

**United States Department of Labor
Employees' Compensation Appeals Board**

M.A., Appellant)
and) Docket No. 25-0693
DEPARTMENT OF THE ARMY, U.S. ARMY) Issued: September 29, 2025
CORPS OF ENGINEERS, Omaha, NE, Employer)

)

Appearances:

Appellant, pro se

Office of Solicitor, for the Director

Case Submitted on the Record

DECISION AND ORDER

Before:

ALEC J. KOROMILAS, Chief Judge

PATRICIA H. FITZGERALD, Deputy Chief Judge

JANICE B. ASKIN, Judge

JURISDICTION

On July 14, 2025 appellant filed a timely appeal from a May 30, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act¹ (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

ISSUE

The issue is whether appellant has met his burden of proof to establish greater than three percent monaural hearing loss of the right ear, for which he previously received a schedule award.

FACTUAL HISTORY

On May 31, 2023 appellant, then a 64-year-old power plant electronics mechanic, filed an occupational disease claim (Form CA-2) alleging that he sustained hearing loss due to exposure to noise and vibration while working for the employing establishment at a hydro-electric power

¹ 5 U.S.C. § 8101 *et seq.*

plant for 24 years. He explained that his hearing loss occurred gradually, and that he did not realize the extent of it until he recently went for a hearing aid evaluation. Appellant noted that he first became aware of his claimed condition on May 2, 2000 and realized its relation to factors of his federal employment on January 1, 2021. He did not stop work.

In a May 31, 2023 statement, appellant indicated that he had worked since April 1998 at the employing establishment's hydro-electric power plant, which had three 42 megawatt generating units. He noted that he worked in a "high noise environment with a constant rumble throughout the facility" and that his job required him to be in this area for much of his workday. Appellant reported that he experienced hearing loss despite having worn molded hearing protection provided by the employing establishment's safety office. He indicated that he had undergone hearing tests by private providers in addition to yearly hearing tests conducted by the employing establishment. Appellant advised that he currently wears hearing aids in both ears.

In support of his claim, appellant submitted reports dated December 19, 2013, August 27, 2014, April 23, 2019, April 26 and May 18, 2023 wherein Jason R. Howe, a clinical audiologist, evaluated his hearing loss. In the April 23, 2019 and April 26, 2023 reports, Mr. Howe diagnosed bilateral sensorineural hearing loss. Each report contained the results of audiogram testing obtained on the date of evaluation. Appellant also submitted a job description for the position of power plant electronics mechanic, and audiograms dated from April 3, 1998 through March 28, 2023, which were obtained by both employing establishment and private evaluators.

In a development letter dated June 7, 2023, OWCP informed appellant of the deficiencies of his claim. It advised him of the type of factual and medical evidence needed and provided a questionnaire for his completion. OWCP afforded appellant 60 days to respond. In a separate development letter of even date, it requested that the employing establishment provide information regarding appellant's hearing loss claim, including comments from a knowledgeable supervisor regarding appellant's claimed exposure to noise in the workplace. OWCP afforded the employing establishment 30 days to respond.

In a June 7, 2023 statement, appellant's immediate supervisor indicated that appellant worked in a hydro-electric power plant with three 42 megawatt generating units, which were turned by flowing water. He advised that, throughout his workday, he was exposed to noise and vibration from cooling/hydraulic pumps, oil filter systems, and rotating shafts. The supervisor reported that appellant continued to be exposed to the same noise in the workplace throughout his employment since 1998.

On November 1, 2023 OWCP referred appellant to Dr. Kyle J. Stansifer, a Board-certified otolaryngologist, for a second opinion evaluation. It provided Dr. Stansifer with a statement of accepted facts (SOAF), which delineated appellant's exposure to noise in his federal employment.

In a November 28, 2023 report, Dr. Stansifer discussed appellant's factual and medical history, noting that there was no significant variation from the provided SOAF, and reported the findings of otologic and audiologic testing performed on that date. He diagnosed binaural sensorineural hearing loss (asymmetric on the right and mild on the left) and bilateral tinnitus. Dr. Stansifer opined that these conditions were causally related to appellant's exposure to noise in his federal employment. He indicated that the audiogram he obtained on November 28, 2023

showed losses at the frequency levels of 500, 1,000, 2,000, and 3,000 Hertz (Hz) in the right ear of 15, 15, 20, and 55 decibels (dBs) respectively, and in the left ear of 20, 20, 15, and 20 dBs respectively. Utilizing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),² he determined that appellant had 1.88 percent right monaural hearing loss, 0 percent left monaural hearing loss, and 0.32 percent binaural hearing loss. Dr. Stansifer completed a tinnitus handicap inventory (THI) and rated the tinnitus diagnosis at one percent based on a 12/100 score. He recommended the use of hearing aids.

On January 5, 2024 OWCP accepted that appellant sustained binaural sensorineural hearing loss and bilateral tinnitus.

On December 4, 2024 appellant filed a claim for compensation (Form CA-7) for a schedule award.

On January 7, 2025 Dr. Amanda C. Trimpey, a Board-certified occupational medicine physician serving as an OWCP district medical adviser (DMA), reviewed the November 28, 2023 otologic and audiologic testing of Dr. Stansifer and applied the sixth edition of the A.M.A., *Guides* to this evaluation. She noted that testing for the right ear at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz revealed losses of 15, 15, 20, and 55 dBs respectively. These losses were totaled at 105 dBs and were divided by 4 to obtain the average hearing loss of 26.25 dBs. This average loss was then reduced by 25 dBs to equal 1.25, which was multiplied by the established factor of 1.5 to compute a 1.875 percent hearing loss in the right ear. Dr. Trimpey rounded up the 1.875 percent figure to 2 percent hearing loss in the right ear. She noted that testing for the left ear at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz revealed losses of 20, 20, 15, and 20 dBs respectively. These losses totaled 75 dBs and when divided by 4 resulted in an average hearing loss of 18.75 dBs. Dr. Trimpey noted that the average loss when reduced by 25 dBs equaled 0 dBs, which when multiplied by the established factor of 1.5 equaled a 0 percent hearing loss in the left ear. To compute the binaural hearing loss, Dr. Trimpey multiplied the lesser loss in the left ear, *i.e.*, 0 percent, by the established factor of 5, and added the result to the 2 percent loss in the right ear. She divided this sum by the established factor of 6 to equal 0.33 percent, which rounded down to 0 percent binaural hearing loss. Dr. Trimpey indicated that appellant had a score of 12 on the THI completed on November 28, 2023, which correlated to one percent tinnitus impairment, but noted that the A.M.A., *Guides* dictated that a measurable binaural hearing loss must be present in order to add an impairment for tinnitus. She found that appellant reached maximum medical improvement (MMI) on November 28, 2023, the date of Dr. Stansifer's evaluation.

On February 4, 2025 OWCP received a January 22, 2025 report wherein Mr. Howe diagnosed binaural sensorineural hearing loss and bilateral tinnitus.

On February 12, 2025 OWCP requested that Dr. Trimpey provide further clarification regarding appellant's hearing loss impairment. It requested that she advise whether her calculation of one percent impairment due to tinnitus should be added to the right monaural hearing loss and confirm the final total for monaural hearing loss.

² A.M.A., *Guides* (6th ed. 2009).

In a supplemental report dated February 19, 2025, Dr. Trimpey responded that, since there was a measurable hearing loss impairment in appellant's right ear, the one percent impairment due to tinnitus could be added to the two percent impairment due to hearing loss of the right ear. Therefore, Dr. Trimpey concluded that appellant had a total monaural hearing loss of the right ear of three percent.

On March 10, 2025 OWCP received a February 24, 2025 report wherein Mr. Howe diagnosed binaural sensorineural hearing loss. On April 7, 2025 it received a March 5, 2025 report wherein Mr. Howe diagnosed binaural sensorineural hearing loss and bilateral tinnitus.

By decision dated May 30, 2025, OWCP granted appellant a schedule award for three percent monaural hearing loss of the right ear. The award ran for 1.56 weeks from November 28 through December 8, 2023.

LEGAL PRECEDENT

The schedule award provision of FECA³ and its implementing regulation⁴ 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. As of May 1, 2009, the sixth edition of the A.M.A., *Guides* is used to calculate schedule awards.⁵ The Board has approved OWCP's use of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule losses purposes.⁶

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to OWCP's medical adviser for an opinion concerning the nature and percentage of impairment in accordance with the A.M.A., *Guides*, with the medical adviser providing rationale for the percentage of impairment specified.⁷ OWCP may follow the advice of its medical adviser where he or she has properly utilized the A.M.A., *Guides*.⁸

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.⁹ Using the frequencies of 500, 1,000, 2,000, and 3,000 Hz, the losses at each

³ 5 U.S.C. § 8107.

⁴ 20 C.F.R. § 10.404 (1999).

⁵ Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

⁶ *J.D.*, Docket No. 19-1168 (issued March 29, 2021); *Isidoro Rivera*, 12 ECAB 348 (1961).

⁷ *See supra* note 5 at Chapter 2.808.6(f) (March 2017); *Hildred I. Lloyd*, 42 ECAB 944 (1991).

⁸ *See Ronald J. Pavlik*, 33 ECAB 1596 (1982).

⁹ A.M.A., *Guides* 250-51 (6th ed. 2009).

frequency are added up and averaged.¹⁰ Then, the “fence” of 25 dBs is deducted because, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech under everyday conditions.¹¹ The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.¹² 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.¹³ The Board has concurred in OWCP’s adoption of this standard for evaluating hearing loss.¹⁴

While section 8107(c)(13) of FECA provides separate calculations for loss of hearing in one ear and for loss of hearing in both,¹⁵ if calculations based on the monaural hearing loss would result in greater compensation than calculations for binaural loss, then the monaural hearing loss calculations should be used.¹⁶ FECA provides that a claimant is entitled to 52 weeks of compensation for 100 percent loss of hearing in one ear and 200 weeks compensation for 100 percent hearing loss in both ears.¹⁷

The A.M.A., *Guides* provides that if tinnitus interferes with activities of daily living, 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.” (Emphasis added.)¹⁸

ANALYSIS

The Board finds that this case is not in posture for decision.

In a November 28, 2023 report, Dr. Stansifer, OWCP’s referral physician, diagnosed binaural sensorineural hearing loss and binaural tinnitus and opined that the conditions were due to noise exposure from appellant’s federal employment. He calculated 1.88 percent right monaural hearing loss, 0 percent left monaural hearing loss, and 0.32 percent binaural hearing loss. Dr. Stansifer also rated the tinnitus diagnosis at one percent.

¹⁰ *Id.*

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

¹⁴ *M.W.*, Docket No. 19-1154 (issued September 8, 2020); *Donald Stockstad*, 53 ECAB 301 (2002); *petition for recon. granted (modifying prior decision)*, Docket No. 01-1570 (issued August 13, 2002).

¹⁵ 5 U.S.C. § 8107(c)(13).

¹⁶ *See supra* note 5 at Chapter 2.808.7a(2) (February 2013).

¹⁷ 5 U.S.C. § 8107(c)(13).

¹⁸ A.M.A., *Guides* 249.

On January 7, 2025 Dr. Trimpey, the DMA, reviewed the November 28, 2023 otologic and audiologic testing performed by Dr. Stansifer and calculated two percent right monaural hearing loss, zero percent left monaural hearing loss, and zero percent binaural hearing loss. Dr. Trimpey indicated that appellant had a score of 12 on the THI completed on November 28, 2023, which correlated to one percent tinnitus impairment. On February 12, 2025 OWCP requested that Dr. Trimpey advise whether her calculation of one percent impairment due to tinnitus should be added to the right monaural hearing loss and confirm the final total for monaural hearing loss. In a February 19, 2025 supplemental report, in response to OWCP's request, she indicated that the one percent impairment due to tinnitus could be added to the two percent impairment due to hearing loss of the right ear. Dr. Trimpey concluded that appellant had a total monaural hearing loss of the right ear of three percent.

As noted above, the A.M.A., *Guides* provides that if tinnitus interferes with activities of daily living, "up to five percent may be added to *measurable binaural* hearing impairment." (Emphasis added.)¹⁹ Dr. Trimpey in her February 19, 2025 supplemental report, however, included impairment due to tinnitus in the calculation of appellant's total *monaural* hearing loss.

It is well established that proceedings under FECA are not adversarial in nature and OWCP is not a disinterested arbiter.²⁰ While the claimant has the responsibility to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence. It has the obligation to see that justice is done.²¹ Accordingly, once OWCP undertakes development of the record, it must do a complete job in procuring medical evidence that will resolve the relevant issues in the case.²²

The case must therefore be remanded for further development. On remand, OWCP shall obtain a supplemental opinion from Dr. Trimpey which provides an impairment rating in accordance with the sixth edition of the A.M.A., *Guides*.²³ If Dr. Trimpey is unavailable or unwilling to provide such clarification, OWCP must refer the case to a new DMA for a rationalized medical opinion on the issue in question. After this and such other further development as deemed necessary, it shall issue a *de novo* decision.

CONCLUSION

The Board finds that this case is not in posture for decision.

¹⁹ *Id.*

²⁰ *N.L.*, Docket No. 19-1592 (issued March 12, 2020); *M.T.*, Docket No. 19-0373 (issued August 22, 2019); *B.A.*, Docket No. 17-1360 (issued January 10, 2018); *Clinton E. Anthony, Jr.*, 49 ECAB 476 (1998).

²¹ *C.L.*, Docket No. 20-1631 (issued December 8, 2021); *L.B.*, Docket No. 19-0432 (issued July 23, 2019); *Donald R. Gervasi*, 57 ECAB 281, 286 (2005); *William J. Cantrell*, 34 ECAB 1233, 1237 (1983).

²² *T.K.*, Docket No. 20-0150 (issued July 9, 2020); *T.C.*, Docket No. 17-1906 (issued January 10, 2018).

²³ *Supra* note 18. See also *L.B.*, Docket No. 24-0744 (issued September 9, 2024).

ORDER

IT IS HEREBY ORDERED THAT the May 30, 2025 decision of the Office of Workers' Compensation Programs is set aside and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: September 29, 2025
Washington, DC

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

Patricia H. Fitzgerald, Deputy Chief Judge
Employees' Compensation Appeals Board

Janice B. Askin, Judge
Employees' Compensation Appeals Board