



## **FACTUAL HISTORY**

On July 6, 2011 appellant, then a 54-year-old pipefitter, filed an occupational disease claim (Form CA-2) alleging that he developed hearing loss as a result of employment-related noise exposure. He first became aware of his condition and of its relationship to his employment on June 17, 2011. Appellant noted that he was still exposed to noise in his employment and notified his supervisor on July 25, 2011.

By letter dated August 1, 2011, OWCP requested additional factual information from both appellant and the employing establishment. Appellant was requested to provide information regarding his employment history, when he related his hearing loss to conditions of employment and all nonoccupational exposure to noise. OWCP also requested that he 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.

By letter dated August 8, 2011, the employing establishment reported that appellant was in a hearing conservation program. It noted that he was still employed and exposed to hazardous noise at Puget Sound Naval Shipyard (PSNS). An official position description for a PSNS mechanic pipefitter was provided.

By letter dated August 9, 2011, appellant reported that he was exposed to noise from grinders, saws, copping guns, deck crawlers and ventilation fans from his employment at PSNS. He stated that he was employed as a PSNS pipefitter since 1982 and was provided ear protection during his employment. Appellant further stated that he did not have any previous hearing problems.

An audiometric case history, dated November 30, 1982 to June 16, 2011, containing hearing conservation data was submitted.

On July 6, 2011 an audiogram was completed which revealed the following decibels (dBA) losses at 500, 1,000, 2,000 and 3,000 cycles per second: 5, 5, 5 and 30 for the right ear and 10, 0, 25 and 50 for the left ear. Speech reception thresholds were 5 dBA on the right and 15 dBA on the left. The audiologist reported that appellant did not suffer from monaural or binaural hearing loss.

In a July 12, 2011 medical report, Dr. Gerald G. Randolph, a Board-certified otolaryngologist, reported that appellant complained of progressive hearing loss for approximately 20 years and experienced a constant tinnitus in both ears for approximately 5 years. He noted that the tinnitus did not interfere with aspects of normal daily living. Dr. Randolph stated that appellant worked for the naval shipyard since 1982. Upon review of appellant's July 6, 2011 audiogram, he diagnosed bilateral sensorineural hearing loss due to noise exposure from his federal employment. Dr. Randolph further noted discrimination scores measured at 92 percent in the right ear and 96 percent in the left ear. In accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent*

*Impairment*<sup>2</sup> (A.M.A., *Guides*), he applied the audiometric data to OWCP's standard for evaluating hearing loss and determined that appellant had zero percent monaural hearing loss in the left ear, zero percent monaural hearing loss in the right ear and zero percent binaural hearing loss.<sup>3</sup> Dr. Randolph noted no additional rating for tinnitus and concluded that appellant was a candidate for hearing aids.

On September 21, 2011 OWCP requested that Dr. Randolph provide clarification of his opinion and provided him with a series of questions, appellant's industrial audiograms and a statement of accepted facts regarding his employment history.

In a September 29, 2011 report, Dr. Randolph reviewed the case file and reported that appellant's earliest audiogram of November 30, 1982 revealed normal hearing in the right ear and evidence of a very mild high tone sensorineural hearing loss in the left ear. The July 6, 2011 audiogram revealed a bilateral high frequency sensorineural hearing loss compatible with hearing loss largely caused by noise exposure. Dr. Randolph stated that appellant's hearing loss had significantly increased since the 1982 audiogram and was in excess of that which would normally be predicted on the basis of presbycusis. In accordance with the sixth edition of the A.M.A., *Guides*, appellant's July 6, 2011 audiogram revealed that he had a ratable hearing loss of zero percent in both ears.<sup>4</sup> Dr. Randolph opined that appellant's hearing loss was caused by his federal employment and noted that he was a candidate for hearing aids.

On November 8, 2011 Dr. L. Weaver, OWCP's medical adviser and Board-certified otolaryngologist, reviewed Dr. Randolph's report and applied the audiometric data to OWCP's standard for evaluating hearing loss. The medical adviser determined that, in accordance with the sixth edition of the A.M.A., *Guides*, appellant had zero percent monaural hearing loss in the left ear, zero percent monaural hearing loss in the right ear and no ratable hearing loss.<sup>5</sup> The medical adviser concluded that hearing aids should be authorized.

By decision dated December 1, 2011, OWCP accepted appellant's claim for bilateral sensory hearing loss.

On December 8, 2011 appellant filed a claim for a schedule award.

By decision dated December 12, 2011, OWCP denied appellant's schedule award claim finding that his hearing loss was not severe enough to be considered ratable.

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<sup>2</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>3</sup> *Id.* at 252, Table 11-2.

<sup>4</sup> *Id.*

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

## LEGAL PRECEDENT

The schedule award provision of FECA<sup>6</sup> 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* (6<sup>th</sup> ed. 2009), has been adopted by OWCP for evaluating schedule losses and the Board has concurred in such adoption.<sup>7</sup>

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 cycles per second, the losses at each frequency are added up and averaged. Then, the fence of 25 dBA is deducted because, as the A.M.A., *Guides* points out, losses below 25 dBA result in no impairment in the ability to hear everyday speech under everyday conditions.<sup>8</sup> 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.<sup>9</sup>

Regarding tinnitus, the A.M.A., *Guides* provide that tinnitus is not a disease but rather a symptom that may be the result of disease or injury.<sup>10</sup> The A.M.A., *Guides* state that, if tinnitus interferes with [Activities of Daily Living (ADLs)], including sleep, reading (and other tasks requiring concentration), enjoyment of quiet recreation and emotional well being, up to five percent may be added to a measurable binaural hearing impairment.<sup>11</sup>

## ANALYSIS

Appellant filed a claim for bilateral hearing loss and OWCP requested that Dr. Randolph provide clarification on his July 12, 2011 otologic report. After reviewing the statement of accepted facts and medical file, conducting a thorough physical evaluation and obtaining an audiogram on July 6, 2011, Dr. Randolph diagnosed bilateral high frequency sensorineural hearing loss due to occupational noise exposure and opined that appellant had no ratable hearing

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<sup>6</sup> 5 U.S.C. §§ 8101-8193.

<sup>7</sup> See *R.D.*, 59 ECAB 127 (2007); *Bernard Babcock, Jr.*, 52 ECAB 143 (2000).

<sup>8</sup> See A.M.A., *Guides* 250.

<sup>9</sup> 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).

<sup>10</sup> See A.M.A., *Guides* 249.

<sup>11</sup> *Id.* See also *R.H.*, Docket No. 10-2139 (issued July 13, 2011); *Robert E. Cullison*, 55 ECAB 570 (2004).

loss. OWCP's medical adviser concurred with this finding and concluded that appellant had no ratable hearing loss to warrant a schedule award. Hearing aids were authorized. OWCP accepted appellant's occupational disease claim for bilateral hearing loss. By decision dated December 12, 2011, it denied his schedule award claim.<sup>12</sup>

The Board finds that OWCP properly denied appellant's schedule award claim. According to the audiometry obtained on July 6, 2011, appellant's hearing thresholds were 5, 5, 5 and 30 on the right and 10, 0, 25 and 50 on the left. These total 45 and 85 dBA, respectively, for averages of 11.25 and 21.25 dBA. Because these averages are below the fence of 25 dBA, appellant is deemed to have no impairment in his ability to hear everyday sounds under everyday listening conditions.<sup>13</sup> 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 July 6, 2011 audiogram. Appellant's hearing loss was not ratable. For this reason, the Board finds that OWCP properly denied a schedule award for his nonratable hearing loss.

The Board further finds that OWCP properly denied a schedule award for tinnitus.<sup>14</sup> FECA does not list tinnitus in the schedule of eligible members, organs or functions of the body. Therefore, no claimant may directly receive a schedule award for tinnitus. Hearing loss is a covered function of the body, so if tinnitus contributes to a ratable loss of hearing, a claimant's schedule award will reflect that contribution. The A.M.A., *Guides* provide that, if tinnitus interferes with ADLs, up to five percent may be added to a measurable binaural hearing impairment.<sup>15</sup> The Board has repeatedly held, however, that there is no basis for paying a schedule award for a condition such as tinnitus unless the evidence establishes that the condition caused or contributed to a ratable hearing loss.<sup>16</sup> Though Dr. Randolph's July 12, 2011 report noted that appellant experienced a constant tinnitus in both ears, he stated that this did not impact appellant's ADLs and that no additional rating for tinnitus was warranted. As appellant's hearing loss is not ratable, the Board will affirm OWCP's December 12, 2011 decision finding that he was not entitled to a schedule award.

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.

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<sup>12</sup> This does not preclude appellant from seeking authorization for hearing aids or other appropriate medical treatment. See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Medical Services and Supplies*, Chapter 3.400.3(d)(2) (October 1990); *Raymond VanNett*, 44 ECAB 480 (1993).

<sup>13</sup> See *L.F.*, Docket No. 10-2115 (issued June 3, 2011).

<sup>14</sup> *G.M.*, Docket No. 11-1295 (issued January 25, 2012).

<sup>15</sup> See *supra* note 10.

<sup>16</sup> See *Richard Larry Enders*, 48 ECAB 184 (1996).

**CONCLUSION**

The Board finds that appellant has not established a ratable loss of hearing such that he is entitled to a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 12, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 9, 2012  
Washington, DC

Richard J. Daschbach, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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