

employment-related noise exposure from loud presses, shears and air tools. He was last exposed to employment-related noise on January 1, 2006 when he retired.

By letter dated June 18, 2010, OWCP requested additional factual information from both appellant and the employing establishment. Appellant was asked 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.

Appellant responded that he first noticed his hearing loss in 1994. He stated that he was exposed to noise from 1968 to 1970 when he worked for the U.S. Army in Vietnam. From 1978 to 2006, appellant worked for the Department of the Army as a sheet metal worker where he was exposed to noise from sheet metal machines, brakes, sheers, punch presses, grinders, machines, air hammers and air rivet guns. He stated that he did not have any hobbies with loud noises.

By letter dated July 13, 2010, the employing establishment stated that appellant worked in the sheet metal shop and was exposed to employment-related noise for eight hours a day until he retired on March 1, 2006. It provided a sheet metal shop noise survey report. Several areas in the shop were surveyed by running different equipment and operations. Noise exposure data ranged from 66.8 decibels measured on the A-scale (dBA) to 105.3 dBA. The employing establishment also provided audiograms from a hearing conservation program dated February 21, 1978 to February 23, 2006.

OWCP referred appellant, together with a statement of accepted facts, to Dr. Clifford N. Steinig, an osteopath, for a second opinion evaluation. An audiogram was completed on December 6, 2010 which revealed the following dBA losses at 500, 1000, 2000 and 3000 hertz (Hz): 5, 15, 20 and 80 for the right ear and 10, 25, 20 and 60 for the left ear. Speech reception thresholds were 20 decibel on the left and right, while speech discrimination scores were 88 percent on the right and 96 percent on the left. Dr. Steinig reported that appellant complained of hearing problems getting gradually worse over the past 25 years. He noted that appellant had no vertigo but did notice slight tinnitus. Dr. Steinig stated that speech reception and discrimination scores were okay. Upon review of appellant's audiogram, he diagnosed severe binaural sensorineural hearing loss in the higher frequencies. Dr. Steinig stated that appellant's hearing had gradually worsened over the years during his federal employment. He opined that the hearing loss was secondary to noise exposure at his federal employment and recommended hearing aids.

By decision dated December 10, 2010, OWCP accepted appellant's claim for binaural sensorineural hearing loss.

On September 20, 2011 appellant filed a claim for a schedule award.

On September 26, 2011 OWCP referred the case file to an OWCP medical adviser to determine the extent of appellant's hearing loss and permanent impairment due to his employment-related noise exposure.

On October 4, 2011, an OWCP medical adviser reviewed appellant's case file. Applying the standard provided by the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*² (A.M.A., *Guides*) to the December 6, 2010 audiometric data, the medical adviser determined that appellant sustained 5.94 percent binaural hearing loss. The medical adviser averaged appellant's right ear hearing levels of 5, 15, 20 and 80 decibels at 500, 1,000, 2,000 and 3,000 Hz, which totaled 120. He divided this amount by 4 to total 30. The medical adviser then subtracted a 25 decibel fence and multiplied the balance of 5 by 1.5 to find 7.5 percent right ear monaural hearing loss. He then added appellant's left ear hearing levels of 10, 25, 20 and 60 decibels at 500, 1,000, 2,000 and 3,000 Hz, which totaled 115, when divided by four to total 28.75. After subtracting out a 25 decibel fence, the medical adviser multiplied the remaining 3.75 balance by 1.5 to calculate a 5.63 percent left ear monaural hearing loss. He then calculated 5.94 percent binaural hearing loss by multiplying the lesser left ear loss of 5.63 percent by 5, adding the greater 7.5 percent left ear loss and dividing this sum by 6. The medical adviser did not find any impairment due to tinnitus. He concluded that a schedule award was supported by appellant's noise exposure during his federal employment. Hearing aids were authorized and the date of maximum medical improvement was noted as December 6, 2010.

By decision dated November 29, 2011, OWCP granted appellant a schedule award for 6 percent binaural hearing loss (rounding up from 5.94 percent). The award covered a period of 12 weeks from March 1 to May 23, 2006.

LEGAL PRECEDENT

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 cycles per second, 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

² A.M.A., *Guides* (6th ed. 2009).

³ 5 U.S.C. §§ 8101-8193.

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

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

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.⁷ 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.⁸

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to OWCP's medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the medical adviser providing rationale for the percentage of impairment specified.⁹ It may follow the advice of its medical adviser or consultant where he or she has properly utilized the A.M.A., *Guides*.¹⁰

ANALYSIS

OWCP referred appellant, together with a statement of accepted facts, to Dr. Clifford N. Steinig, a physician of osteopathic medicine, for a second opinion evaluation. An audiogram was completed on December 6, 2010 which revealed the following decibel losses at 500, 1,000, 2,000 and 3,000 Hz: 5, 15, 20 and 80 for the right ear and 10, 25, 20 and 60 for the left ear. Speech reception thresholds were 20 decibel on the left and right, while speech discrimination scores were 88 percent on the right and 96 percent on the left. Dr. Steinig noted that appellant had no vertigo but did notice slight tinnitus. He stated that speech reception and discrimination scores were okay. Dr. Steinig opined that the hearing loss was secondary to noise exposure at his federal employment and recommended hearing aids.

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).

⁷ See A.M.A., *Guides* 249.

⁸ *Id. R.H.*, Docket No. 10-2139 (issued July 13, 2011); see also *Robert E. Cullison*, 55 ECAB 570 (2004).

⁹ See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(d) (August 2002).

¹⁰ See *Ronald J. Pavlik*, 33 ECAB 1596 (1982).

By decision dated December 10, 2010, OWCP accepted appellant's claim for binaural sensorineural hearing loss. It then properly referred the medical evidence to an OWCP medical adviser, for a rating of permanent impairment in accordance with the A.M.A., *Guides*.¹¹

On October 4, 2011, the medical adviser applied the findings of the December 6, 2010 audiogram to calculate six percent binaural hearing loss. He averaged appellant's right ear hearing levels of 5, 15, 20 and 80 decibels at 500, 1000, 2000 and 3000 Hz, which totaled 120. When divided by 4, this average 30. The medical adviser then subtracted a 25 decibel fence and multiplied the balance of 5 by 1.5 to find 7.5 percent right ear monaural hearing loss. He then added appellant's left ear hearing levels of 10, 25, 20 and 60 decibels at 500, 1,000, 2,000 and 3,000 Hz, which totaled 115. When divided by four, this averaged 28.75.¹² After subtracting out a 25 decibel fence, the medical adviser multiplied the remaining 3.75 balance by 1.5 to calculate a 5.63 percent left ear monaural hearing loss. He then calculated 5.94 percent binaural hearing loss by multiplying the lesser left ear loss of 5.63 percent by 5, adding the greater 7.5 percent left ear loss and dividing this sum by 6.¹³ The Board finds that the medical adviser properly applied the A.M.A., *Guides* in calculating that appellant sustained six percent binaural hearing loss.

The medical adviser did not find any impairment due to tinnitus. Regarding tinnitus, the A.M.A., *Guides* states, tinnitus in the presence of unilateral or bilateral hearing impairment may impair speech discrimination. Therefore, add 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.¹⁴ Dr. Steinig briefly commented that appellant noticed tinnitus, he did not diagnose tinnitus or describe how this condition impacted appellant's activities of daily living.¹⁵ Further, appellant's discrimination scores of 88 percent in the right ear and 96 percent in the left ear do not demonstrate a substantial impairment of his speech discrimination.¹⁶ The record does not contain adequate medical evidence that he developed tinnitus which impacted the activities of his daily living, he is not entitled to an additional schedule award for this condition.¹⁷ Thus, the medical adviser properly applied the A.M.A., *Guides* in calculating appellant's impairment rating and OWCP correctly relied on his opinion to find that he sustained six percent binaural hearing loss.¹⁸ The Board finds that there is no evidence of greater impairment.

A schedule award provides for payment of compensation for a specific number of weeks as prescribed by the statute.¹⁹ FECA provides that a claimant is entitled to 52 weeks of

¹¹ See *Hildred I. Lloyd*, 42 ECAB 944 (1991).

¹² A.M.A., *Guides* 249.

¹³ *Id.* at 250.

¹⁴ *Id.* at 249.

¹⁵ *R.G.*, Docket No. 11-19 (issued August 3, 2011); *J.P.*, Docket No. 09-1520 (issued March 1, 2010).

¹⁶ *Id.* See also *S.G.*, 58 ECAB 383 (2007).

¹⁷ See *R.D.*, Docket No. 07-379 (issued October 2, 2007).

¹⁸ See *Linda Beale*, 57 ECAB 429 (2006).

¹⁹ 5 U.S.C. § 8107.

compensation for a 100 percent loss of hearing in one ear and 200 weeks compensation for 100 percent hearing loss in both ears. Multiplying six percent by the 200 weeks provided for binaural hearing loss results in a total of 12 weeks of compensation. Thus, the Board finds that OWCP properly determined the number of weeks of compensation.

On appeal, appellant argues that he has had ongoing hearing loss from his employment-related noise exposure. He noted that there had been no improvement in his hearing after receiving 12 weeks of compensation and requested an increased schedule award due to the lasting effect of his disability. As noted, Dr. Steinig provided no opinion specifically addressing the impact of tinnitus on appellant's activities of daily living. Therefore, neither the medical adviser nor OWCP were required to factor in the impact of tinnitus on appellant's hearing loss.²⁰ Based on the evidence on appeal the Board finds that appellant has not established tinnitus as compensable.²¹ OWCP properly determined that appellant was entitled to 12 weeks of compensation based on six percent binaural hearing loss in accordance with FECA.²²

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 did not establish that he sustained greater than six percent binaural hearing loss for which he received a schedule award.

²⁰ See *Juan A. Trevino*, 54 ECAB 356, 358 (2003).

²¹ *A.M.A.*, *Guides* 249; see also *R.G.*, Docket 11-19 (issued August 3, 2011); *R.D.*, Docket No. 07-379 (issued October 2, 2007).

²² *Supra* note 19.

ORDER

IT IS HEREBY ORDERED THAT the November 29, 2011 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: September 14, 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