



On September 11, 2014 at the request of the employing establishment an audiologist provided the results of hearing tests performed by the employing establishment from 1984 to 2012.

On September 16, 2014 OWCP referred appellant, together with a statement of accepted facts describing his noise exposure at the employing establishment from 1979 to the present, to Dr. Joseph A. Motto, a Board-certified otolaryngologist, for a second opinion examination.

In a report dated October 8, 2014, Dr. Motto noted that appellant had hearing loss at high frequencies in his left ear at the time he began working for the employing establishment. He discussed appellant's complaints of tinnitus bilaterally over the past five years. Audiometric testing conducted for Dr. Motto on October 8, 2014 revealed decibel (dB) losses for the left ear at the 500, 1,000, 2,000, and 3,000 hertz (Hz) of 20, 25, 30, and 65 dBs, respectively. Audiometric testing for the right ear at the same levels revealed dB losses of 15, 20, 20, and 45, respectively. Dr. Motto diagnosed sloping mild-to-severe sensorineural hearing loss due at least in part to noise exposure at work. He advised that at 4,000 Hz appellant's left-sided hearing loss was no more than expected at his age, but that his right-sided hearing loss "exceed[ed] age expected hearing loss at all frequencies. Dr. Motto determined that only the hearing loss on the right side was causally related to noise exposure at work and recommended authorization for a hearing aid on the right side. He provided a graph accompanying his report comparing the expected hearing loss between ages 19 and 55 with appellant's actual hearing loss at the frequency levels of 500, 1,000, 2,000, 3,000, 4,000, and 6,000 cycles per second.

On October 21, 2014 an OWCP medical adviser reviewed Dr. Motto's report and audiometric test results. For the right ear, at 500, 1,000, 2,000, and 3,000 Hz loss added to the dB losses of 15, 20, 20, and 45 to equal 100. He divided 100 dB by 4 to find that appellant had an average hearing loss of 25 dBs. The medical adviser then subtracted the fence of 25 dBs to find a balance of zero, which when multiplied by 1.5 yielded a zero percent hearing loss in the right ear. For the left ear, he added the dB losses of 20, 25, 30, and 65 to find 140, or an average loss of 35 dBs. After subtracting a fence of 25 decibels, the medical adviser multiplied the remaining balance of 10 by 1.5 to find a 15 percent left monaural hearing loss. He opined that OWCP should authorize hearing aids only for the left side. The medical adviser diagnosed bilateral sensorineural hearing loss and concluded that appellant had a 15 percent monaural hearing loss on the left side causally related to his employment noise exposure.

On November 13, 2014 OWCP accepted appellant's claim for bilateral sensorineural hearing loss and authorized hearing aids.

On December 9, 2014 appellant filed a claim for a schedule award (Form CA-7).

In a telephone call dated December 30, 2014, OWCP informed a healthcare provider that it had only authorized hearing aids on the left side.

By decision dated January 8, 2015, OWCP granted appellant a schedule award for 15 percent left monaural hearing loss. The period of the award ran for 7.8 weeks from October 8 to December 1, 2014.

On January 25, 2015 appellant requested a review of the written record. He submitted a January 15, 2015 evaluation from an audiologist describing the results of an audiogram and requested authorization for hearing aids for the right as well as the left ear.

By decision dated July 20, 2015, an OWCP hearing representative set aside the January 8, 2015 decision. She found that the medical adviser recommended a schedule award for 15 percent left-sided monaural hearing loss even though Dr. Motto found that the hearing loss on the left was not employment related. The hearing representative determined that the medical adviser failed to explain his disagreement with Dr. Motto. She questioned whether OWCP should reconsider its acceptance of the claim for bilateral hearing loss.

By letter dated August 13, 2015, OWCP requested clarification from the medical adviser as to the percentage of percent permanent impairment for the left and right ear and whether there was a preexisting permanent impairment of the right or left ear.

On August 18, 2015 an OWCP medical adviser noted that Dr. Motto had not provided an impairment rating for either ear. He further indicated that he did not find preexisting right ear damage. The medical adviser discussed Dr. Motto's finding that appellant had hearing loss due to noise exposure at work only in the right ear, but opined that the graph accompanying his report "demonstrates that the actual hearing difference between age 55 and age 19 greatly exceeds the age expected hearing loss between age 55 and age 19 in both ears at 1,000, 2,000, and 3,000 Hz." He noted that the values at 4,000 and 6,000 Hz were not relevant. The medical adviser concluded, "In summary, this claimant does have a bilateral SNHL [sensorineural hearing loss] that is due at least in part to his noise exposure during federal employment. The right ear loss is not ratable, but the left is. While it is true that some left ear damage occurred prior to [federal] employment, it is also true that additional damage due to noise exposure occurred on the job."

In a decision dated September 10, 2015, OWCP granted appellant a schedule award for a 15 percent monaural hearing loss in the left ear.

On appeal appellant argues that OWCP should authorize hearing aids in both ears.

### **LEGAL PRECEDENT**

The schedule award provision of FECA,<sup>2</sup> and its implementing federal 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 for all claimants, OWCP has adopted the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,

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<sup>2</sup> *Id.* at § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

(A.M.A., *Guides*) as the uniform standard applicable to all claimants.<sup>4</sup> As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.<sup>5</sup>

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>6</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. Then, the fence of 25 dBs is deducted because, as the A.M.A., *Guides* point out, losses below 25 dBs result in no impairment in the ability to hear everyday speech under everyday conditions. The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss. 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 binaural hearing loss. The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.<sup>7</sup>

### ANALYSIS

In a report dated October 8, 2014, Dr. Motto, an OWCP referral physician, diagnosed bilateral sensorineural hearing loss. He opined that appellant had hearing loss in the right ear as a result of noise exposure at work. Dr. Motto found, however, that the hearing loss in the left ear at 4,000 Hz was not more than would be expected at his age, and thus determined that the left-sided hearing loss was not employment related. He recommended authorizing hearing aids on the right side.

On October 21, 2014 an OWCP medical adviser properly applied OWCP's standardized procedures to the October 8, 2014 audiogram obtained by Dr. Motto. He found that testing of the right ear at the frequencies of 500, 1,000, 2,000, and 3,000 cycles per second revealed losses of 15, 20, 20, and 45 dB, which he added to total 100. The medical adviser divided 100 dB by 4 to find an average loss of 25, from which he deducted the threshold fence of 25 dB to find a balance of 0. He multiplied 0 by 1.5 to find a 0 percent monaural hearing loss on the right. For the left ear, the medical adviser found that appellant had losses of 20, 25, 30, and 65 at the frequencies of 500, 1,000, 2,000, and 3,000 cycles per second, for a total of 140 dB and an average loss of 35 dB. Subtracting the fence of 25 dB yielded a balance of 10 dB, which he multiplied by 1.5 to find a 15 percent monaural loss.

On November 13, 2014 OWCP accepted that appellant sustained bilateral hearing loss due to noise exposure. It also authorized hearing aids. On January 8, 2015 OWCP granted appellant a schedule award for 15 percent left monaural hearing loss. However, in a decision dated July 20, 2015, an OWCP hearing representative set aside the January 8, 2015 decision after finding that the medical adviser did not explain his disagreement with Dr. Motto, who found the hearing loss on the left side was not employment related.

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<sup>4</sup> *Id.* at § 10.404(a).

<sup>5</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5(a) (February 2013); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.2 and Exhibit 1 (January 2010).

<sup>6</sup> A.M.A., *Guides* 250.

<sup>7</sup> *See J.H.*, Docket No. 08-2432 (issued June 15, 2009); *J.B.*, Docket No. 08-1735 (issued January 27, 2009).

In a report dated August 18, 2015, the medical adviser related that he disagreed with Dr. Motto's finding that appellant's left-sided hearing loss was not employment related. He explained that his hearing loss at the 1,000, 2,000, and 3,000 Hz significantly exceeded that expected due to age. The medical adviser further noted that values at 4,000 Hz were not used. He concluded that appellant had some hearing loss on the left side prior to his federal employment, but noise exposure at work had caused further damage. Based on the medical adviser's report, in a decision dated September 10, 2015, OWCP granted a schedule award for a 15 percent monaural loss of the left ear. There is no other medical evidence showing a greater hearing loss under established OWCP procedures.<sup>8</sup> The Board thus finds that appellant has no more than 15 percent monaural hearing loss on the left side.

On appeal appellant contends that OWCP should authorize hearing aids for his right as well as left ear. The Board notes that on November 13, 2014 OWCP authorized hearing aids without indicating that the authorization is only for one side. Upon return of the case record, OWCP should comply with this earlier decision and grant bilateral hearing aids.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish more than 15 percent monaural hearing loss on the left side.

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<sup>8</sup> Appellant submitted an audiogram dated January 15, 2015, but as it was not certified by a physician it may not form the basis of an impairment rating. *See E.S.*, Docket No. 11-1724 (issued March 27, 2012).

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 10, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: April 14, 2016  
Washington, DC

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

Colleen Duffy Kiko, Judge  
Employees' Compensation Appeals Board

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