

was exposed to loud noises from truck engines, pneumatic tools, impact guns, air hoses and air compressors. Appellant was given hearing protection. He submitted results of audiograms from 1981 to 2001 and October 25, 2010 which showed varying degrees of bilateral hearing loss. Appellant retired from the employing establishment on January 3, 2003, his last date of exposure to loud noise.

On August 15, 2011 OWCP referred appellant with a statement of accepted facts to Dr. Eugenia S. Gray, an otolaryngologist, for a second opinion. In a September 7, 2011 report, Dr. Gray diagnosed moderate-to-severe left sensorineural loss and right profound high frequency sensorineural hearing loss and opined that this condition was due to noise exposure at appellant's federal employment. He indicated that there was significant asymmetry in hearing loss between the right and left ears, noting that the loss in the right ear was not measurable. Dr. Gray recommended ear protection and hearing aids. An audiogram performed on Dr. Gray's behalf on September 7, 2011 reflected testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second (cps) and revealed the following decibel losses: 60, 65, 70 and 75 for the left ear and no measurable rating for the right ear. Based on these results and in accordance with American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6th ed.) (A.M.A., *Guides*), Dr. Gray determined that appellant had a 64 percent hearing loss in the left ear and a zero percent loss in the right ear.

In an October 12, 2010 decision, OWCP accepted appellant's claim for binaural hearing loss.

In a January 10, 2011 report, an OWCP medical adviser reviewed Dr. Gray's report and audiometric test results. He concurred with Dr. Gray's findings that appellant had a 64 percent left-sided sensorineural hearing loss and a 0 percent bilateral hearing loss in the right ear. The medical adviser determined that the date of maximum medical improvement was September 7, 2011, the date of Dr. Gray's examination. He authorized hearing aids.

On November 3, 2011 appellant filed a Form CA-7 claim for a schedule award based on an alleged binaural hearing loss.

By decision dated March 6, 2012, OWCP granted appellant a schedule award for a 64 percent monaural hearing loss in the left ear. This award covered the period September 7, 2011 to April 26, 2012, for a total of 33.28 weeks of compensation.

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

² 5 U.S.C. § 8107.

³ 20 C.F.R. § 10.404. Effective May 1, 2009, OWCP began using the A.M.A., *Guides* (6th ed. 2009).

all claimants. The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.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 cps, 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 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

ANALYSIS

OWCP accepted that appellant sustained a bilateral hearing loss due to noise. It developed the claim by referring him to Dr. Gray. On September 7, 2011 Dr. Gray examined appellant and an audiogram was obtained on the physician's behalf. He found, using OWCP's standard procedures, that appellant's noise exposure in his federal employment was sufficient to cause a 64 percent hearing loss in the left ear and a 0 percent hearing loss in the right ear. The September 7, 2011 audiogram tested decibel losses at 500, 1,000, 2,000 and 3,000 cps and recorded decibel losses of 60, 65, 70 and 75 respectively in the left ear. The total decibel loss in the left ear is 270. When divided by 4, the result is an average hearing loss of 67.50 decibels. The average of 67.50 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 42.50 decibels, which when multiplied by the established factor of 1.5 computes a 63.75 percent hearing loss in the left ear. The audiogram for the right ear did not produce measurable results except at 1,000 cps, which recorded a decibel loss of 100. Dr. Gray found no ratable hearing loss in the right ear, which resulted in a zero percent hearing loss in the right ear. OWCP's medical adviser concurred in this finding, which OWCP relied on in granting appellant a 64 percent monaural schedule award. As there was no other medical evidence showing that appellant had a greater hearing loss causally related to employment factors, the Board affirms OWCP's March 6, 2012 schedule award.

Although appellant submitted results from audiometric testing performed from 1981 to 2001 and on October 25, 2010, these audiograms are insufficient to satisfy appellant's burden of proof as they do not comply with the requirements set forth by OWCP. These tests lack speech testing and bone conduction scores and were not prepared or certified as accurate by a physician

⁴ *Id.*

⁵ Federal (FECA) Procedure Manual, Part 3 -- Schedule Awards, *Special Determinations*, Chapter 2.700.4.b (January 2010).

⁶ *Id.*

⁷ *Id.*

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).

as defined by FECA. None of the audiograms were accompanied by a physician's opinion addressing how his employment-related noise exposure caused or aggravated any hearing loss. OWCP is not required to rely on this evidence in determining the degree of appellant's hearing loss because it does not constitute competent medical evidence and, therefore, is insufficient to satisfy appellant's burden of proof.¹⁰ Dr. Gray provided a thorough examination and a reasoned opinion explaining how the findings on examination and testing were due to the noise in appellant's employment. The Board finds that Dr. Gray's report represents the weight of the evidence.

Appellant may request a schedule award or increased schedule award based on evidence of 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 no greater than a 64 percent monaural hearing loss of the left ear causally related to his federal employment, for which OWCP granted him a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the March 6, 2012 decision of the Office of Workers' Compensation Programs be affirmed.

Issued: October 17, 2012
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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

¹⁰ *Joshua A. Holmes*, 42 ECAB 231, 236 (1990).