

his federal employment. Since he began working at the employing establishment in 1983, he was exposed to loud noises include high and low pressure boilers, water pumps, fuel oil pumps, air compressors, fans, hammering, forklifts, *etc.* Appellant used earplugs for protection. He submitted an audiogram dated February 27, 2012 and summarized results of audiograms from 2002 to 2011 which showed varying degrees of bilateral hearing loss.

On July 30, 2012 OWCP referred appellant with a statement of accepted facts to Dr. Lorenz F. Lassen, a Board-certified otolaryngologist, for a second opinion. In an August 15, 2012 report, Dr. Lassen stated that appellant's workplace exposure was sufficient as to intensity and duration to have caused the loss in question. He diagnosed bilateral noise-induced sensorineural hearing loss and opined that this condition was due to noise exposure at appellant's federal employment. Dr. Lassen recommended hearing aids. An audiogram performed on his behalf on August 15, 2012 reflected testing at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second and revealed the following decibel losses: 25, 30, 40 and 45 for the right ear and 20, 30, 20 and 40 for the left ear respectively. Based on these results and in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6th ed.) (A.M.A., *Guides*), Dr. Lassen determined that appellant had a 7.7 percent binaural hearing loss, including an additional 3 percent bilateral hearing loss due to employment-related tinnitus.

In a September 10, 2012 decision, OWCP accepted appellant's claim for binaural hearing loss.

On September 11, 2012 appellant filed a Form CA-7 claim for a schedule award based on the binaural hearing loss.

In an October 12, 2012 report, OWCP's medical adviser reviewed Dr. Lassen's report and audiometric test results. He concurred with Dr. Lassen's audiometric findings that appellant had a 9.37 percent monaural hearing loss in the right ear and a 3.75 monaural hearing loss in the left ear, but did not add 3 percent bilateral hearing loss due to tinnitus. OWCP's medical adviser therefore found that appellant had a 4.68 percent sensorineural binaural hearing loss. He determined that the date of maximum medical improvement was August 15, 2012, the date of Dr. Lassen's examination, and he authorized hearing aids.

By decision dated October 17, 2012, OWCP granted appellant a schedule award for a five percent binaural hearing loss. This award covered the period August 15 to November 17, 2012, for a total of 10 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

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).

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* 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 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 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 employment-related noise exposure. It developed the claim by referring him to Dr. Lassen. On August 15, 2012 Dr. Lassen examined appellant and an audiogram was obtained on the physician's behalf. The August 15, 2012 audiogram tested decibel losses at 500, 1,000, 2,000 and 3,000 cycles per second and recorded decibel losses of 25, 30, 25 and 45 respectively in the right ear. The total decibel loss in the right ear is 125. When divided by 4, the result is an average hearing loss of 31.25 decibels. The average of 31.25 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 6.25 decibels, which when multiplied by the established factor of 1.5 computes a 9.37 percent hearing loss in the right ear.

The audiogram tested decibel losses for the left ear at 500, 1,000, 2,000 and 3,000 cycles per second and recorded decibel losses of 20, 30, 20 and 40 respectively. The total decibel loss in the left ear is 110. When divided by four, the result is an average hearing loss of 27.5 decibels. The average hearing loss of 27.5 is reduced by the fence of 25 decibels to 2.5, which when multiplied by the established factor of 1.5 computes a 3.75 percent hearing loss in the left ear. When the lesser loss of 3.75 decibels is multiplied by 5, the result of 18.75 is added to the greater loss of 9.37 to equal 28.12, which is then divided by six to equal 4.68. Therefore, under this calculation appellant had a 4.68 percent binaural hearing loss.

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).

OWCP's medical adviser concurred in the finding of 4.68 percent binaural hearing loss based on the audiogram results, which he rounded off to grant appellant a 5 percent binaural schedule award. He, however, did not credit Dr. Lassen's finding of an additional three percent binaural hearing loss due to tinnitus. On appeal, appellant's attorney argues that OWCP's medical adviser erred by failing to include Dr. Lassen's rating of a three percent binaural hearing loss for tinnitus. The Board notes that the A.M.A., *Guides* at Section 11.2b, page 249¹⁰ states that if the tinnitus interferes with daily living activities such as sleep, reading, enjoyment of quiet recreation and emotional well being, up to five percent may be added to a measurable binaural hearing impairment. As Dr. Lassen did not indicate whether tinnitus impacted appellant's ability to perform activities of daily living, his rating for an additional three percent binaural hearing loss for tinnitus was not substantiated.

Although appellant submitted results from audiometric testing performed on February 27, 2012 and from 2002 to 2011, these audiograms are insufficient to satisfy his 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 as defined by FECA. None of the audiograms were accompanied by a physician's opinion addressing how appellant's 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 his burden of proof.¹¹ Dr. Lassen 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. Lassen's audiometric test results showing a 4.68 percent sensorineural binaural hearing loss represents the weight of the medical evidence. 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 October 17, 2012 decision granting appellant a schedule award based on a five percent binaural hearing loss.

Appellant may request an [http://workerscomp.cyberfeds.com/WC/index.jsp?contentId=1061628&query=\(+\(Federal+ECAB\)+within+category+\)+and+\(%7bSCHEDULE+AWARD%7d\)+and+\(%7bANY+TIME%7d\)\)&repository=cases&chunknum=1&to pic=Main&listnum=0&offset=3 - ctx15](http://workerscomp.cyberfeds.com/WC/index.jsp?contentId=1061628&query=(+(Federal+ECAB)+within+category+)+and+(%7bSCHEDULE+AWARD%7d)+and+(%7bANY+TIME%7d))&repository=cases&chunknum=1&to pic=Main&listnum=0&offset=3 - ctx15) 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 at anytime.

CONCLUSION

The Board finds that appellant has no greater than a five percent binaural hearing loss causally related to his federal employment, for which OWCP granted him a schedule award.

¹⁰ A.M.A., *Guides* 249.

¹¹ *Joshua A. Holmes*, 42 ECAB 231, 236 (1990).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 17, 2012 be affirmed.

Issued: March 27, 2013
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge
Employees' Compensation Appeals Board

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