

**United States Department of Labor  
Employees' Compensation Appeals Board**

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G.G., Appellant )  
and ) Docket No. 13-1368  
DEPARTMENT OF THE AIR FORCE, ) Issued: October 29, 2013  
FAIRCHILD AIR FORCE BASE, WA, Employer )  
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)

*Appearances:*

*Appellant, pro se*

*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:

RICHARD J. DASCHBACH, Chief Judge  
PATRICIA HOWARD FITZGERALD, Judge  
JAMES A. HAYNES, Alternate Judge

**JURISDICTION**

On May 20, 2013 appellant filed a timely appeal from the Office of Workers' Compensation Programs' (OWCP) merit decision dated April 29, 2013 which denied his request for a schedule award. Pursuant to 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of the case.

**ISSUE**

The issue is whether appellant has a ratable hearing loss entitling him to a schedule award.

**FACTUAL HISTORY**

On September 17, 2012 appellant, then a 50-year-old heavy mobile equipment mechanic, filed a claim alleging that he sustained permanent hearing loss and tinnitus at work. He became aware of his hearing loss and realized it was causally related to his employment on June 5, 2002. Appellant did not stop work and continues to be exposed to noise.

Appellant submitted employing establishment audiograms dated September 22, 1983 to July 12, 2011, which showed progressive moderate high frequency sensorineural hearing loss. Also submitted were employing establishment memoranda notifying him of permanent threshold shifts in hearing loss from the employing establishment dated June 2 and 3, 2005 and May 28, 2008. In a statement dated September 17, 2012, appellant indicated that as a heavy mobile equipment mechanic he routinely spent 60 to 75 percent of his time working in the shop environment five days per week and was exposed to hazardous noise in the form of aircraft, vehicles, equipment, air/hand operated tools and machinery. He noted participating in a hearing conservation program and wearing hearing protection. Appellant indicated that after an annual hearing examination revealed a significant threshold shift he was referred to Dr. Lesly Loiseau, an audiologist, who diagnosed a threshold shift and moderate high frequency sensorineural hearing loss.

By letter dated October 26, 2012, 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 appellant's noise exposure, decibel and frequency level, period of exposure and hearing protection provided.

Evidence submitted included an Industrial Hygiene Survey dated November 9, 2000 in which hearing protection was evaluated on shop personnel to determine whether adequate hearing protection was used. The findings revealed that exposures in the work area exceeded the limits established in the Occupational Safety and Health Administration and annual audiograms were recommended. Also submitted were notifications of permanent threshold shifts in hearing loss from the employing establishment dated June 5 and 6, 2002 and July 15, 2004. A November 4, 2008 employing establishment Periodic Health Risk Assessment for the Vehicle Maintenance Shop Folder concluded that the current administrative work practices, engineering controls and personal protective equipment minimized health risks associated with the work accomplished by shop personnel.

A February 26, 2013 statement of accepted facts noted that from June 1983 to October 1998 appellant worked in private industry as an automotive mechanic and was exposed to noise for up to eight hours per day. Earmuffs were provided. Since March 1983 appellant worked at the employing establishment in a military capacity as a vehicle maintenance supervisor and was exposed to noise for up to 16 hours per month. Since October 1998, he worked for the employing establishment in a civilian capacity as a heavy mobile equipment mechanic and was exposed to noise from air operating tools, grinders, air operated equipment and machinery, noisy heavy equipment, vehicles and aircraft for up to eight hours per day. The noise levels were 86.8 to 114.8 decibels. Earmuffs and earplugs were provided.

On March 22, 2013 OWCP referred appellant to Dr. Gerald G. Randolph, a Board-certified otolaryngologist, for an otologic examination and an audiological evaluation. In an April 10, 2013 report, Dr. Randolph noted examining appellant and noted appellant's exposure to workplace noise. He diagnosed bilateral sensorineural hearing loss which was due to the noise exposure encountered in his job. Dr. Randolph noted the external auditory canals and tympanic membranes were normal, the Weber test did not lateralize, drum motility was normal on tympanogram and air conduction was greater than bone conduction by tuning forks bilaterally. He noted no indication of acoustic neuroma or Meniere's disease and noted that the audiogram

revealed hearing loss of an audiometric configuration compatible to hearing loss with noise exposure. Dr. Randolph opined that the sensorineural hearing loss was due to the noise exposure encountered in federal employment as the pattern was consistent with noise exposure. He performed an otologic evaluation of appellant on April 10, 2013 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 5, 15, 5 and 10 decibels; left ear 5, 15, 5 and 30 decibels. Dr. Randolph opined that, in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,<sup>1</sup> (A.M.A., *Guides*), appellant had zero percent monaural hearing loss and zero percent binaural hearing loss. He noted that an audiogram dated March 4, 1995 revealed very mild bilateral high frequency hearing loss with zero percent monaural hearing loss and zero percent binaural hearing loss. Dr. Randolph noted that appellant's hearing loss did increase in severity in those frequencies effective by noise since the audiogram performed on March 4, 1995. He opined that the hearing loss is in excess of that which would normally be predicted on the basis of presbycusis. Dr. Randolph noted the hearing loss in the right ear had not progressed to where a hearing aid evaluation was recommended but that appellant was a potential candidate for hearing aid evaluation and fitting in the left ear.

On April 29, 2013 OWCP accepted appellant's claim for bilateral sensorineural hearing loss due to noise exposure.

In a decision dated April 29, 2013, 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. It authorized a hearing aid evaluation and fitting for the left ear.

#### **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, 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 all claimants. The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.<sup>4</sup>

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>5</sup> Using the frequencies of 500, 1,000, 2,000 and 3,000 cycles per second, the

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<sup>1</sup> A.M.A., *Guides* (6<sup>th</sup> ed. 2008).

<sup>2</sup> 5 U.S.C. § 8107.

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

<sup>4</sup> *Id.* See also Jacqueline S. Harris, 54 ECAB 139 (2002).

<sup>5</sup> A.M.A., *Guides* 250 (6<sup>th</sup> ed. 2008).

losses at each frequency are added up and averaged.<sup>6</sup> 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.<sup>7</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>8</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>9</sup> The Board has concurred in OWCP’s adoption of this standard for evaluating hearing loss.<sup>10</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*, entitling him to a schedule award.

OWCP properly referred appellant to Dr. Randolph regarding his hearing loss. Dr. Randolph’s April 10, 2013 report found that appellant’s bilateral sensorineural hearing loss was due to his workplace noise exposure. He found that the hearing loss was not ratable for schedule award purposes. OWCP applied their standardized procedures to the April 10, 2013 audiogram performed for Dr. Randolph 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 5, 15, 5 and 10, respectively. These decibels were totaled at 35 and were divided by four to obtain an average hearing loss at those cycles of 8.75 decibels. The average of 8.75 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, 15, 5 and 30 respectively. These decibels were totaled at 55 and were divided by four to obtain the average hearing loss at those cycles of 13.75 decibels. The average of 15 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to zero percent which was multiplied by the established factor of 1.5 to compute a zero percent hearing loss for the left ear. Thus, OWCP concluded that appellant had no permanent impairment of his hearing that warranted a schedule award.

The Board finds that pursuant to Dr. Randolph’s report and the April 10, 2013 audiogram appellant had zero percent monaural hearing loss and a zero percent binaural hearing loss as set

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<sup>6</sup> *Id.*

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

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

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

<sup>10</sup> *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

forth above.<sup>11</sup> Although the record contains several audiograms submitted by appellant dated September 22, 1983 to July 12, 2011, which showed progressive moderate high frequency sensorineural hearing loss, these audiograms are of no probative value as they are not certified by a physician as accurate.<sup>12</sup> Further, appellant's hearing loss would not otherwise be ratable for schedule award purposes as those audiograms show lesser hearing loss at the pertinent frequency levels than did the audiogram performed for Dr. Randolph.

On appeal appellant asserts that OWCP did not consider all of the information he submitted in support of his claim for a schedule award. He specifically noted that Dr. Randolph's April 10, 2013 report mentioned only a March 4, 1995 audiogram while the record contained audiograms since 1983. As explained, although the record contains several audiograms submitted by appellant dated September 22, 1983 to July 12, 2011, these audiograms are of no probative value as they are not certified by a physician as accurate.<sup>13</sup> Further, appellant's hearing loss would not otherwise be ratable for schedule award purposes as those audiograms show lesser hearing loss at the pertinent frequency levels than did the audiogram performed for Dr. Randolph.

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.

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<sup>11</sup> The Board notes that OWCP's procedure manual contemplates that, after obtaining all necessary medical evidence, the file should be routed to an OWCP medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*; see Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.6(d) (August 2002). However, the Board finds this to be harmless error in this case. As noted above, pursuant to Dr. Randolph's report and the April 10, 2013 audiogram revealed that appellant had zero percent monaural hearing loss and a zero percent binaural hearing loss as set forth in the calculation above.

<sup>12</sup> 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). 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).

<sup>13</sup> See *Joshua A. Holmes*, *supra* note 12.

**ORDER**

**IT IS HEREBY ORDERED THAT** the Office of Workers' Compensation Programs' decision dated April 29, 2013 is affirmed.

Issued: October 29, 2013  
Washington, DC

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

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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