



employment. OWCP accepted that he had been exposed to noise since 1985, during his work for the army, from impact wrenches, air drills, and air grinders for eight hours a day, five days a week.

Appellant was previously granted a six percent award for a hearing loss in the right ear on October 31, 2001 under case file number xxxxxx085. On June 3, 2013 he filed a Form CA-7 claim for a schedule award based on an additional binaural hearing loss.

Appellant submitted copies of audiograms from 1985 to August 28, 2012 which showed varying degrees of hearing loss.

OWCP referred appellant for a second opinion examination with Dr. Jack W. Aland, a specialist in otolaryngology. In a September 23, 2013 report, Dr. Aland diagnosed mild, bilateral noise-induced sensorineural hearing loss and checked a box indicating that appellant's noise exposure in his federal employment was sufficient to cause binaural hearing loss. He stated that appellant's workplace exposure was sufficient as to intensity and duration to have caused the loss in question. An audiogram performed on Dr. Aland's behalf on September 23, 2013 reflected testing at the frequency levels of 500, 1,000, 2,000, and 3,000 cycles per second and revealed the following decibel losses: 5, 5, 25, and 60 for the right ear and 5, 10, 20, and 70 for the left ear respectively.

On September 30, 2013 OWCP requested that its district medical adviser review Dr. Aland's report. Based on the audiogram results from Dr. Aland and in accordance with the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (6<sup>th</sup> edition) (A.M.A., *Guides*), the district medical adviser determined that appellant had zero percent hearing loss in his right ear and a two percent hearing loss in his left ear causally related to his federal employment. He recommended a hearing aid evaluation.

On October 16, 2013 OWCP accepted appellant's claim for binaural hearing loss. This decision also found that the medical evidence established that appellant would benefit from hearing aids.

By decision dated November 18, 2013, OWCP granted appellant a schedule award for a two percent hearing loss in his left ear. This award covered the period from September 23 to 30, 2013, for a total of 1.04 weeks of compensation. OWCP noted that appellant was previously granted a six percent award for right-sided hearing loss on October 31, 2001 under case file number xxxxxx085; it therefore found that he was not entitled to any additional schedule award for his right-sided hearing loss.

On December 2, 2013 appellant requested an oral hearing, which was held on August 5, 2014. He resubmitted employing establishment audiograms dated June 25, 1985, January 30, 2001, and August 28, 2012.

By decision dated September 30, 2014, an OWCP hearing representative affirmed the November 18, 2013 decision.

## 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 losses at each frequency are added up and averaged.<sup>6</sup> 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.<sup>7</sup> The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.<sup>8</sup>

The requirements for the evidence to be used in evaluating occupational hearing loss claims require that the employee should undergo audiological evaluation and otological examination; that the audiological testing precede the otologic examination; that the audiological evaluation and otologic examination be performed by different individuals as a method of evaluating the reliability of the findings; that the clinical audiologist and otolaryngologist be certified; that all audiological equipment authorized for testing meet the calibration protocol contained in the accreditation manual of the American Speech and Hearing Association; that the audiometric test results include both bone conduction and pure-tone air conduction thresholds; speech reception thresholds and monaural discrimination scores; and that the otolaryngologist's report include the date and hour of examination, date and hour of the employee's last exposure to loud noise, and a rationalized medical opinion regarding the relationship.<sup>9</sup>

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<sup>2</sup> *Id.* at § 8107.

<sup>3</sup> 20 C.F.R. § 10.404. Effective May 1, 2009, OWCP began using the A.M.A., *Guides* (6<sup>th</sup> ed. 2009).

<sup>4</sup> *Id.*

<sup>5</sup> Federal (FECA) Procedure Manual, Part 3 -- Schedule Awards, *Special Determinations*, Chapter 2.0700.4.b (January 2010).

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

<sup>7</sup> *Id.* 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>8</sup> See *Donald E. Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

<sup>9</sup> See *Joshua Holmes*, 42 ECAB 231 (1990).

## ANALYSIS

OWCP accepted that appellant sustained a bilateral hearing loss due to noise. It developed the claim by referring him to Dr. Aland. On September 23, 2013 Dr. Aland examined appellant and an audiogram was obtained on the physician's behalf. He found, using OWCP's standard procedures, that appellant's noise exposure in his federal employment was sufficient to cause binaural hearing loss. The September 23, 2013 audiogram tested decibel losses at 500, 1,000, 2,000, and 3,000 cycles per second and recorded decibel losses of 5, 5, 25, and 60 respectively in the right ear. The total decibel loss in the right ear is 95. When divided by 4, the result is an average hearing loss of 23.75 decibels. The average of 23.75 decibels, reduced by 25 decibels (the first 25 decibels were discounted as discussed above), equals 0 decibels, which amounts to no additional 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 5, 10, 20, and 70 respectively. The total decibel loss in the left ear is 105. When divided by 4, the result is an average hearing loss of 26.25 decibels. The average hearing loss of 26.25 is reduced by the fence of 25 decibels to 1.25, which when multiplied by the established factor of 1.5 computes a 1.875 percent hearing loss in the left ear, which was rounded up to a 2 percent left-sided hearing loss. Therefore under this calculation appellant had a zero percent hearing loss in his right ear and a two percent hearing loss in his left ear. An OWCP's medical advisor concurred in this finding.

Appellant submitted results from audiometric testing performed from 1985 to August 28, 2012. These audiograms are insufficient to satisfy appellant's 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 his 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 appellant's burden of proof.<sup>10</sup>

Dr. Aland 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 his report, as reviewed by the district medical adviser, represents the weight of the evidence. OWCP therefore properly found that appellant had no more than a six percent hearing loss in his right ear<sup>11</sup> and a two percent hearing loss in his left ear causally related to his federal employment. OWCP received additional medical evidence after October 3, 2014. The Board's review however is limited to evidence that was before OWCP at the time of its final decision.<sup>12</sup>

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

<sup>11</sup> Previously granted under OWCP file number xxxxxx085.

<sup>12</sup> 20 C.F.R. § 501.2(c)(1).

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 greater than a six percent hearing loss in his right ear and a two percent hearing loss in his left ear causally related to his federal employment, for which OWCP granted him a schedule award.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 30, 2014 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 2, 2015  
Washington, DC

Christopher J. Godfrey, Chief Judge  
Employees' Compensation Appeals Board

Patricia Howard Fitzgerald, Judge  
Employees' Compensation Appeals Board

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