

hearing loss and realized it was causally related to his employment on December 20, 2011. Appellant did not stop work and continues to be exposed to noise.

By letter dated December 27, 2011, OWCP advised appellant of the type of evidence needed to establish his claim. In a letter of the same date, it requested that the employing establishment address the sources of his noise exposure, decibel and frequency level, period of exposure and hearing protection provided.

Appellant submitted a January 18, 2012 statement describing his employment history. He noted that from December 1988 to June 1992 he worked with the U.S. Navy as a boiler technician and was exposed to noise from steam turbines, fans and boilers for 8 to 10 hours per day. From July 1993 to February 1995, appellant was employed at Trico Technologies Inc., as a machine operator/maintenance mechanic and was exposed to noise while operating metal forming presses and performing maintenance on machinery from 8 to 10 hours per day. From January 1997 to February 1998 and November 1998 to February 2003, he worked at Atlantic Tool and Die as a machine operator and was exposed to machinery noise while running machinery. Earplugs were provided for hearing protection in these jobs. Since February 2003, appellant worked at the employing establishment as an inspector and canine enforcement officer and was exposed to noise from the cargo trucks, barking dogs and airplanes. He was provided with earplugs and earmuffs for hearing protection. Appellant also submitted a January 4, 2012 audiogram from an audiologist.

The employing establishment submitted a January 26, 2012 statement, which noted that appellant had workplace noise exposure at several firing ranges, an airport, a seaport and rail and vehicle import lots. It was noted that appellant was exposed to noise from semi tractors, firearms training four times a year, rail traffic, vehicle traffic, airplane jet engine noise and ship engine room noise. He was hired at the employing establishment in February 2003 and worked eight hours a day for five days a week and worked overtime for 1,927 hours from January 27, 2005 to January 23, 2012. The employing establishment noted that ear protection was provided since 1990 during firearms qualifications. It submitted a noise monitoring report from July 6, 2004 for the Los Indios International Bridge Facility in Brownsville, Texas, which revealed that the noise exposures were below the eight hour, 85 decibel action level that the Occupational Safety and Health Administration set for determining the need for entering workers into a hearing conservation program.

On February 1, 2012 OWCP referred appellant to Dr. Gregory Rowin, a Board-certified otolaryngologist, for an otologic examination and an audiological evaluation. In a February 27, 2012 report, Dr. Rowin noted examining appellant and noted his exposure to workplace noise. He diagnosed mild high frequency sensorineural hearing loss which was due to the noise exposure encountered in appellant's job. Appellant reported chronic ringing in his ears. Dr. Rowin advised that the audio and tympanograms were grossly normal but with small/mild hearing loss at the 4,000 hertz range. He opined that the sensorineural hearing loss was due to the noise exposure encountered in federal employment as the pattern was consistent with the noise exposure. Dr. Rowin noted that the external canals and drums were normal bilaterally, the tympanic membranes were intact and normal bilaterally and there was no active ear disease. He performed an otologic evaluation of appellant on February 27, 2012 and audiometric testing was conducted on his behalf on 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 15, 15, 20 and 25 decibels; left ear 15, 10, 15 and 20 decibels. Dr. Rowin opined that appellant had zero percent monaural hearing loss and zero percent binaural hearing loss. He noted that tinnitus impacted the ability to perform activities of daily living and noted five percent binaural hearing impairment due to tinnitus. Dr. Rowin noted that appellant was at maximum medical improvement and did not require hearing aids.

On June 12, 2012 an OWCP medical adviser reviewed Dr. Rowin's report and the audiometric test of February 27, 2012. He concluded that, in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,² (A.M.A., *Guides*), appellant had zero percent monaural hearing loss in each ear and zero percent binaural hearing loss. The medical adviser determined that his 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 February 27, 2012 audiogram. He noted that appellant reached maximum medical improvement on February 27, 2012. The medical adviser indicated that Dr. Rowin recommended five percent permanent impairment for tinnitus but he failed to provide any descriptive narrative as to how the presence of tinnitus impacted appellant's daily living. He noted that Section 11.2b, page 249 of the A.M.A., *Guides* provides that if tinnitus interferes with activities of daily living including sleep, reading, enjoyment of quiet recreation and emotional well-being up to five percent may be added to measurable binaural hearing impairment. The medical adviser opined that, as appellant did not have any measurable binaural hearing impairment, no impairment based on tinnitus was proper under the A.M.A., *Guides*.

On June 15, 2012 OWCP accepted appellant's claim for bilateral hearing loss due to noise exposure. On June 25, 2012 appellant filed a claim for a schedule award.

In a decision dated September 13, 2012, OWCP found that, although appellant's hearing loss was employment related, it was not severe enough to be considered ratable for purposes of a schedule award.

LEGAL PRECEDENT

The schedule award provision of FECA³ and its implementing regulations⁴ 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 A.M.A., *Guides* (6th ed. 2008).

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

all claimants. The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁵

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁶ 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.⁷ 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 the ability to hear everyday speech under everyday conditions.⁸ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.⁹ 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.¹⁰ The Board has concurred in OWCP’s adoption of this standard for evaluating hearing loss.¹¹

ANALYSIS

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

OWCP properly referred appellant to Dr. Rowin regarding his hearing loss. Dr. Rowin’s February 27, 2012 report found that appellant’s mild high frequency sensorineural hearing loss was due in part to his workplace noise exposure. He found that the hearing loss was not ratable for schedule award purposes although he recommended five percent binaural impairment due to tinnitus. In a June 12, 2012 report, an OWCP medical adviser reviewed Dr. Rowin’s findings and concurred that appellant’s hearing loss was aggravated by his employment. The medical adviser applied OWCP’s standardized procedures to the February 27, 2012 audiogram performed for Dr. Rowin to determine if appellant’s 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 15, 15, 20 and 25, respectively. These decibels were totaled at 75 and were 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

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

⁶ A.M.A., *Guides* 250 (6th ed. 2008).

⁷ *Id.*

⁸ *Id.*

⁹ *Id.*

¹⁰ *Id.*

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

15, 10, 15 and 20 respectively. These decibels were totaled at 60 and were divided by 4 to obtain the average hearing loss at those cycles of 15 decibels. The average of 15 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 further noted that Dr. Rowin recommended five percent permanent impairment for tinnitus but he failed to describe how the tinnitus impacted appellant's daily living. The medical adviser further noted that, as appellant did not have any measurable binaural hearing impairment, no impairment based on tinnitus is available under the A.M.A., *Guides*.¹² Thus, the medical adviser concluded that appellant had no permanent impairment of his hearing that warranted a schedule award.

The Board finds that the medical adviser applied the proper standards to Dr. Rowin's report and the February 27, 2012 audiogram. The result is a zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth above. Although the record contains one other audiogram submitted by appellant, this is insufficient to establish a ratable hearing loss. The January 14, 2012 audiogram is of no probative value as it was not certified by a physician as accurate.¹³ Further, it would not otherwise be ratable for schedule award purposes as it shows lesser hearing loss at the pertinent frequency levels than did the audiogram performed for Dr. Rowin. The medical adviser also properly found that there was no entitlement to a schedule award for tinnitus as appellant had not measurable binaural hearing impairment. The Board has held that, where a claimant's hearing loss is not ratable, the claimant is not entitled to an award for tinnitus.¹⁴

On appeal, appellant asserts that OWCP decision was incorrect and he should have been awarded a schedule award since his hearing loss was accepted as work related and because of constant ringing in his ears. As explained, while he has an accepted bilateral hearing loss, his hearing loss is not ratable under the standards used by OWCP. Since appellant's hearing loss is not ratable, he also is not entitled to a schedule award for tinnitus or ringing in his ears.

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.

¹² See A.M.A., *Guides* 249.

¹³ See also *James A. England*, 47 ECAB 115, 118 (1995) (finding that an audiogram not certified by a physician as being accurate has no probative value; OWCP need not review uncertified audiograms). See *Joshua A. Holmes*, 42 ECAB 231, 236 (1990) (if an audiogram is prepared by an audiologist, it must be certified by a physician as being accurate before it can be used to determine the percentage of hearing loss).

¹⁴ *Juan A. Trevino*, 54 ECAB 358 (2003).

ORDER

IT IS HEREBY ORDERED THAT the Office of Workers' Compensation Programs' decision dated September 13, 2012 is affirmed.

Issued: May 2, 2013
Washington, DC

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

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

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