



By letter dated September 4, 2007, the Office notified appellant that the materials submitted were insufficient for purposes of determining his eligibility for benefits under the Federal Employees' Compensation Act. The Office requested that he submit medical evidence and respond to a series of questions concerning his claim.<sup>1</sup>

Appellant submitted an employment history detailing his exposure to loud noise. From April 28, 1966 to February 28, 1970, appellant was employed by the United States Air Force and exposed to aircraft engine noise approximately five hours per day. From January 1, 1975 to June 29, 2003, appellant was employed by the Georgia Air National Guard as an aircraft ordinance system mechanic/utilities specialist and exposed to aircraft engine and heavy equipment noise three to four hours, one weekend a month. Since October 31, 1988, he was employed at the employing establishment as an aircraft mechanic. The noise sources he was exposed to consisted of air conditioning units, compressors, rivet guns, hammering, drill motors and impact guns from five to six hours a day and ear protection was provided.

Appellant submitted an unsigned medical report dated July 1, 2005 from Dr. Sean Peppard, a Board-certified otolaryngologist, who noted treating appellant for a May 24, 2005 head injury. He also submitted a June 3, 2005 audiogram report prepared for Dr. Peppard.

On January 30, 2008 the Office referred appellant, together with a statement of accepted facts, to Dr. Peppard for a second opinion examination. By report dated January 31, 2008, Dr. Peppard diagnosed appellant with sensorineural hearing loss and bilateral tinnitus. An audiogram conducted on January 30, 2008 reflected testing at 500, 1,000, 2,000 and 3,000 cycles per second (cps) levels and showed the following decibel losses: 20, 5, 10 and 30 in the right ear and 10, 10, 20 and 60 in the left ear. Dr. Peppard opined that appellant's hearing loss was due to noise exposure encountered in the performance of his federal civilian employment.

On February 14, 2008 the Office medical adviser reviewed Dr. Peppard's January 31, 2008 report and concluded that appellant had a bilateral sensorineural hearing loss but that it was not ratable for purposes of a schedule award.

By decision dated February 19, 2008, the Office accepted appellant's claim for bilateral sensorineural hearing loss but found that the extent of loss was not severe enough to be ratable. Therefore, appellant was not entitled to a schedule award under the Act.

### **LEGAL PRECEDENT**

Section 8107 of the 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. 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

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<sup>1</sup> Responding to the Office's letter, appellant submitted a June 3, 2005 medical report signed by a physician whose signature is illegible. Appellant also submitted unsigned medical notes dated June 2 and July 6, 2005. These notes lack any identification concerning their author. The Board notes that unsigned medical reports lacking adequate indication that they were completed by a physician are not considered probative medical evidence. See *D.D.*, 57 ECAB 734 (2006); *Merton J. Sills*, 39 ECAB 572, 575 (1988). Consequently, these notes are of no probative value and are insufficient to support appellant's claim.

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* (A.M.A., *Guides*) (5<sup>th</sup> ed. 2001) as the appropriate standard for evaluating schedule losses.<sup>2</sup> Effective February 1, 2001, schedule awards are determined in accordance with the A.M.A., *Guides* (5<sup>th</sup> ed. 2001).<sup>3</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>4</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>5</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>6</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 and then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss.<sup>7</sup>

Tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, the A.M.A., *Guides* allow up to five percent additional for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform activities of daily living.<sup>8</sup>

### ANALYSIS

The Office medical adviser applied the Office's standardized procedures to the January 30, 2008 audiograms obtained by Dr. Peppard. According to the Office's standardized procedures, testing at frequency levels of 500, 1,000, 2,000 and 3,000 cps revealed hearing loss of 20, 5, 10 and 30 in the right ear. These totaled 65 decibels, which, when divided by 4, obtained an average hearing loss of 16.25 decibels. The average of 16.25, when reduced by 25 decibels (the first 25 decibels are discounted as discussed above), equals 0 decibels which, when multiplied by the established factor of 1.5, produces a 0 percent hearing loss in the right ear.

Testing for the left ear at 500, 1,000, 2,000 and 3,000 cps levels showed hearing loss of 10, 10, 20 and 60 in the left ear. These totaled 100 decibels which, when divided by 4, obtains an average hearing loss of 25 decibels. The average of 25 decibels, reduced by 25 (the first 25 decibels are discounted as discussed above), equals 0 decibels which, when multiplied by the established factor of 1.5, produces a 0 percent hearing loss in the left ear.

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<sup>2</sup> 20 C.F.R. § 10.404 (2006).

<sup>3</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 (June 2003).

<sup>4</sup> A.M.A., *Guides* 250 (5<sup>th</sup> ed. 2001).

<sup>5</sup> *Id.*

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

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

<sup>8</sup> *Id.* at 246.

The evidence of record establishes that appellant has a mild bilateral sensorineural hearing loss causally related to his federal employment. However, the pertinent audiogram establishes that appellant's hearing threshold is within the confines of normal hearing and is not ratable for a schedule award. As appellant has no ratable hearing loss, he is not entitled to an award for his bilateral tinnitus. Therefore, the Office properly denied his claim for schedule award compensation based upon the medical evidence in the record.

**CONCLUSION**

The weight of the medical evidence does not establish a ratable hearing loss causally related to noise exposure in federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the decision of the Office of Workers' Compensation Programs dated February 19, 2008 is affirmed.

Issued: April 20, 2009  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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