



high noise levels while in the performance of his federal duties. He stated that in his career serving at an airport in San Antonio, Texas from November 1979 until his retirement and in a collateral duty as a firearms instructor from 1986 to 2009, he was exposed to the noise from thousands of commercial and private aircraft. Appellant retired on December 11, 2011.

In an April 24, 2014 letter, OWCP notified appellant of the deficiencies of his claim and afforded him 30 days to submit additional evidence and respond to its inquiries.

In response, appellant submitted a May 6, 2014 narrative statement reiterating his employment history.

OWCP referred appellant and a statement of accepted facts to Dr. William Carl Smith, a Board-certified otolaryngologist, for a second opinion evaluation. Dr. Smith performed an otologic evaluation of appellant on January 7, 2015 and audiometric testing was obtained on his behalf. Testing at the frequency levels of 500, 1,000, 2,000, and 3,000 cycles per second revealed the following: right ear 10, 5, 10, and 65 decibels; left ear 10, 5, 35, and 60 decibels. Dr. Smith determined that appellant sustained binaural hearing loss due to his exposure to noise in the workplace. He recommended hearing aid amplification.

On August 27, 2014 an OWCP medical adviser, Dr. Ronald H. Blum, a Board-certified internist, reviewed Dr. Smith's report and the audiometric testing of January 7, 2015. He concluded that, in accordance with the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*),<sup>2</sup> appellant had 3.75 percent monaural hearing impairment in the left ear, 0 percent monaural hearing impairment in the right ear, and 0.6 percent binaural hearing impairment. Dr. Blum recommended hearing aids and noted that the date of maximum medical improvement was January 7, 2015, the date of Dr. Smith's second opinion examination and report.

By decision dated January 14, 2015, OWCP accepted that appellant sustained bilateral hearing loss due to noise exposure. It further found that appellant was entitled to hearing aids.

On August 3, 2015 OWCP authorized appellant's request for binaural hearing aids.

On August 13, 2015 appellant filed a claim for a schedule award (Form CA-7).

By decision dated January 26, 2016, OWCP granted appellant a schedule award for four percent monaural (left ear) hearing loss, entitling appellant to two weeks of compensation. The period of the award ran from January 7 to 21, 2015. OWCP explained that it had rounded Dr. Blum's 3.75 percent loss rating up to 4 percent in accordance with FECA policy,<sup>3</sup> which paid claims for a schedule award in whole percentages.

On February 19, 2016 appellant requested an oral hearing by a representative of OWCP's Branch of Hearings and Review. He submitted an audiogram dated July 2, 2015 and a May 25,

---

<sup>2</sup> A.M.A. *Guides* (6<sup>th</sup> ed. 2009).

<sup>3</sup> See Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3(b) (January 2010) (results should be rounded down for figures less than .5 and up for .5 and over).

2012 report from Dr. Benjamin D. Webb, a Board-certified otolaryngologist, who diagnosed chronic pharyngitis and checked boxes indicating that appellant had otalgia, tinnitus, and sensorineural hearing loss.

A telephonic hearing was held before an OWCP hearing representative on October 7, 2016. Appellant provided testimony and the hearing representative held the case record open for 30 days for the submission of additional evidence.

Subsequently, appellant resubmitted the May 25, 2012 from Dr. Webb and an audiogram dated July 15, 2016 from Dr. Stephen J. Talley, a Board-certified otolaryngologist. Testing at the frequency levels of 500, 1,000, 2,000, and 3,000 cycles per second revealed the following: right ear 15, 10, 35, and n/a decibels; left ear 5, 10, 15, and n/a decibels. Appellant argued at the hearing that this new diagnostic testing, along with his diagnosis of tinnitus, established entitlement to a total schedule award for 14 percent bilateral hearing impairment based upon his own calculations from his review of the medical records.

By decision dated December 22, 2016, OWCP affirmed its prior decision finding that the additional medical evidence received was insufficient to establish more than four percent monaural (left ear) hearing loss, for which he previously received a schedule award.

### **LEGAL PRECEDENT**

The schedule award provision of FECA and its implementing regulations 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. 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 sound 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. The A.M.A., *Guides* (6<sup>th</sup> ed. 2009), has been adopted by OWCP for evaluating schedule losses and the Board has concurred in such adoption.<sup>4</sup>

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 cycles per second, the losses at each frequency are added up and averaged. Then, the fence of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels 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

---

<sup>4</sup> See *R.D.*, 59 ECAB 127 (2007); *Bernard Babcock, Jr.*, 52 ECAB 143 (2000).

amount of the binaural hearing loss. The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.<sup>5</sup>

### ANALYSIS

The Board finds that appellant has not established more than four percent monaural (left ear) hearing loss, for which he previously received a schedule award.

OWCP's medical adviser, Dr. Blum, reviewed the report of Dr. Smith, to whom OWCP referred appellant for an otologic examination and audiological evaluation. Dr. Smith determined that appellant sustained binaural hearing loss due to his exposure to noise in the workplace. Dr. Blum concluded that appellant had four percent monaural (left ear) hearing loss. He properly applied OWCP's standardized procedures to Dr. Smith's January 7, 2015 audiogram which recorded frequency levels at the 500, 1,000, 2,000, and 3,000 cycles per second levels and revealed decibel losses of 10, 5, 10, and 65 respectively in the right ear for a total decibel loss of 90 on the right. Dr. Blum then followed established procedures and divided this total by 4 which resulted in an average loss of 22.5 decibels and subtracted the fence of 25 decibels to equal 0 decibels. He then multiplied this by the established factor of 1.5 to result in 0 percent monaural hearing loss for the right ear. Dr. Blum then properly followed the same procedure on the left, noting that the test results for the left ear at the frequencies of 500, 1,000, 2,000, and 3,000 cycles per second revealed decibel losses of 10, 5, 35, and 60 decibels respectively, for a total of 110 decibels. He divided this by 4, for an average hearing loss of 27.5 decibels, subtracted the fence of 25 decibels to equal 2.5 decibels, and multiplied this by the established factor of 1.5, for a 3.75 percent monaural hearing loss for the left ear. The report therefore established that, after rounding up,<sup>6</sup> appellant was entitled to a schedule award for four percent monaural (left ear) hearing loss.<sup>7</sup>

A schedule award provides for payment of compensation for a specific number of weeks as prescribed by the statute.<sup>8</sup> With regard to appellant's contention that he was entitled to a schedule award for greater than 4 percent monaural hearing loss, section 8107(c)(13)(B) provides that for 100 percent loss of hearing of one ear, a claimant is entitled to 52 weeks' compensation.<sup>9</sup> As appellant sustained four percent monaural hearing loss, he is entitled to two weeks' compensation, which is what OWCP awarded.<sup>10</sup>

---

<sup>5</sup> See *E.S.*, 59 ECAB 249 (2007); *Donald Stockstad*, 53 ECAB 301 (2002), *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

<sup>6</sup> The Board notes OWCP's policy to round the calculated percentage of impairment to the nearest whole number. See *J.H.*, Docket No. 08-2432 (issued June 15, 2009); *Robert E. Cullison*, 55 ECAB 570 (2004). See also Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.3(b) (January 2010).

<sup>7</sup> See *S.G.*, 58 ECAB 383 (2007).

<sup>8</sup> 5 U.S.C. § 8107.

<sup>9</sup> 5 U.S.C. § 8107(c)(13)(B).

<sup>10</sup> OWCP correctly calculated that four percent of 52 weeks equals 2 weeks.

The Board finds that there is no current medical evidence of record supporting a ratable hearing loss greater than the four percent monaural hearing loss previously awarded. It is appellant's burden of proof to submit evidence of additional hearing loss under OWCP's standardized procedures for rating hearing impairment.<sup>11</sup> He has failed to submit such evidence in support of his claim. Appellant also contends on appeal that OWCP failed to consider his tinnitus condition in its schedule award decision. Regarding tinnitus, the A.M.A., *Guides* allows for compensation of up to five percent for tinnitus in the presence of measurable hearing loss if the tinnitus impacts the ability to perform activities of daily living.<sup>12</sup> Although Dr. Webb diagnosed tinnitus, OWCP has not accepted tinnitus as an employment-related condition in this case.

Appellant may request a schedule award or increased schedule award at any time 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 not established more than four percent monaural (left ear) hearing loss, for which he previously received a schedule award.

---

<sup>11</sup> See *J.B.*, Docket No. 15-1474 (issued March 4, 2016).

<sup>12</sup> See Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.6(f) (February 2013).

**ORDER**

**IT IS HEREBY ORDERED THAT** the December 22, 2016 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: August 21, 2018  
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