

FACTUAL HISTORY

On June 9, 2010 appellant, then a 65-year-old sheet metal worker, filed an occupational disease claim alleging that he sustained a bilateral hearing loss due to work-related noise exposure. He stated that he was exposed to noise from loud machines, presses and air tools in the workshop. Appellant realized that his condition was caused or related to his employment on June 29, 1993. He retired on April 30, 2005.

By letter dated June 18, 2010, OWCP advised appellant of the additional evidence needed to establish his claim.

OWCP received a January 21, 2005 employing establishment audiogram showing the following decibel losses at 500, 1,000, 2,000 and 3,000 Hertz (Hz): 5, 10, 15 and 35 for the right ear and 10, 10, 40 and 65 for the left ear.

In a letter dated July 13, 2010, the employing establishment concurred with appellant's noise history and provided OWCP with a sheet metal shop noise survey report. It noted that he had noise exposure for eight hours daily and that he was part of its hearing conservation program.

On November 4, 2010 OWCP accepted that appellant was last exposed to noise on April 29, 2005 the day before he retired. It noted that his noise exposure with the employing establishment occurred from February 1984 to April 30, 2005.

On November 5, 2010 OWCP referred appellant, together with a statement of accepted facts, to Dr. Clifford N. Steinig, a Board-certified otolaryngologist, for a second opinion evaluation regarding the nature and extent of hearing loss.

In a November 22, 2010 report, Dr. Steinig reviewed appellant's history of noise exposure and treatment. His findings included that impedance audiometry was normal bilaterally, indicating no fluid in either middle ear or normal Eustachian tube function. Dr. Steinig advised that the audiometric study showed that appellant's hearing was within normal limits through 2,000 cycles per second in the right ear and through 1,000 cycles per second in the left ear, with a binaural moderately severe sensorineural loss in the higher frequencies. He found that appellant's hearing was a bit worse in his left ear, which explained why tinnitus was present in that ear. Dr. Steinig opined that appellant had a significant binaural sensorineural loss, which worsened over the years with exposure to loud noise as a civilian employee. He recommended hearing aids in both ears. Dr. Steinig submitted the November 22, 2010 audiogram which revealed the following decibel losses at 500, 1,000, 2,000 and 3,000 Hz: 0, 5, 15 and 45 for the right ear and 0, 0, 45 and 60 for the left ear.

On December 3, 2010 OWCP accepted appellant's claim for bilateral sensorineural hearing loss due to his employment-related noise exposure.

In a January 3, 2011 report, an OWCP medical adviser reviewed Dr. Steinig's November 22, 2010 report and audiologic testing. Applying OWCP's standardized procedures to this evaluation, he determined that appellant had a 1.88 percent hearing loss in the left ear pursuant to the American Medical Association, *Guides to the Evaluation of Permanent*

Impairment (A.M.A., *Guides*) (6th ed. 2009). Decibel losses for the left ear were totaled at 105 and divided by four, to obtain the average hearing loss per cycle of 26.25. The 26.25 average was then reduced by the 25 decibel fence to equal 1.25 multiplied by 1.5 decibels, resulting in a 1.88 percent left monaural loss. Decibel losses for the right ear were totaled at 65 and divided by four, to obtain the average hearing loss per cycle of 16.25. The 16.25 average was then reduced by the 25 decibel fence to equal 0 decibels, resulting in a zero percent right monaural loss. The medical adviser recommended the authorization of a hearing aid for the left ear. He determined that appellant had zero percent binaural hearing loss and reached maximum medical improvement on November 22, 2010.

In a letter dated March 15, 2011, OWCP advised appellant that the medical adviser determined that he was eligible for a schedule award of two percent for the left ear. It noted that a hearing aid was authorized for the left ear. OWCP also advised appellant that he must file a claim for his schedule award. On March 25, 2011 appellant requested a schedule award and submitted a Form CA-7.

By decision dated May 17, 2011, OWCP granted appellant a schedule award for two percent monaural hearing loss of the left ear. The period of the award was from November 22 to 29, 2010 to last 1.04 weeks.

LEGAL PRECEDENT

The schedule award provision of FECA² and its implementing regulations³ 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. However, FECA does not specify the manner in which the percentage of loss 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 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*.⁵ 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.⁶ Then, the fence of 25 decibels is deducted. 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, then added to the greater loss and

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404.

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

⁵ Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(b) (January 2010).

⁶ *Id.*

⁷ *Id.*

the total is divided by six to arrive at the amount of the binaural hearing loss.⁸ The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.⁹

The Board has also noted OWCP's policy to round the calculated percentage of impairment to the nearest whole number.¹⁰

ANALYSIS

OWCP referred appellant to Dr. Steinig to determine the extent and degree of any employment-related hearing loss. Dr. Steinig evaluated appellant on November 22, 2010 and determined that he sustained bilateral sensorineural hearing loss due to noise exposure encountered in his federal employment.

OWCP's medical adviser, reviewed Dr. Steinig's report and audiometric findings and properly applied OWCP's standardized procedures to rate two percent monaural hearing loss impairment in the left ear. The Board finds that the medical report submitted by the medical adviser conforms to applicable criteria and constitutes the weight of the medical evidence. In a report dated January 3, 2011, the medical adviser reviewed the November 22, 2010 audiogram, which recorded frequency levels at the 500, 1,000, 2,000 and 3,000 cycles per second levels and revealed decibel losses of 0, 5, 15 and 45 respectively in the right ear for a total decibel loss of 65 on the right. The medical adviser followed established procedures and divided this total by 4 which resulted in an average loss of 16.25 decibels and subtracted the fence of 25 decibels to equal -8.75 decibels. He then multiplied this by the established factor of 1.5 to result in a 0 percent monaural hearing loss for the right ear.

The medical adviser followed the same procedure on the left, noting that the test results for the left ear at the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibel losses of 0, 0, 45 and 60 decibels respectively, for a total of 105 decibels. He divided this by 4, for an average hearing loss of 26.25 decibels, subtracted the fence of 25 decibels to equal 1.25 decibels and multiplied this by the established factor of 1.5, for a 1.875 percent monaural hearing loss for the left ear, rounded up to 2 percent.¹¹ The weight of medical evidence established that appellant was entitled to a schedule award for a 2 percent monaural hearing loss of the left ear.¹²

On appeal, appellant contends that he has constant ringing in his left ear and questions the amount of his award based on the recommendation of hearing aids. The Board notes that hearing aids were authorized for the left ear but the medical adviser found no medical basis for a right ear

⁸ *Id.*

⁹ See *Donald Stockstad*, 53 ECAB 301 (2002), *petition for recon., granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

¹⁰ *Robert E. Cullison*, 55 ECAB 570 (2004); *J.H.*, Docket No. 08-2432 (issued June 15, 2009). See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(b)(2)(b) (September 2010).

¹¹ *Id.*

¹² See *S.G.*, 58 ECAB 383 (2007).

hearing aid. OWCP properly relied upon the opinion of the medical adviser who computed the percentage of appellant's hearing loss based on the formula contained in the A.M.A., *Guides*.¹³ Although the A.M.A., *Guides* allows for compensation of up to five percent for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform activities of daily living, there is presently no medical evidence that appellant's tinnitus interferes with activities of daily living.¹⁴ 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.

CONCLUSION

The Board finds that appellant has failed to establish that he sustained more than a two percent monaural hearing loss of the left ear, for which he received a schedule award.

¹³ The only other audiogram of record, the January 21, 2005 employing establishment audiogram, may not be the basis of an impairment rating as it was not certified by a physician. *E.S.*, Docket No. 11-1724 (issued March 27, 2012); see *Joshua A. Holmes*, 42 ECAB 231 (1990) (while OWCP should evaluate audiograms from a physician that are made within about two years of each other and are submitted by more than one specialist, OWCP does not have to review an audiogram which has not been certified by a physician).

¹⁴ See A.M.A., *Guides* 249; see *S.G.*, *supra* note 12.

ORDER

IT IS HEREBY ORDERED THAT the May 17, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: July 3, 2012
Washington, DC

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

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

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