

he first became aware of his hearing loss and related it to factors of his federal employment on February 10, 2012.

OWCP referred appellant, together with a statement of accepted facts, for a second opinion evaluation to Dr. Gregory S. Rowin, a Board-certified otolaryngologist, who examined appellant on June 19, 2012 and obtained an audiogram. Based on the physical examination and a review of the audiogram results, Dr. Rowin diagnosed mild-to-severe bilateral sensorineural hearing loss due to appellant's federal employment and recommended hearing aids. Applying the standards provided by the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*² (A.M.A., *Guides*), he calculated appellant's hearing impairment based on an accompanying June 19, 2012 audiogram. The June 19, 2012 audiogram revealed the following decibel (dB) losses at 500, 1,000, 2,000 and 3,000 hertz (Hz) for the right ear as 35, 35, 50 and 65 for a total dB loss of 185. Dr. Rowin divided the total right ear dB loss of 185 by 4, which resulted in an average loss of 46.25. He subtracted the fence of 25 dB to equal 21.25 dB. Dr. Rowin then multiplied this by the established factor of 1.5 to result in a 31.875 monaural hearing loss for the right ear.

Dr. Rowin properly followed the same procedure for the left ear, noting that the test results for 500, 1,000, 2,000 and 3,000 Hz for the left ear as 25, 30, 65 and 70 for the left ear for a total dB loss of 190. He divided this by 4 resulting in an average hearing loss of 47.50, subtracted the fence of 25 dB to equal 22.50 dB and multiplied this by 1.5 resulting in a 33.75 percent monaural hearing loss for the left ear. Dr. Rowin then multiplied the 31.875 right ear hearing loss by 5, added the 33.75 left ear hearing loss and divided the total by 6, which resulted in a total 32 percent binaural hearing loss. To this he added 5 percent impairment for tinnitus, for a total of 37 percent binaural hearing impairment (32 percent + 5 percent for tinnitus).

On July 23, 2012 Dr. H. Mobley, a medical adviser, reviewed Dr. Rowin's otologic examination report and agreed that appellant's bilateral sensorineural hearing loss was due to his occupational noise exposure. He concurred with Dr. Rowin's impairment determination. Dr. Mobley concluded that hearing aids were authorized and the date of maximum medical improvement was June 19, 2012.

By decision dated July 31, 2012, OWCP accepted appellant's claim for bilateral sensorineural hearing loss.

On August 6, 2012 appellant filed a claim for a schedule award.

By decision dated October 24, 2013, OWCP granted appellant a schedule award for a 37 percent binaural hearing loss.

² A.M.A., *Guides* (6th ed. 2009).

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 all claimants.⁵ The A.M.A., *Guides* has been adopted by the implementing regulations as the appropriate standard for evaluating schedule losses.⁶ Effective May 1, 2009, OWCP adopted the sixth edition of the A.M.A., *Guides* as the appropriate edition for all awards issued after that date.⁷

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁸ 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.⁹ Then, the fence of 25 dB is deducted because, as the A.M.A., *Guides* points out, losses below 25 dB result in no impairment in the ability to hear everyday speech under everyday conditions.¹⁰ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.¹¹ 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.¹² The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.¹³

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

⁵ See *D.K.*, Docket No. 10-174 (issued July 2, 2010); *Michael S. Mina*, 57 ECAB 379 (2006).

⁶ *Supra* note 4; see *F.D.*, Docket No. 09-1346 (issued July 19, 2010); *Billy B. Scoles*, 57 ECAB 258 (2005).

⁷ Federal (FECA) Procedure Manual, Part 3 -- Claims, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 9, 2010). See *P.B.*, Docket No. 10-103 (issued July 23, 2010).

⁸ A.M.A., *Guides* 250.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *J.H.*, Docket No. 08-2432 (issued June 15, 2009); *Thomas O. Bouis*, 57 ECAB 602 (2006); *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

ANALYSIS

OWCP referred appellant, together with a statement of accepted facts, to Dr. Rowin, a Board-certified otolaryngologist, for a second opinion evaluation to determine the extent and degree of any employment-related hearing loss. Dr. Rowin diagnosed mild-to-severe sensorineural loss as a result of appellant's federal workplace noise exposure. Hearing aids were recommended. The June 19, 2012 audiogram revealed the following dB losses at 500, 1,000, 2,000 and 3,000 Hz for the right ear as 35, 35, 50 and 65 for a total dB loss of 185. Dr. Rowin divided the total right ear dB loss of 185 by 4, which resulted in an average loss of 46.25. He subtracted the fence of 25 dB to equal 21.25 dB. Dr. Rowin then multiplied this by the established factor of 1.5 to result in a 31.875 monaural hearing loss for the right ear. He properly followed the same procedure for the left ear, in which he noted that the test results for 500, 1,000, 2,000 and 3,000 Hz for the left ear as 25, 30, 65 and 70, for a total dB loss of 190. Dr. Rowin divided this by 4 resulting in an average hearing loss of 47.50, subtracted the fence of 25 dB to equal 22.50 dB and multiplied this by 1.5 resulting in a 33.75 percent monaural hearing loss for the left ear. He then multiplied the 31.875 right ear hearing loss by 5, added the 33.75 left ear hearing loss and divided the total by 6, which resulted in a total 32 percent binaural hearing loss. To this Dr. Rowin added 5 percent for appellant's tinnitus, to total a 37 percent binaural hearing loss. He calculated that appellant sustained a 32 percent binaural hearing impairment. Dr. Rowin added 5 percent impairment for tinnitus, for a total of 37 percent binaural hearing impairment (32 percent + 5 percent for tinnitus).¹⁴

OWCP then properly referred the medical evidence to its medical adviser, for an impairment rating in accordance with the A.M.A., *Guides*.¹⁵

On July 23, 2012 OWCP's medical adviser reviewed the otologic and audiologic testing performed on appellant on June 19, 2012 and concurred with Dr. Rowin's impairment finding. The case record does not contain any other medical evidence that supports a greater percentage of impairment in conformance with the A.M.A., *Guides*.

The Board finds that Dr. Rowin's impairment rating, as reviewed by OWCP's medical adviser, was thorough, detailed and properly applied the A.M.A., *Guides*. The Board finds, therefore, that OWCP properly determined that appellant has no more than 37 percent binaural hearing loss, for which he has received a schedule award.

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 has no more than a 37 percent binaural hearing loss for which he received a schedule award.

¹⁴ A.M.A., *Guides* 249.

¹⁵ See C.K., Docket No. 09-237 (issued August 18, 2010); *Frantz Ghassan*, 57 ECAB 349 (2006).

ORDER

IT IS HEREBY ORDERED THAT the decision of the Office of Workers' Compensation Programs dated October 24, 2013 is affirmed.

Issued: September 8, 2014
Washington, DC

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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

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