



position on January 9, 2015. With his claim, appellant submitted hearing conservation data from the employing establishment.

In letters dated February 20, 2015, OWCP informed appellant of the evidence needed to support his claim and asked that the employing establishment provide information regarding his noise exposure and hearing conservation measures. Appellant responded on February 20, 2015 with a full account of his employment history dating back to 1972.

In a report dated November 19, 2013, Dr. Jeffrey D. Russell, an audiologist, examined appellant and diagnosed bilateral sensorineural hearing loss. He noted that appellant complained of constant bilateral tinnitus. Dr. Russell noted that appellant had environmental exposure to noise consisting of steam plant or other machinery noise. He reiterated his diagnosis on September 11, 2014, again noting that appellant had tinnitus interfering with the perception of tones during automated testing.

On May 12, 2015 OWCP referred appellant, along with a statement of accepted facts (SOAF), to Dr. Charles B. Beasley, a Board-certified otolaryngologist, to determine the nature and extent of appellant's hearing loss and its relationship to his federal employment. In a report dated June 10, 2015, Dr. Beasley examined appellant, and reviewed appellant's noise exposure at work, along with the SOAF and medical records. He submitted a calibration certification and the results of audiometric testing performed by a certified audiologist. The audiogram performed on June 10, 2015 reflected testing at the frequency levels of 500, 1,000, 2,000, and 3,000 hertz (Hz) and revealed the following: right ear 10, 10, 25, and 40 decibels (dBs); left ear 5, 20, 20, and 40 dBs, respectively. Dr. Beasley noted that appellant's sensorineural hearing loss was due to noise exposure in his federal civilian employment and recommended noise protection, a hearing aid evaluation, and annual audiograms.

On June 18, 2015 OWCP forwarded Dr. Beasley's report to a district medical adviser (DMA) for the purposes to rendering an impairment rating under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*). The DMA calculated a bilateral impairment rating of zero percent, based upon right and left monaural impairment ratings of zero percent. He noted that hearing aids should not be authorized.

By decision dated June 25, 2015, OWCP accepted that appellant sustained bilateral hearing loss due to employment-related noise exposure. It further found that appellant's hearing loss was not sufficiently severe to be considered a ratable impairment and that appellant was thus not entitled to a schedule award. OWCP also found that hearing aids were not authorized.

### **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

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<sup>2</sup> *Id.* at § 8107.

<sup>3</sup> 20 C.F.R. § 10.404.

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

Regarding tinnitus, the A.M.A., *Guides* provide that tinnitus is not a disease, but rather a symptom that may be the result of a disease or injury.<sup>8</sup> The A.M.A., *Guides* state that, if tinnitus interferes with activities of daily living (ADLs), including sleep, reading (and other tasks requiring concentration), enjoyment of quiet recreation and emotional well-being, up to five percent may be added to a measurable binaural hearing impairment.<sup>9</sup>

### ANALYSIS

The Board finds that the evidence of record does not establish that appellant has a ratable impairment based on his accepted bilateral hearing loss. The June 10, 2015 audiogram results did not demonstrate ratable values, and this audiogram was the only one interpreted in accordance with the sixth edition of the A.M.A., *Guides*.

The June 10, 2015 audiogram is the only study that complied with OWCP certification procedures. It demonstrated record values at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz of 10, 10, 25, and 40 dBs on the right for a total of 85 dBs. This figure, when divided by four, results in an average hearing loss of 21.25 dBs. The average of 21.25 dBs, when reduced by the 25 dB fence, results in zero percent monaural hearing loss in the right ear. The

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<sup>4</sup> See *D.K.*, Docket No. 10-174 (issued July 2, 2010); *Michael S. Mina*, 57 ECAB 379, 385 (2006).

<sup>5</sup> 20 C.F.R. § 10.404; see *F.D.*, Docket No. 09-1346 (issued July 19, 2010).

<sup>6</sup> See A.M.A., *Guides* 250 (6<sup>th</sup> ed., 2009).

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

<sup>8</sup> See A.M.A., *Guides* 249 (6<sup>th</sup> ed. 2009).

<sup>9</sup> *Id.* See also *R.O.*, Docket No. 13-1036 (issued August 28, 2013); *R.H.*, Docket No. 10-2139 (issued July 13, 2011); *Robert E. Cullison*, 55 ECAB 570, 573 (2004).

frequency levels on the left at 500, 1,000, 2,000, and 3,000 Hz revealed dB losses of 5, 20, 20, and 40 dBs, for a total of 85 dBs. This figure, when divided by four, results in an average hearing loss of 21.25 dBs, which, when reduced by the 25 dB fence, results in zero percent monaural hearing loss of the left ear. The Board finds that, as the June 10, 2015 audiogram did not demonstrate that appellant's hearing loss was ratable, he is not entitled to a schedule award for his accepted hearing loss condition.<sup>10</sup>

While appellant noted that he had tinnitus, tinnitus may not be added to an impairment rating for hearing loss under the sixth edition of the A.M.A., *Guides* unless such hearing loss is ratable.<sup>11</sup>

Finally, while the Board notes that Dr. Beasley recommended in his June 10, 2015 report that appellant undergo an evaluation to determine the need for hearing aids, the DMA subsequently related on June 18, 2015 that hearing aids should not be authorized. There is no medical evidence of record that hearing aids should be authorized. OWCP therefore did not abuse its discretion by denying authorization for hearing aids.<sup>12</sup>

Appellant may request a 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.

As to his request for hearing aids, appellant may submit new evidence or argument with a written request for reconsideration to OWCP within one year of this merit decision, pursuant to 5 U.S.C. § 8128 and 20 C.F.R. §§ 10.605 through 10.607.

### **CONCLUSION**

The Board finds that appellant did not establish a ratable hearing loss entitling him to a schedule award.

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<sup>10</sup> *Supra* note 7.

<sup>11</sup> See *Juan A. Trevino*, 54 ECAB 358, 360 (2003).

<sup>12</sup> *L.M.*, Docket No. 15-818 (issued August 4, 2015). The Board found that there was no probative medical evidence of record that appellant should have hearing aids. 5 U.S.C. § 8103(a) provides that the United States shall furnish to an employee who is injured while in the performance of duty, the services, appliances, and supplies prescribed or recommended by a qualified physician, which the Secretary of Labor considers likely to cure, give relief, reduces the degree or the period of any disability or aid in lessening the amount of any monthly compensation. 24 OWCP must therefore exercise discretion in determining whether the particular service, appliance, or supply is likely to affect the purposes specified in FECA.

**ORDER**

**IT IS HEREBY ORDERED THAT** the June 25, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: December 16, 2016  
Washington, DC

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

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

Valerie D. Evans-Harrell, Alternate Judge  
Employees' Compensation Appeals Board