

FACTUAL HISTORY

On June 18, 2014 appellant, then a 59-year-old toolmaking inspector, filed an occupational disease claim (Form CA-2) alleging that he developed a loss of hearing in his left ear due to noises at work including machines, hand grinders, and chipping guns. He indicated that he first became aware of his condition on June 5, 2014 and first attributed the condition to his employment on that date.

In support of his claim, appellant submitted audiologic records from the employing establishment's hearing loss conservation program. The employing establishment controverted appellant's claim and asserted that the building where appellant worked was well within the guidelines for noise exposure.

By letter dated July 23, 2014, OWCP requested that appellant provide additional medical evidence in support of his claim. Appellant informed OWCP that he had worked at the employing establishment for 30 years in the machine shop. He noted that the employing establishment provided earplugs and that he worked 10 hours a day, four days a week. Appellant listed the source of noise as loud machines, impact wrenches, air hoses, chipping guns, and loud fans. He disputed the employing establishment's allegations regarding his limited noise exposure and asserted that he had requested a safety check, but did not yet have the results.

OWCP referred appellant for a second opinion evaluation with Dr. Charles Hollingsworth, II, a Board-certified otolaryngologist, on January 27, 2015. In his February 19, 2015 report, Dr. Hollingsworth described appellant's noise exposure. He reviewed appellant's audiogram dated February 10, 2015 and found bilateral severe high frequency hearing loss worse on the left. Dr. Hollingsworth opined that appellant's loss of hearing was employment related and recommended hearing aids.

Dr. Hollingsworth applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment*² formula and determined that appellant had no ratable loss of hearing on the right, but 16.9 percent left monaural impairment. He found that appellant had 2.8 percent binaural hearing loss. Appellant's February 19, 2015 audiogram demonstrated testing at 500, 1,000, 2,000, and 3,000 hertz (Hz) and on the right exhibited decibel (dB) loss of 20, 20, 20, and 20 respectively. This averaged dB loss of 20. Dr. Hollingsworth subtracted the fence of 25 dBs resulting in -5, which he multiplied by 1.5 to result in no monaural hearing loss on the right. On the left at the aforementioned levels, appellant's audiogram demonstrated losses of 25, 35, 35, and 50 dBs respectively. Applying the same procedures to the audiologic results for appellant's left ear resulted in an average of 36.2 and reducing by the fence of 25 and multiplying this by 1.5, Dr. Hollingsworth found 16.9 percent. He then calculated appellant's binaural loss of hearing as 2.8 percent.

In a decision dated April 15, 2015, OWCP accepted appellant's claim for bilateral loss of hearing due to noise exposure. An OWCP medical adviser reviewed Dr. Hollingsworth's report and concluded that the binaural hearing loss was three percent under the A.M.A., *Guides*. He further found that noise exposure on the job was deemed sufficient to implicate it as a

² A.M.A., *Guides*, 6th ed. (2009).

contributing factor to appellant's hearing loss and authorized hearing aids per Dr. Hollingsworth's recommendation.

Appellant filed a claim for compensation (Form CA-7) requesting a schedule award on June 2, 2015. In a telephone memorandum dated August 17, 2015, an OWCP claims examiner noted informing appellant that hearing aids were authorized. OWCP compared the amount of compensation for 3 percent binaural loss of hearing, which was 42 days, while 17 percent monaural loss of hearing yielded 61.88 days of compensation. It determined that appellant should get the monaural rating because it would provide a greater amount of compensation than the binaural amount.

Appellant requested binaural hearing aids on October 7, 2015.

By decision dated October 2, 2015, OWCP granted appellant a schedule award for 17 percent loss of hearing in his left ear.

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 for loss of use of scheduled members or functions of the body. FECA, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the discretion of OWCP. For consistent results and to ensure equal justice, the Board has authorized the use of a single set of tables so that there may be uniform standards applicable to all claimants. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*.⁵

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*. 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 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.⁶ 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 and then added to the greater loss and the total is divided by six to arrive at the amount of the binaural hearing loss. The Board has concurred in OWCP's adoption of this standard for

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404.

⁵ For new decisions issued after May 1, 2009 OWCP began using the sixth edition of the A.M.A., *Guides*. A.M.A., *Guides*, 6th ed. (2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Award and Permanent Disability Claims*, Chapter 2.808.5a (February 2013); see also Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

⁶ See A.M.A., *Guides* 250.

evaluating hearing loss.⁷ The Board has also noted OWCP's policy to round the calculated percentage of impairment to the nearest whole number.⁸

ANALYSIS

The Board finds that OWCP properly considered the medical evidence submitted in support of appellant's claim and properly applied the A.M.A., *Guides*. A medical report was submitted from Dr. Hollingsworth which conforms to applicable criteria. The losses at the frequencies of 500, 1,000, 2,000, and 3,000 Hz were added and averaged and the fence of 25 dBs was deducted.⁹ The remaining amount was multiplied by 1.5 to arrive at the percentage of monaural hearing loss. Applying this formula to the hearing loss on the right did not result in a ratable loss of hearing. Dr. Hollingsworth applied the formula to the loss of hearing on the left and reached 16.9 percent impairment.

For a binaural hearing loss, the loss in each ear is calculated using the above formula. The lesser loss is then multiplied by five and added to the greater loss. This amount is then divided by six to arrive at the total binaural hearing loss. For levels recorded in the right ear of 20, 20, 20, and 20, the above formula derives 0 percent monaural loss and for levels recorded in the left ear of 25, 35, 35, and 50, the above formula derives 16.9 percent monaural loss in the left ear. According to the accepted formula these combine to reach 2.8 percent binaural loss of hearing, which is rounded up to 3, the nearest whole.

The schedule provisions of FECA specify the number of weeks of compensation to be paid for each permanent impairment listed in the schedule.¹⁰ FECA provides that a claimant is entitled to 52 weeks of compensation for a 100 percent loss of hearing in one ear and 200 weeks of compensation for 100 percent hearing loss in both ears. OWCP used 17 percent left ear monaural hearing loss impairment rating (rounded up from 16.9 percent). Multiplying 17 percent by the 52 weeks provided for monaural hearing loss results in 8.84 total weeks of compensation. With respect to the three percent binaural hearing loss impairment found by Dr. Hollingsworth, OWCP determined that multiplying three percent by the 200 weeks provided for binaural hearing loss would result in a total of six weeks of compensation. The Board notes that if the allowance for monaural hearing loss would be greater than that for binaural hearing loss, the claimant should receive the benefit of the more favorable allowance. Thus, OWCP properly determined that appellant would receive greater compensation for his monaural left ear

⁷ *R.B.*, Docket No. 15-1482 (issued December 7, 2015); *E.S.*, 59 ECAB 249 (2007); *Reynaldo R. Lichtenberger*, 52 ECAB 462 (2001).

⁸ *R.B.*, *supra* note 7; *J.H.*, Docket No. 08-2432 (issued June 15, 2009), *Robert E. Cullison*, 55 ECAB 570 (2004). See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4(b)(2)(b) (January 2010).

⁹ The A.M.A., *Guides* points out that the loss below an average of 25 dBs is deducted as it does not result in impairment in the ability to hear every day sounds under everyday listening conditions.

¹⁰ 5 U.S.C. § 8107; 20 C.F.R. § 10.304(b).

hearing loss rather than for his binaural hearing loss and granted him a schedule award based on this amount.¹¹

In response to appellant's allegations on appeal, the Board notes that the record establishes that OWCP is processing appellant's request for binaural hearing aids. There is no final adverse decision on this issue. The record does not establish that appellant has more than 17 percent monaural loss of hearing for which he received a schedule award, that he has a ratable impairment of the right ear,¹² or that he would receive additional schedule award compensation for his binaural loss of hearing.

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 17 percent impairment due to loss of hearing in his left ear. The Board further finds that appellant has no ratable impairment in his right ear due to loss of hearing and that he would not receive an additional schedule award based on binaural loss of hearing.

¹¹ *M.M.*, Docket No. 15-1719 (issued November 2, 2015); *T.H.*, Docket No. 07-965 (issued August 6, 2007). As explained, OWCP determined that appellant's schedule award based on 17 percent monaural impairment of the left ear which resulted in 8.84 weeks of compensation would provide more compensation than a 3 percent binaural award, which would provide six weeks of compensation. *See* Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 2, Percentage Table of Schedule Awards, Form CA-699 (January 2010).

¹² This does not mean that appellant has no hearing loss. It means that the extent or degree of loss is not sufficient to show a practical impairment in hearing according to the A.M.A., *Guides*. *See J.C.*, Docket No. 15-1294 (issued August 20, 2015).

ORDER

IT IS HEREBY ORDERED THAT the October 2, 2015 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 29, 2016
Washington, DC

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

Colleen Duffy Kiko, Judge
Employees' Compensation Appeals Board

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