹ Appellant did not file a claim for a schedule award (Form CA-7) until August 25, 2006.

² The Act provides that, for complete, or 100 percent loss of hearing in one ear, an employee shall receive 52 weeks' compensation. For complete loss of hearing of both ears, an employee shall receive 200 weeks' compensation. 5 U.S.C. § 8107(c)(13) (2000).

³ 20 C.F.R. § 10.404 (2006).

⁴ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003).

⁵ A.M.A., *Guides* 250 (5th ed. 2001).

⁶ *Id.*

⁷ *Id.*

⁸ *Id.*

respectively, for a total of 65 decibels. This figure when divided by 4 results in an average hearing loss of 16.25 decibels. The average loss of 16.25 is reduced by 25 decibels to 0, which represents no ratable 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 hertz revealed decibel losses of 15, 15, 15 and 50 decibels respectively, for a total of 95 decibels. Utilizing the above-noted formula, results in a zero percent monaural hearing loss for the left ear. Accordingly, appellant's most recent audiogram does not establish a ratable hearing loss for either ear.

CONCLUSION

Appellant does not have a ratable hearing loss. As such, he is not entitled to a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the September 5, 2006 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 26, 2007
Washington, DC

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

David S. Gerson, Judge
Employees' Compensation Appeals Board

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