



2008 and realized that it was causally related to his employment on May 20, 2012. Appellant resigned on June 16, 2012.

In a May 23, 2012 statement, appellant noted that he started work in 2003 and had normal baseline hearing. He was assigned to patrol and work in the flight line area from two to four hours a day for several years with training planes flying over the gate exposing him to hazardous noise. Appellant worked at three different air shows in his nine years at the base and the only hearing protection provided were “softies.” He was rarely offered ear protection and never demonstrated how to wear earplugs until an examination in 2012. Appellant stated that twice a year he was a member of the naval security forces that practiced shooting using a nine millimeter Beretta, 12-gauge shotgun and an M-16 rifle. He experienced pain in his right ear and had to adjust the volume to listen to the radio, television and normal conversations.

The employing establishment submitted audiograms from hearing tests dated May 18, 2004 to May 10, 2012, which found progressive hearing loss in both ears. In a May 10, 2012 audiogram, the audiologist noted that appellant was not enrolled in a hearing conservation program but was required to receive an annual hearing test. It was noted that screening tympanometry was within normal limits in both ears, appellant reported occasional difficulty hearing in noisy situation but had no tinnitus, dizziness or facial numbness. The audiologist noted that the audiogram results were consistent with mild high frequency sensorineural hearing loss in the right ear and moderate high frequency sensorineural hearing loss in the left ear. An initial hearing examination of May 5, 2003 showed normal thresholds in both ears. The audiologist noted appellant’s hearing loss was consistent with a history of firearms use.

By letter dated June 1, 2012, OWCP advised appellant of the evidence needed to establish his claim. In a letter of the same date, it requested that the employing establishment address the sources of appellant’s noise exposure, decibel and frequency level, periods of exposure and the hearing protection provided.

Appellant submitted a resume and several statements dated January 6 to June 7, 2012 addressing his noise exposure. He submitted was an audiogram dated May 5, 2003, which was not interpreted and the March 1, 2011 audiogram previously of record.

In a September 7, 2012 statement of accepted facts, OWCP noted that appellant was employed from June 2003 to June 2012 as a gate security guard and patrol officer at the air station, which was used primarily for pilot training and he was exposed to aircraft noise. Appellant was also exposed to handgun, rifle and shotgun noise during semi-annual firearm training at the weapons range. He reported occasionally wearing hearing protection. From September 1981 to April 2003, appellant was a police officer in nonfederal employment and was exposed to noise during firearm training. He also previously served in the military. Appellant reported having no noise exposure due to hobbies.

On September 12, 2012 OWCP referred appellant to Dr. Kimberly A. Donnellan, a Board-certified otolaryngologist, for an otologic examination and an audiological evaluation. In an October 2, 2012 report, Dr. Donnellan examined him and noted his history of exposure to workplace noise. She diagnosed mild high frequency sensorineural hearing loss in the right ear and moderate-to-severe mixed hearing loss in the left ear, which was due to the noise exposure

encountered in appellant's job. In 2004, appellant had a mild high frequency hearing loss in the left ear greater than the right ear. In 2012, his hearing worsened in both ears with probable mild noise-induced hearing loss in the right ear and mixed hearing loss in the left ear with possible ossicular chain dysfunction. Dr. Donnellan opined that ossicular chain dysfunction could be noise induced and related to a specific noise event. She performed an otologic evaluation of appellant on February 27, 2012 and audiometric testing was conducted the same date. Testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed the following: right ear 10, 15, 20 and 30 decibels; left ear 10, 10, 30 and 50 decibels. Dr. Donnellan opined that appellant had zero percent monaural hearing loss and zero percent binaural hearing loss.

On October 16, 2012 an OWCP medical adviser reviewed Dr. Donnellan's report and the audiometric test of October 2, 2012. The medical adviser determined that appellant's hearing loss was not severe enough to be ratable for a schedule award after applying OWCP's current standards for evaluating hearing loss to the results of the October 2, 2012 audiogram.

On October 17, 2012 OWCP accepted appellant's claim for bilateral hearing loss due to noise exposure. On October 22, 2012 appellant filed a claim for a schedule award.

In a decision dated October 31, 2012, OWCP denied appellant's schedule award claim as his hearing loss was employment related, it was not severe enough to be considered ratable.

### **LEGAL PRECEDENT**

The schedule award provision of FECA<sup>2</sup> and its implementing regulations<sup>3</sup> 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, it 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 American Medical Association, *Guides to the Evaluation of Permanent Impairment*,<sup>4</sup> (A.M.A., *Guides*), has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.<sup>5</sup>

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>6</sup> 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.<sup>7</sup> Then, a "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in

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<sup>2</sup> *Id.* at § 8107.

<sup>3</sup> 20 C.F.R. § 10.404 (1999).

<sup>4</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2008).

<sup>5</sup> *Id.* See also *Jacqueline S. Harris*, 54 ECAB 139 (2002).

<sup>6</sup> A.M.A., *Guides* at 250 (6<sup>th</sup> ed. 2008).

<sup>7</sup> *Id.*

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.<sup>9</sup> 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.<sup>10</sup> The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.<sup>11</sup>

### ANALYSIS

OWCP accepted that appellant sustained bilateral hearing loss due to noise exposure from his federal employment. The issue is whether he sustained a ratable impairment in accordance with the A.M.A., *Guides*, warranting a schedule award.

OWCP properly referred appellant to Dr. Donnellan to assess his hearing loss and any permanent impairment. In an October 2, 2012 report, Dr. Donnellan report found that his mild high frequency sensorineural hearing loss was due in part to his workplace noise exposure. She provided findings from audiometric testing that was performed. In an October 16, 2012 report, an OWCP medical adviser reviewed Dr. Donnellan's findings and concurred that appellant's hearing loss was caused by his federal employment. The medical adviser applied OWCP's standardized procedures to the October 2, 2012 audiogram to determine if his hearing loss was ratable for schedule award purposes. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibels losses of 10, 15, 20 and 30. The decibels were totaled at 75 and divided by 4 to obtain an average hearing loss at those cycles of 18.75 decibels. The average of 18.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal zero percent hearing loss for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second revealed decibels losses of 10, 10, 30 and 50. The decibels were totaled at 100 and divided by 4 to obtain the average hearing loss at those cycles of 25 decibels. The average of 25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to zero which was multiplied by the established factor of 1.5 to compute a zero percent hearing loss for the left ear. The medical adviser noted that appellant did not have any ratable binaural hearing impairment under the A.M.A., *Guides* that warranted a schedule award.

The Board finds that the medical adviser applied the proper standards to Dr. Donnellan's report and the October 2, 2012 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss. There is no medical evidence of record that supports a ratable hearing loss.

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<sup>8</sup> *Id.*

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

On appeal, appellant asserts that he should have been granted a schedule award since his hearing loss was accepted as work related and due to constant frequency-type noise in his ears. The Board notes that Dr. Donnellan did not find evidence of tinnitus or address its impact on his ability to perform activities of daily living.<sup>12</sup>

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 OWCP properly denied appellant's claim for a schedule award for hearing loss.

**ORDER**

**IT IS HEREBY ORDERED THAT** the October 31, 2012 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 22, 2013  
Washington, DC

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

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

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

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<sup>12</sup> See *David W. Ferrall*, 56 ECAB 362 (2005).