United States Department of Labor
Employees' Compensation Appeals Board

I.G., Appellant	)	
and	)	**Docket No. 25-0910**
	)	**Issued: February 4, 2026**
DEPARTMENT OF HOMELAND SECURITY, U.S. CUSTOMS AND BORDER PROTECTION, U.S. BORDER PATROL, Rio Grande City, TX, 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
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On September 24, 2025 appellant filed a timely appeal from a September 17, 2025 merit decision and September 24, 2025 nonmerit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (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 ratable hearing loss, warranting a schedule award; and (2) whether OWCP properly denied appellant's request for reconsideration of the merits of his claim, pursuant to 5 U.S.C. § 8128(a).

[1] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

On August 21, 2024 appellant, then a 45-year-old automotive mechanic supervisor, filed an occupational disease claim (Form CA-2) alleging that he sustained a gradual onset of hearing loss due to factors of his federal employment. He noted that he first became aware of his claimed hearing loss and realized its relationship to factors of his federal employment on July 1, 2024. Appellant did not stop work.

OWCP received an August 15, 2024 statement wherein appellant noted his private sector employment as an automotive mechanic for the period 1999 through 2007, and as a private sector heavy mobile mechanic for the period 2007 through 2009. Thereafter, appellant worked as a heavy mobile equipment mechanic for the employing establishment for the period 2009 through 2022, and as an automotive mechanic supervisor for the employing establishment commencing in 2022. He described exposure to hazardous noise from sirens, air horns, air power tools, and engines revving in the shop. Appellant noted that he became aware of a hearing loss during a June 22, 2009 audiologic examination.

In support of his claim, appellant submitted an April 27, 2009 preemployment physical audiogram which demonstrated at 500, 1,000, 2,000, and 3,000 Hertz (Hz) losses of 10, 10, 5, and 5 decibels (dBs) in the left ear, respectively, and 15, 10, 10, and 5 dBs in the right ear, respectively.

On January 13, 2025, OWCP referred appellant, along with a statement of accepted facts (SOAF) and a series of questions, for a second opinion examination with Dr. Andreas Kaden, a Board-certified otolaryngologist, to determine whether appellant's work-related noise exposure was sufficient to have caused hearing loss, and if so, the extent and degree of his hearing loss.

In a March 10, 2025 report, Dr. Kaden noted his review of the SOAF, performed an audiological evaluation, and completed OWCP's evaluation questionnaire. He indicated by check mark that appellant's sensorineural hearing loss and tinnitus were due to noise exposure encountered in his federal employment. Dr. Kaden reviewed an audiogram performed that day, which demonstrated 500, 1,000, 2,000, and 3,000 Hz losses of 85, 80, 75, and 90 dBs in the left ear, respectively, and 80, 75, 70, and 75 dBs in the right ear, respectively. He completed a tinnitus handicap inventory severity scale with a score of five, indicating a catastrophic impairment interfering with any activity. Dr. Kaden diagnosed bilateral sensorineural hearing loss and bilateral tinnitus. He indicated that he could not determine if appellant had attained maximum medical improvement (MMI) as there were inconsistencies on examination. Dr. Kaden applied the audiometric data to OWCP's standard for evaluating hearing loss under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*)[2] which resulted in a left ear monaural loss of 86.25 percent, a right ear monaural loss of 75 percent, and a binaural hearing loss of 76.88 percent, with 5 percent impairment for tinnitus. He recommended retesting or additionally testing.

On April 7, 2025, OWCP referred appellant for additional testing by Maria Munoz, Au.D.

[2] A.M.A., *Guides* (6th ed. 2009).

On June 5, 2025, OWCP accepted appellant's occupational disease claim for bilateral sensorineural hearing loss, and bilateral tinnitus.

Appellant filed a claim for compensation (Form CA-7) for a schedule award on June 12, 2025.

On June 30, 2025, OWCP referred the medical record and SOAF to Dr. Herbert White, a Board-certified otolaryngologist, serving as an OWCP district medical adviser (DMA), to determine the extent of appellant's hearing loss and permanent impairment causally related to his employment-related noise exposure.

In a July 13, 2025 report, Dr. White recounted his review of the SOAF and Dr. Kaden's March 10, 2025 report. He noted that Dr. Kaden opined that while appellant had some hearing loss, the evaluation was inconclusive as the speech reception threshold (SRT) and pure tone audiometry (PTA) scores did not agree with "6db" or the Fletcher method. Dr. White concurred with Dr. Kaden's recommendation for additional testing.

Thereafter, OWCP received an April 28, 2025 report by Dr. Munoz, wherein she related the results of auditory testing, which demonstrated at 500, 1,000, 2,000, and 4,000 Hz losses of 20, 30, 25, and 35 dBs in the left ear, respectively, and 15, 20, 25, and 35 dBs in the right ear, respectively. Dr. Munoz opined that appellant sustained bilateral high-frequency sensory hearing loss. She explained that her evaluation could "only estimate thresholds at the frequencies listed above, and that "[s]hould hearing status be needed at other frequencies, a behavioral evaluation is needed."

On August 19, 2025, OWCP referred Dr. Munoz' April 28, 2025 report, the medical record and SOAF to Dr. White for a supplemental report and impairment rating.

In an August 24, 2025 report, Dr. White noted his review of the SOAF and medical record. He opined that appellant had attained MMI on April 28, 2025, the date of Dr. Munoz' evaluation. Dr. White noted that Dr. Munoz' findings, revealed decibel losses at 500 Hz, 1,000 Hz, and 2,000 Hz, and noted that decibel losses at 3,000 Hz were not applicable. He utilized these findings in calculating zero percent monaural hearing loss in the right ear, zero percent monaural loss in the left ear, and zero percent binaural hearing loss. Dr. White indicated that there was no applicable impairment rating for tinnitus as appellant did not have a ratable binaural hearing loss. He indicated that hearing aids were not authorized.

By decision dated September 17, 2025, OWCP denied appellant's schedule award claim, finding that the medical evidence of record was insufficient to establish ratable hearing loss. It accorded Dr. White, the DMA, the weight of the medical evidence.

On September 19, 2025, appellant requested reconsideration. OWCP did not receive additional evidence or argument.

By decision dated September 24, 2025, OWCP denied appellant's request for reconsideration of the merits of the claim, pursuant to 5 U.S.C. § 8128(a).

LEGAL PRECEDENT -- ISSUE 1

The schedule award provisions of FECA,[3] and its implementing federal regulations,[4] 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 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. The sixth edition of the A.M.A., *Guides*[5] has been adopted by OWCP for evaluating schedule losses and the Board has concurred in such adoption.[6]

A claimant seeking compensation under FECA has the burden of proof to establish the essential elements of his or her claim.[7] With respect to a schedule award, it is the claimant's burden of proof to establish permanent impairment of a scheduled member or function of the body as a result of his or her employment injury.[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 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

[3] 5 U.S.C. § 8107.

[4] 20 C.F.R. § 10.404.

[5] *Supra* note 2.

[6] *W.R.,* Docket No. 22-0051 (issued August 9, 2022); *J.R.,* Docket No. 21-0909 (issued January 14, 2022); *H.M.,* Docket No. 21-0378 (issued August 23, 2021); *V.M.,* Docket No. 18-1800 (issued April 23, 2019); *J.W.,* Docket No. 17-1339 (issued August 21, 2018).

[7] *D.H.,* Docket No. 20-0198 (issued July 9, 2020); *John W. Montoya,* 54 ECAB 306 (2003).

[8] *R.R.,* Docket No. 19-0750 (issued November 15, 2019); *Edward Spohr,* 54 ECAB 806, 810 (2003); *Tammy L. Meehan,* 53 ECAB 229 (2001).

[9] *Supra* note 2.

[10] *Id.* at 250.

[11] *Id*.

[12] *Id.*

binaural hearing loss.[13] The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.[14]

Regarding tinnitus, the A.M.A., *Guides* provides that tinnitus is not a disease, but rather a symptom that may be the result of disease or injury.[15] 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.[16]

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.[17] It may follow the advice of its medical adviser or consultant where he or she has properly utilized the A.M.A., *Guides*.[18]

ANALYSIS -- ISSUE 1

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

In an August 24, 2025 report, Dr. White noted his review of the SOAF and medical record. He opined that appellant had attained MMI on April 28, 2025, the date of Dr. Munoz' evaluation. Dr. White noted that Dr. Munoz' findings, revealed decibel losses at 500 Hz, 1,000 Hz, and 2,000 Hz, and noted that decibel losses at 3,000 Hz were not applicable. He utilized these findings in calculating zero percent monaural hearing loss in the right ear, zero percent monaural loss in the left ear, and zero percent binaural hearing loss. Dr. White indicated that there was no applicable impairment rating for tinnitus as appellant did not have a ratable binaural hearing loss. As noted above, OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.[19] Using the frequencies of 500, 1,000, 2,000, and 3,000 Hz, the losses at each frequency are added up and averaged.[20] As Dr. White did not base his impairment rating on all of the required frequencies, the Board finds that his opinion cannot represent the weight of the medical evidence.[21]

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[13] *Id*.

[14] *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).

[15] *Supra* note 2.

[16] *Id.*; *R.H.,* Docket No. 10-2139 (issued July 13, 2011); *see also Robert E. Cullison,* 55 ECAB 570 (2004).

[17] *See D.J.,* Docket No. 19-0352 (issued July 24, 2020).

[18] *See B.B.,* Docket No. 25-0789 (issued September 19, 2025); *Ronald J. Pavlik,* 33 ECAB 1596 (1982).

[19] *Supra* note 2.

[20] *Id.* at 250.

[21] *M.A.*, Docket No. 25-0693 (issued September 29, 2025).

Proceedings under FECA are not adversarial in nature, nor is OWCP a disinterested arbiter. While appellant has the burden of proof to establish entitlement to compensation, OWCP shares responsibility in the development of the evidence to see that justice is done.[22]

The case shall therefore be remanded to OWCP to refer appellant, the case record, and an updated SOAF to a new second opinion physician in the appropriate field of medicine for a rationalized medical opinion regarding any permanent impairment in accordance with the A.M.A., *Guides*. Following this and other such further development as deemed necessary, it shall issue a *de novo* decision.[23]

CONCLUSION

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

ORDER

IT IS HEREBY ORDERED THAT the September 17, 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. The September 24, 2025 decision of the Office of Workers' Compensation Programs is set aside as moot.

Issued: February 4, 2026
Washington, DC

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

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

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

[22] *K.B.*, Docket No. 25-0615 (issued December 10, 2025); *P.N.*, Docket No. 24-0918 (issued October 28, 2024).

[23] In view of the Board's disposition of Issue 1, Issue 2 is rendered moot.