



## **FACTUAL HISTORY**

On May 6, 2025 appellant, then a 52-year-old border patrol agent, filed an occupational disease claim (Form CA-2) alleging that he developed hearing loss due to factors of his federal employment over the course of 29 years, including prolonged exposure to hazardous noise, serving as a firearms instructor, and undergoing firearms training. He noted that he first became aware of his condition and realized its relationship to his federal employment on October 1, 2013. Appellant did not stop work.

In support of his claim, appellant provided additional evidence and statements describing his employment history and exposure to occupational noise including noise from firearms, including him as an employing establishment firearms instructor from 2007 through 2014.

Appellant also submitted September 10, 2010 audiogram results which demonstrated losses of 20, 5, 10, and 25 decibels (dBs) in the left ear, and 10, 5, 15, and 15 dBs in the right ear, at frequency levels of 500, 1,000, 2,000, and 3,000 Hertz (Hz), respectively.

On July 11, 2025 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Jennifer Macewan, a Board-certified otolaryngologist, for an audiogram and second opinion examination on September 11, 2025 to determine the nature, extent, and causal relationship of appellant's hearing loss.

In a September 29, 2025 report, Dr. Macewan noted her review of the SOAF, performed an audiologic evaluation, and completed OWCP's evaluation questionnaire. She obtained audiology testing, which revealed the following dBs losses at 500, 1,000, 2,000, and 3,000 Hz: 15, 15, 30, and 35 dBs for the right ear, and 20, 20, 25, and 40 dBs for the left ear, respectively. Dr. Macewan diagnosed bilateral sensorineural hearing loss and tinnitus causally related to noise exposure at work. She referred to the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),<sup>2</sup> applied OWCP's standard for evaluating hearing loss to the September 11, 2025 audiogram, and determined that appellant had 0 percent right ear monaural hearing, 1.875 percent left ear monaural hearing loss, and 4 percent binaural hearing loss due to tinnitus. Dr. Macewan reported appellant's right ear hearing loss of 15, 15, 30, and 35 dBs at 500, 1,000, 2,000, and 3,000 Hz, respectively, which totaled 95, and divided by 4, to find an average of 23.75. She subtracted the 25 dBs fence to reach 0 and then multiplied the remaining 0 balance by 1.5 to calculate zero percent right ear monaural hearing loss. For the left ear, Dr. Macewan added appellant's hearing loss of 20, 20, 25, and 40 dBs at 500, 1,000, 2,000, and 3,000 Hz, respectively, which totaled 105, and divided by 4 to find an average of 26.25. Subtracting the 25 dBs fence, she found 1.25 percent left ear monaural hearing loss which she then multiplied by 1.5 to reach 1.875. As she calculated a monaural loss of zero percent in the right ear and 1.875 in the left ear, Dr. Macewan found a binaural hearing loss of 0.3 percent. She completed a tinnitus handicap inventory (THI) and rated the tinnitus diagnosis at four percent. Dr. Macewan arrived at a total binaural hearing impairment rating of 4.3 percent due to moderate tinnitus. She recommended a trial of hearing aids and concluded that appellant reached maximum medical improvement (MMI) on September 11, 2025.

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

On September 30, 2025 OWCP referred the medical record and SOAF to Dr. Jeffrey M. Israel, 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 an October 1, 2025 report, Dr. Israel, the DMA, reviewed the evidence of record and applied the audiometric data to OWCP's standard for evaluating hearing loss under the sixth edition of the A.M.A., *Guides*<sup>3</sup> to Dr. Macewan's report and September 11, 2025 audiology results. He determined that appellant sustained a right ear monaural hearing loss of 0 percent, a left ear monaural hearing loss of 1.875 percent, and a binaural hearing loss of 0.3 percent, noting that a 0.3 percent binaural loss had to round down to 0 percent binaural hearing loss. Dr. Israel found a tinnitus award of four percent could not be given as there was no ratable binaural hearing loss. He averaged appellant's right ear hearing levels of 15, 15, 30, and 35 dBs at 500, 1,000, 2,000, and 3,000 Hz, respectively, by adding the hearing loss at those levels then dividing the sum by 4, which equaled 21.25. After subtracting the 25 dB fence, Dr. Israel multiplied the remaining 0 balance by 1.5 to calculate zero percent right ear monaural hearing loss. He then averaged appellant's left ear hearing levels 20, 20, 25, and 40 dBs at 500, 1,000, 2,000, and 3,000 Hz, respectively, by adding the hearing loss at those levels to reach 105 then dividing the sum by four, which equaled 26.25. After subtracting the 25 dB fence, Dr. Israel multiplied the remaining 1.25 balance by 1.5 to calculate 1.875 percent left ear monaural hearing loss. He then calculated 0 percent binaural hearing loss by multiplying the right ear loss of 0 percent by 5, adding the 1.875 percent left ear loss, and dividing this sum by 6 to reach 0.3 percent left ear loss which rounded down to 0. Dr. Israel opined that he concurred with Dr. Macewan's calculations, other than her rating for four percent binaural hearing loss for tinnitus. He noted that a tinnitus award cannot be rendered when there is zero percent binaural hearing impairment as stipulated on page 249 of the A.M.A., *Guides*.<sup>4</sup> Dr. Israel recommended yearly audiograms, use of noise protection, and hearing aids for hearing loss with integrated tinnitus masking. He determined that appellant had reached MMI on September 11, 2025, the date of the most recent audiogram and Dr. Macewan's examination.

By decision dated October 15, 2025, OWCP accepted appellant's claim for bilateral sensorineural hearing loss and bilateral tinnitus.

On October 20, 2025 appellant filed a claim for compensation (Form CA-7) for a schedule award.

By decision dated November 19, 2025, OWCP denied appellant's schedule award claim, finding that the evidence of record was insufficient to establish that his accepted hearing loss condition was severe enough to be considered ratable.

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<sup>3</sup> *Id.*

<sup>4</sup> *Id.* at 249.

## LEGAL PRECEDENT

The schedule award provisions of FECA,<sup>5</sup> and its implementing federal regulations,<sup>6</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 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*<sup>7</sup> has been adopted by OWCP for evaluating schedule losses and the Board has concurred in such adoption.<sup>8</sup>

A claimant seeking compensation under FECA has the burden of proof to establish the essential elements of his or her claim.<sup>9</sup> 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.<sup>10</sup>

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.<sup>11</sup> Using the frequencies of 500, 1,000, 2,000, and 3,000 Hz, the losses at each frequency are added up and averaged.<sup>12</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>13</sup> The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.<sup>14</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

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<sup>5</sup> 5 U.S.C. § 8107.

<sup>6</sup> 20 C.F.R. § 10.404.

<sup>7</sup> *Supra* note 2.

<sup>8</sup> *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).

<sup>9</sup> *D.H.*, Docket No. 20-0198 (issued July 9, 2020); *John W. Montoya*, 54 ECAB 306 (2003).

<sup>10</sup> *R.R.*, Docket No. 19-0750 (issued November 15, 2019); *Edward Spohr*, 54 ECAB 806, 810 (2003); *Tammy L. Meehan*, 53 ECAB 229 (2001).

<sup>11</sup> *Supra* note 2.

<sup>12</sup> *Id.* at 250.

<sup>13</sup> *Id.*

<sup>14</sup> *Id.*

binaural hearing loss.<sup>15</sup> The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.<sup>16</sup>

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

While section 8107(c)(13) of FECA provides separate calculations for loss of hearing in one ear and for loss of hearing in both,<sup>19</sup> 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.<sup>20</sup> 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.<sup>21</sup>

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.<sup>22</sup> 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.<sup>23</sup>

Following medical evaluation of a claim, if the hearing loss is determined to be nonratable for schedule award purposes, other benefits such as hearing aids may still be payable if any employment-related hearing loss exists.<sup>24</sup>

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<sup>15</sup> *Id.*

<sup>16</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>17</sup> See *D.J.*, Docket No. 19-0352 (issued July 24, 2020).

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

<sup>19</sup> 5 U.S.C. § 8107(c)(13).

<sup>20</sup> Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.7a(2) (February 2013).

<sup>21</sup> *Supra* note 17. *M.A.*, Docket No. 25-0693 (issued September 19, 2025).

<sup>22</sup> A.M.A., *Guides*, p. 249.

<sup>23</sup> *Id.*; *R.H.*, Docket No. 10-2139 (issued July 13, 2011); see also *Robert E. Cullison*, 55 ECAB 570 (2004).

<sup>24</sup> *J.S.*, Docket No. 22-0274 (issued September 13, 2022); *R.B.*, Docket No. 19-1466 (issued April 9, 2020); *J.M.*, Docket No. 16-0526 (issued May 13, 2016); see *F.D.*, Docket No. 10-1175 (issued January 4, 2011).

## ANALYSIS

The Board finds that appellant has established that he sustained two percent monaural hearing loss of the left ear.

OWCP properly referred appellant to Dr. Macewan for a second opinion examination regarding his hearing loss. Dr. Macewan's September 29, 2025 report related her audiogram results and concluded that appellant's hearing loss was due to his workplace noise exposure. She found no ratable right ear hearing loss, left ear monaural hearing loss of 1.875 percent, 0.3 percent binaural hearing loss, and 4 percent binaural hearing loss due to severe tinnitus to reach 4.3 percent binaural hearing loss.

On October 1, 2025 Dr. Israel, the DMA, reviewed Dr. Macewan's report and concurred that appellant had sustained employment-related binaural hearing loss. He found 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, 25, and 40 dBs, respectively. These dBs were totaled at 110 and were divided by 4 to obtain an average hearing loss at those cycles of 26.25 dBs. The average of 26.25 dBs was then reduced by 25 dBs (the first 25 dBs were discounted as discussed above) to equal 1.25, which was then multiplied by 1.5 to equal 1.875 percent hearing loss for the left ear.

Testing for the right ear at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz revealed losses of 15, 15, 30, and 35 dBs respectively on the right. These dBs were totaled at 95 and were divided by 4 to obtain an average hearing loss at those cycles of 23.5 dBs. The average of 23.5 dBs was then reduced by 25 dBs (the first 25 dBs were discounted as discussed above) to equal less than zero, which was then multiplied by 1.5 to equal zero percent hearing loss for the right ear.

Dr. Israel properly determined the binaural loss by multiplying the lesser right-sided monaural loss of zero by 5, adding the left-sided hearing loss of 1.875, and dividing the total by 6, to find 0.3 percent binaural loss. 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 0.5 and up for 0.5 and over.<sup>25</sup> Therefore, the Board finds that appellant is not entitled to a schedule award for binaural loss of hearing.

The DMA, Dr. Israel, properly concluded that appellant did not have ratable binaural hearing loss warranting a schedule award.<sup>26</sup> He also correctly explained that tinnitus may not be added to an impairment rating for hearing loss under the sixth edition of the A.M.A., *Guides*

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<sup>25</sup> Federal (FECA) Procedure Manual, Part 3 -- Medical, *Schedule Awards*, Chapter 3.700.4b (January 2010); see also *R.M.*, Docket No. 18-0752 (issued December 6, 2019); *V.M.*, Docket No. 18-1800 (issued April 23, 2019).

<sup>26</sup> *J.N.*, Docket No. 24-0508 (issued June 18, 2024); *T.B.*, Docket No. 23-0303 (issued August 11, 2023).

unless such hearing loss is binaural and ratable.<sup>27</sup> Dr. Israel found that appellant was entitled to hearing aids.<sup>28</sup>

The Board notes, however, that appellant does have 1.875 percent monaural hearing loss in the left ear. In accordance with OWCP procedures this percentage must be rounded up to 2 percent monaural hearing loss in the left ear.<sup>29</sup> The Board thus finds that the medical evidence from Drs. Macewan and Israel establishes that appellant had a ratable left ear monaural hearing loss of two percent<sup>30</sup> entitling him to 1.04 weeks of schedule award compensation.<sup>31</sup> Consequently, OWCP's November 19, 2025 decision must be reversed, and the case returned to OWCP for payment of the schedule award for two percent permanent impairment of the left ear due to hearing loss.<sup>32</sup>

### **CONCLUSION**

The Board finds that appellant has established that he sustained two percent monaural hearing loss of the left ear.

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<sup>27</sup> *R.C.*, Docket No. 23-0334 (issued July 19, 2023); *D.S.*, Docket No. 23-0048 (issued May 23, 2023); *J.S.*, Docket No. 22-0274 (issued September 13, 2022).

<sup>28</sup> *Supra* note 24.

<sup>29</sup> *Supra* note 26.

<sup>30</sup> *Id.*

<sup>31</sup> *Supra* note 21.

<sup>32</sup> *K.B.*, Docket No. 23-0824 (issued October 24, 2024) (finding that appellant had established 13 percent permanent impairment of the left upper extremity and reversing the decision denying this aspect of the claim by OWCP).

**ORDER**

**IT IS HEREBY ORDERED THAT** the November 19, 2025 merit decision of the Office of Workers' Compensation Programs is reversed, and the case is remanded for further proceedings consistent with this decision of the Board.

Issued: March 30, 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