

as a result of employment-related noise exposure. He noted that he was exposed to noise from body repair hammering, work truck engines, fire trucks, jackhammers, compressors, generators and working on vehicles inside the shop. Appellant first became aware of his condition and of its relationship to his employment on February 26, 2009.

By letter dated November 2, 2009, 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 appellant worked, the sources and period of noise exposure for each location and whether he wore ear protection.

In a December 1, 2009 statement, Steven Johnson, appellant's supervisor, stated that appellant was exposed to employment-related noise over the years from heavy mobile equipment in the shop area. He noted that appellant was exposed to this noise four times a week for 10 hours a day.

In a February 26, 2009 audiology report, Dr. J.W. Louing, a treating physician, reported that appellant was exposed to noise from prior military service, firearms, power tools and heavy machinery. He noted that appellant wore hearing protection and had a history of ringing in his ears.

OWCP referred appellant to Dr. Larry P. Conrad, a Board-certified otolaryngologist, for a second opinion evaluation on January 13, 2010. It prepared a statement of accepted facts addressing appellant's federal work duties as a heavy mobile equipment repairer and the types of employment-related noise he was exposed to. An audiogram was completed on January 13, 2010 which revealed the following decibel losses at 500, 1,000, 2,000 and 3,000 Hertz (Hz): 0, 5, 5 and 25 for the right ear and 5, 5, 5 and 20 for the left ear. Dr. Conrad diagnosed high frequency sensorineural hearing loss. He opined that the hearing loss was due to appellant's workplace noise exposure. Dr. Conrad 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 in the left and right ear and zero percent binaural hearing loss. He stated that appellant had reached maximum medical improvement and did not recommend hearing aids.

On January 28, 2010 an OWCP medical adviser reviewed Dr. Conrad's January 13, 2010 otologic examination report and agreed that appellant's bilateral high frequency sensorineural hearing loss was due to occupational noise exposure. He applied the audiometric data to OWCP's standard for evaluating hearing loss and determined that appellant had a zero percent monaural hearing loss in the left ear and a zero percent monaural hearing loss in the right ear. OWCP's medical adviser concluded that appellant had no ratable hearing loss and opined that hearing aids should not be authorized.

By decision dated February 10, 2010, OWCP accepted appellant's claim for bilateral hearing loss.

On August 30, 2011 appellant filed a claim for compensation (Form CA-7) for a schedule award.²

By decision dated September 9, 2011, OWCP denied appellant's schedule award claim finding that his hearing loss was not severe enough to be considered ratable. It further found that he would not benefit from hearing aids.

LEGAL PRECEDENT -- ISSUE 1

The schedule award provision of FECA³ 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 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.⁴

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 Hz, 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.⁵ 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.⁶

ANALYSIS -- ISSUE 1

Appellant filed a claim for bilateral hearing loss and was referred to Dr. Conrad for a second opinion examination. After reviewing the statement of accepted facts and medical file, conducting a thorough physical evaluation and obtaining an audiogram on January 13, 2010, Dr. Conrad diagnosed bilateral high frequency sensorineural hearing loss due to occupational noise exposure. OWCP's medical adviser concurred with this finding and further concluded that

² Appellant noted that he stopped work on October 26, 2010, the date of his retirement.

³ 5 U.S.C. §§ 8101-8193.

⁴ See *R.D.*, 59 ECAB 127 (2007); *Bernard Babcock, Jr.*, 52 ECAB 143 (2000).

⁵ See A.M.A., *Guides* 250.

⁶ See *E.S.*, 59 ECAB 249 (2007); *Donald Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

appellant had no ratable hearing loss to warrant a schedule award or hearing aids. OWCP accepted appellant's occupational disease claim for bilateral hearing loss. By decision dated September 9, 2011, it denied appellant's schedule award claim and authorization for hearing aids.

The Board finds that OWCP properly denied appellant's schedule award claim. According to the audiometry obtained on January 13, 2010, appellant's hearing thresholds were 0, 5, 5 and 25 on the right and 5, 5, 5 and 20 on the left. These total 35 and 35 decibels, respectively, for averages of 8.75 and 8.75 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.⁷ This does not mean that he has no 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, OWCP's medical adviser applied the proper standards to the January 13, 2010 audiogram. Appellant's hearing loss was not ratable. For this reason, the Board finds that OWCP properly denied a schedule award for appellant's 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.

LEGAL PRECEDENT -- ISSUE 2

Section 8103(a) of FECA provides that the United States shall furnish to an employee who is injured while in the performance of duty the services, appliances and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduces the degree or the period of any disability or aid in lessening the amount of any monthly compensation.⁸ OWCP must therefore exercise discretion in determining whether the particular service, appliance or supply is likely to affect the purposes specified in FECA.⁹ Following medical evaluation of a claim, if the hearing loss is determined to be nonratable for schedule award purposes, other benefits such as hearing aids may still be payable if any employment-related hearing loss exists.¹⁰

ANALYSIS -- ISSUE 2

The Board finds that the medical evidence of record supports that appellant is not entitled to hearing aids. There is no medical evidence from a physician recommending that he be provided with hearing aids or any other medical treatment for his employment-related hearing

⁷ See *L.F.*, Docket No. 10-2115 (issued June 3, 2011).

⁸ See *Joshua A. Holmes*, 42 ECAB 231, 236 (1990).

⁹ 5 U.S.C. § 8103.

¹⁰ See *F.D.*, Docket No. 10-1175 (issued January 4, 2011); Federal (FECA) Procedure Manual, Part 3 -- Medical, *Medical Services and Supplies*, Chapter 3.4003(d)(2) (October 1990).

loss. Both Dr. Conrad and OWCP's medical adviser found that appellant did not require hearing aids. The Board finds that under these circumstances OWCP did not abuse its discretion under section 8103(a) by denying authorization for hearing aids.¹¹

CONCLUSION

The Board finds that appellant has not established a ratable loss of hearing such that he is entitled to a schedule award. The Board also finds that OWCP did not abuse its discretion in denying authorization for hearing aids.

ORDER

IT IS HEREBY ORDERED THAT the September 9, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 20, 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

¹¹ This does not preclude appellant from seeking authorization for hearing aids or other appropriate medical treatment. See Federal (FECA) Procedure Manual, *supra* note 10; *Raymond VanNett*, 44 ECAB 480 (1993).