

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

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<b>R.F., Appellant</b>	)	
	)	
<b>and</b>	)	
	)	<b>Docket No. 26-0151</b>
	)	<b>Issued: April 3, 2026</b>
<b>DEPARTMENT OF JUSTICE, FEDERAL</b>	)	
<b>BUREAU OF INVESTIGATION,</b>	)	
<b>Washington, DC, Employer</b>	)	
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*Appearances:*  
*Appellant, pro se*  
*Office of Solicitor, for the Director*

*Case Submitted on the Record*

**DECISION AND ORDER**

Before:  
ALEC J. KOROMILAS, Chief Judge  
JANICE B. ASKIN, Judge  
VALERIE D. EVANS-HARRELL, Alternate Judge

**JURISDICTION**

On December 4, 2025 appellant filed a timely appeal from a November 18, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act<sup>1</sup> (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.

**ISSUES**

The issues are: (1) whether appellant has met his burden of proof to establish greater than 24 percent monaural hearing loss of the right ear, for which he previously received a schedule award; and (2) whether OWCP properly calculated appellant's payrate for schedule award purposes.

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<sup>1</sup> 5 U.S.C. § 8101 *et seq.*

## **FACTUAL HISTORY**

On December 18, 2024 appellant, then a 46-year-old criminal investigator, filed an occupational disease claim (Form CA-2) alleging that he developed binaural hearing loss causally related to factors of his federal employment, including his proximity to firearms, flashbangs, and his duties as firearms instructor. He noted that he first became aware of his condition and its relationship to his federal employment on April 15, 2023. On the reverse side of the form, the employing establishment noted the last date of exposure as December 17, 2024. Appellant did not stop work.

On March 25, 2025 OWCP referred appellant, a statement of accepted facts (SOAF), and an otologic evaluation questionnaire to Dr. Mark Dettelbach, a Board-certified otolaryngologist, for a second opinion evaluation.

In a report dated June 25, 2025, Dr. Dettelbach reviewed the SOAF and completed the questionnaire. He diagnosed binaural sensorineural hearing loss (minimal on left and severe-to-moderate on the right), which was due in part to noise exposure in appellant's federal employment. Dr. Dettelbach also diagnosed tinnitus due to appellant's employment-related noise exposure. He recommended a hearing aid for appellant's right ear.

Dr. Dettelbach reviewed appellant's June 25, 2025 audiogram which demonstrated losses of 25, 40, 50, and 55 decibels (dBs) on the right and 20, 50, 5, and 0 dBs on the left at 500, 1,000, 2,000, and 3,000 Hertz (Hz), respectively. For the right ear, he calculated a 26 percent monaural impairment. For the left ear, Dr. Dettelbach calculated 0 percent monaural impairment. He also calculated a binaural hearing impairment of 4.5 percent and 2 percent tinnitus impairment, for a total binaural hearing impairment of 6.5 percent. Dr. Dettelbach opined that appellant reached maximum medical improvement (MMI) on June 25, 2025, and recommended hearing aids.

By decision dated August 13, 2025, OWCP accepted the claim for binaural sensorineural hearing loss and bilateral tinnitus.

OWCP referred the medical evidence to its district medical adviser (DMA), Dr. Jeffrey M. Israel, a Board-certified otolaryngologist. On August 20, 2025, utilizing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),<sup>2</sup> the DMA reviewed the June 25, 2025 audiogram and found that appellant had a right monaural loss of 26.25 percent, a left monaural loss of 0 percent, and a binaural loss of 4.4 percent. He also found that the Tinnitus Handicap Inventory score of 18 translated to a tinnitus impairment award score of two percent. The DMA added the 2 percent tinnitus award to the 4.4 percent binaural impairment score to yield a total impairment score of 6.4 percent. He determined that appellant reached MMI on June 25, 2025, the date of the most recent audiogram examination. The DMA recommended that appellant undergo yearly audiograms, that he be provided ear protection, and be authorized hearing aids with integrated tinnitus masking.

On August 20, 2025 appellant filed a claim for compensation (Form CA-7) for a schedule award. On the reverse side of the claim form the employing establishment listed appellant's base

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

pay as of the date of injury as \$145,617.00 per year with additional pay of \$36,404.25 per year. It listed appellant's base pay as of the date he stopped work as \$156,755.00 per year with additional pay of \$39,188.00 per year. However, the employing establishment also noted that appellant had not stopped work, therefore, the payrate for June 25, 2025 was based on the date of MMI.

In a letter dated August 26, 2025, OWCP requested the employing establishment provide payrate information effective June 24, 2025, including any premium pay earned and specifying the type and amount of premium pay.

On August 28, 2025 the employing establishment advised that appellant was earning an adjusted salary of \$156,755.00.

In a supplemental report dated September 7, 2025, Dr. Israel, the DMA noted that he calculated 6.4 percent binaural hearing loss and Dr. Dettelbach calculated 6.5 percent binaural hearing loss. He explained that he rounded at the end of the calculations. The DMA concluded that his method of rounding resulted in a more precise final calculation.

In a schedule award payment memorandum dated September 10, 2025, OWCP found that payment of right ear hearing loss was more advantageous to appellant, as the 26 percent rating for the right ear resulted in 13.52 weeks of compensation, while the six percent binaural rating resulted in only 12.00 weeks of compensation. It utilized his weekly payrate based on an August 21, 2025 Form CA-7 of \$3,014.55 and on an annual salary of \$156,755.00 plus premium pay of \$753.52 based on annual premium pay of \$39,188.00, for a total weekly payrate of \$3,668.17. OWCP found that as there was no disability and appellant had continuing exposure, the date of injury was June 25, 2025, which was the date of last exposure prior to the medical evaluation.

By decision dated November 18, 2025, OWCP granted appellant a schedule award for 26 percent monaural hearing loss of the right ear. It calculated the period of the award from June 25 to September 27, 2025 (13.52 weeks) and found an effective date of rate of pay of June 24, 2025. OWCP determined that appellant was entitled to the augmented compensation rate of 75 percent (or 3/4) of his weekly payrate of \$3,768.13 resulting in \$2,346.23 in compensation per week, after cost of living adjustments, for a total payment of \$31,721.03.

### **LEGAL PRECEDENT -- ISSUE 1**

The schedule award provisions of FECA<sup>3</sup> and its implementing federal regulation,<sup>4</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. FECA, however, does not specify the way the percentage loss of a member shall be determined. The method used in making such a 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

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<sup>3</sup> *Supra* note 1.

<sup>4</sup> 20 C.F.R. § 10.404.

A.M.A., *Guides*, published in 2009.<sup>5</sup> The Board has approved the use by OWCP of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule award purposes.<sup>6</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 Hz, the losses at each frequency are added up and averaged.<sup>7</sup> 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.<sup>8</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>9</sup> 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.<sup>10</sup> The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.<sup>11</sup>

The A.M.A., *Guides* provide 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 measurable binaural hearing impairment.<sup>12</sup>

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a DMA for an opinion concerning the nature and percentage of permanent impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.<sup>13</sup>

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<sup>5</sup> For decisions issued after May 1, 2009, the sixth edition of the A.M.A., *Guides* is used. A.M.A., *Guides* (6<sup>th</sup> ed. 2009); 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).

<sup>6</sup> *J.M.*, Docket No. 24-0833 (issued March 20, 2024); *P.R.*, Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera*, 12 ECAB 348 (1961).

<sup>7</sup> See Section 11.2, Hearing and Tinnitus, A.M.A., *Guides* 248-51 (6<sup>th</sup> ed. 2009).

<sup>8</sup> *Id.* at 250.

<sup>9</sup> *Id.* at 250-51.

<sup>10</sup> *Id.* at 251.

<sup>11</sup> *See D.R.*, Docket No. 20-1570 (issued April 14, 2021); *B.E.*, Docket No. 18-1785 (issued April 1, 2019).

<sup>12</sup> A.M.A., *Guides* 249.

<sup>13</sup> *Supra* note 5 at Chapter 2.808.6f.

## ANALYSIS -- ISSUE 1

The Board finds that appellant has not met his burden of proof to establish greater than 26 percent monaural loss of hearing in his right ear, for which he previously received a schedule award.

OWCP properly referred appellant to Dr. Dettelbach for a second opinion evaluation regarding the claim for a schedule award. Dr. Dettelbach's June 25, 2025 report related June 25, 2025 audiogram findings and concluded that appellant's binaural sensorineural hearing loss and bilateral tinnitus was due to his workplace noise exposure.

On August 20, 2025, Dr. Israel, the DMA, reviewed Dr. Dettelbach's report which indicated right ear hearing losses of 25, 40, 50, and 55 dB at 500, 1,000, 2,000, and 3,000 Hz, respectively. These dBs were totaled at 170 and were divided by 4 to obtain an average hearing loss at those cycles of 42.5 dBs. The average of 42.5 dBs was then reduced by 25 dBs (the first 25 dBs were discounted as discussed above) to equal 17.5, which was then multiplied by 1.5 to equal 26.25 percent hearing loss for the right ear, which was rounded down to 26 percent.<sup>14</sup>

Testing for the left ear at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz revealed losses of 20, 50, 5, and 0 dBs respectively on the left. These dBs were totaled at 75 and were divided by 4 to obtain an average hearing loss at those cycles of 18.75 dBs. The average of 18.75 dBs was then reduced by 25 dBs (the first 25 dBs were discounted as discussed above) to equal zero, which was then multiplied by 1.5 to equal zero percent hearing loss for the left ear.

Dr. Israel determined the binaural loss by multiplying the lesser left-sided monaural loss of zero by 5, adding the right-sided hearing loss of 26.25, and dividing the total by 6, to find 4.4 percent binaural loss. He added 2 percent for tinnitus to find a total 6.4 percent binaural hearing loss.

In a schedule award memorandum dated September 10, 2025, OWCP found that payment of right ear hearing loss was more advantageous to appellant, as the 26 percent rating for the right ear resulted in 12.52 weeks of compensation, while 6 percent binaural rating resulted in only 12.00 weeks of compensation.

The Board finds that there is no current medical evidence of record supporting ratable hearing loss greater than the 26 percent monaural hearing loss of the right ear 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>15</sup> He has not submitted such evidence in support of his claim.

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<sup>14</sup> The policy of OWCP is to round the calculated percentage of impairment to the nearest whole number. Results should be rounded down for figures less than .5 and up for .5 and over. See *V.M.*, Docket No. 18-1800 (issued April 23, 2019); *J.H.*, Docket No. 08-2432 (issued June 15, 2009); *Robert E. Cullison*, 55 ECAB 570 (2004). See also Federal (FECA) Procedure Manual, *supra* note 5 at Chapter 3.700.4b(2)(b) (January 2010).

<sup>15</sup> *A.L.*, Docket No. 21-0248 (issued April 19, 2023); *R.H.*, Docket No. 18-1721 (issued March 25, 2019); *J.W.*, Docket No. 17-1339 (issued August 21, 2018); *J.B.*, Docket No. 15-1474 (issued March 4, 2016).

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 permanent impairment.

### **LEGAL PRECEDENT – ISSUE 2**

Under FECA, monetary compensation for disability or impairment due to an employment injury is paid as a percentage of the payrate.<sup>16</sup> Section 8101(4) provides that monthly pay means the monthly pay at the time of injury, or the monthly pay at the time disability begins, or the monthly pay at the time compensable disability recurs, if the recurrence begins more than six months after the injured employee resumes regular full-time employment with the United States, whichever is greater.<sup>17</sup>

The Board has held that where an injury is sustained over a period of time the date of injury is the date of last exposure to those work factors causing injury.<sup>18</sup> Applying this principle to schedule award claims, the Board has held that the date of injury is the date of the last exposure which adversely affects the impairment because every exposure which has an adverse effect (an aggravation) constitutes an injury.<sup>19</sup> In a case where a claimant continues to be exposed to injurious work factors and the medical evidence documents continued worsening of the claimed condition, OWCP selects the date of last exposure to injurious work factors as the date of injury.<sup>20</sup>

In computing payrate, section 8114(e) provides for the inclusion of certain types of premium pay received and, where the evidence indicates additional amounts received in Sunday premium or night differential pay fluctuated or may have fluctuated, OWCP determines the amount of additional pay received during the one-year period prior to injury.<sup>21</sup>

### **ANALYSIS -- ISSUE 2**

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

As noted above, OWCP's procedures provide that the payrate date for schedule awards, if there is no prior disability, is the date of injury. Appellant has not received wage-loss compensation from OWCP for any period of disability due to his accepted employment injury.

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<sup>16</sup> *Supra* note 1 at §§ 8105-8107.

<sup>17</sup> *Id.* at § 8101(4). *M.H.*, Docket No. 25-0434 (issued May 8, 2026); *K.B.*, Docket No. 13-0569 (issued June 17, 2013).

<sup>18</sup> *M.H.*, *id.*; *S.G.*, Docket No. 24-0225 (issued April 10, 2024); *D.A.*, Docket No. 18-1105 (issued January 10, 2019); *J.S.*, Docket No. 17-1277 (issued April 20, 2018); *Sherron A. Roberts*, 47 ECAB 617 (1996).

<sup>19</sup> *M.H.*, *id.*; *S.G.*, *id.*; *D.A.*, *id.*; *Barbara A. Dunnivant*, 48 ECAB 517 (1997).

<sup>20</sup> *See A.L.*, *supra* note 15; *M.P.*, Docket No. 17-1736 (issued February 14, 2018); *K.G.*, Docket No. 15-1476 (issued May 6, 2016); *G.L.*, Docket No. 12-1795 (issued September 24, 2013).

<sup>21</sup> *Supra* note 1 at § 8114(e); *G.H.*, Docket No. 19-0770 (issued March 5, 2020); *Lottie M. Williams*, 56 ECAB 302 (2005).

However, he did have continuing exposure to hazardous noise through June 25, 2025, the date of the medical examination. The Board has explained that if exposure to work factors continues, the date of injury is the date of the relevant medical examination.<sup>22</sup> Consequently, OWCP properly determined that appellant's date of injury for schedule award purposes was June 25, 2025.<sup>23</sup>

However, in calculating appellant's schedule award payrate, the employing establishment noted on the August 20, 2025 CA-7 claim form that appellant's annual salary as of June 25, 2025 was \$156,755.00 and additional pay of \$39,188.00. On August 26, 2026, OWCP requested the employing establishment provide payrate information effective June 24, 2025 including any premium pay earned and the type and amount of the additional pay. In an August 28, 2025 response, the employing establishment simply advised that appellant had an adjusted salary of \$156,755.00. However, it did not address the additional pay which it noted on appellant's Form CA-7. OWCP failed to obtain clarification from the employing establishment regarding the conflicting information it provided as to whether appellant was entitled to additional pay and, if so, what type. As OWCP failed to obtain additional clarification from the employing establishment regarding the conflicting information, the case must be remanded to OWCP for resolution of this discrepancy, to be followed by a *de novo* decision on this issue.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish greater than 26 percent monaural loss of hearing in the right ear, for which he previously received a schedule award. The Board further finds that the case is not in posture for a decision as to whether OWCP properly calculated appellant's payrate for schedule award purposes.

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<sup>22</sup> See *Barbara A. Dunnivant*, *supra* note 19.

<sup>23</sup> *Supra* note 21; see also *L.B.*, Docket No. 25-0165 (issued January 21, 2025); *E.F.*, Docket No. 23-0505 (issued October 11, 2024).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 18, 2025 decision of the Office of Workers' Compensation Programs is affirmed in part and set aside in part. The case is remanded for further proceedings consistent with this decision of the Board.

Issued: April 3, 2026  
Washington, DC

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

Janice B. Askin, Judge  
Employees' Compensation Appeals Board

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