

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

F.W., Appellant)	
)	
and)	Docket No. 26-0160
)	Issued: March 11, 2026
DEPARTMENT OF THE ARMY, U.S. ARMY)	
TANK-AUTOMOTIVE AND ARMAMENTS)	
COMMAND, RED RIVER ARMY DEPOT,)	
Texarkana, TX, Employer)	
)	

Appearances:
Appellant, pro se
Office of Solicitor, for the Director

Case Submitted on the Record

ORDER REMANDING CASE

Before:
PATRICIA H. FITZGERALD, Deputy Chief Judge
JANICE B. ASKIN, Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

On November 26, 2025 appellant filed a timely appeal from a June 3, 2025 merit decision of the Office of Workers' Compensation Programs (OWCP). The Clerk of the Appellate Boards docketed the appeal as No. 26-0160.

On April 21, 2025 appellant, then a 63-year-old materials expediter, filed an occupational disease claim (Form CA-2) alleging that he sustained hearing loss due to factors of his federal employment, including years of exposure to loud industrial noises. He noted that he first became aware of his condition and realized its relationship to his federal employment on April 21, 2025. Appellant did not stop work.

In an accompanying narrative statement, appellant noted his history of working as a materials expediter since 2009 where he was exposed to shop noise, engines, rocket, artillery, and mortar detection systems, jackhammers, container shipping yards, impact wrenches, drill motors, grinders, sanders, hammers, compressed air, impact tools, chipping guns, and large generators. He indicated that he was required to wear hearing protection while at work, and he denied exposure to noise hazards outside of work.

OWCP received audiograms and hearing conservation data dated May 19, 2022 through September 7, 2023 as part of the employing establishment's hearing conservation program.

Appellant's May 19, 2022 audiogram demonstrated at 500, 1,000, 2,000, and 3,000 Hertz (Hz): 25, 25, 25, and 35 decibels (dBs) for the right ear, and 25, 25, 20, and 20 dBs for the left ear, respectively. His September 7, 2023 audiogram demonstrated at 500, 1,000, 2,000, and 3,000 Hz: 45, 55, 55, and 60 dBs for the right ear and 55, 50, 65, and 60 dBs for the left ear, respectively.

In an April 23, 2025 letter, OWCP informed appellant that for his case to be accepted, he needed to submit a medical report from his doctor containing a description of his work injury, a medical diagnosis, and an explanation of how his medical condition was caused by the claimed work events. It noted that "if there is not enough information in your file to accept your claim after an initial review, your claims examiner will send you a letter outlining what is needed and provide you with a period of 60 days to submit the necessary information." OWCP further noted that his "case may be accepted prior to that 60[-]day mark depending on the information submitted, but you will be provided at least 60 days to respond."

On April 24, 2025 OWCP referred appellant, along with the medical record, a statement of accepted facts (SOAF), and a series of questions, to Dr. Paul Whitt, a Board-certified otolaryngologist serving as a second opinion physician, for a second opinion examination regarding the nature and extent of appellant's hearing loss, and whether there was any causal relationship between appellant's diagnosed hearing loss and his accepted employment exposure.

In a report dated May 15, 2025, Dr. Whitt reviewed an audiogram conducted on that date and noted that appellant's hearing loss was flat across all frequencies. He diagnosed binaural moderate flat sensorineural hearing loss and bilateral tinnitus, unrelated to appellant's occupational noise exposure. Dr. Whitt noted that appellant's audiogram did not show a dip at 4,000 Hz, which would indicate noise exposure. He opined that his hearing loss was consistent with presbycusis.

OWCP also received a position description for materials expediter and a noise level data summary from the employing establishment.

By decision dated June 3, 2025, OWCP denied appellant's occupational disease claim, finding that the medical evidence of record was insufficient to establish causal relationship between his binaural hearing loss and bilateral tinnitus and the accepted factors of his federal employment.

The Board, having duly considered this matter, finds that this case is not in posture for decision.

In a letter dated April 23, 2025, OWCP noted that "if there is not enough information in your file to accept your claim after an initial review, your claims examiner will send you a letter outlining what is needed and provide you with a period of 60 days to submit the necessary information."¹ It also noted that although his case "may be accepted" prior to 60 days, "depending on the information submitted," he would be afforded 60 days to respond. Following the April 23, 2025 letter, OWCP did not send appellant a development letter outlining what type of evidence

¹ OWCP's procedures provide that OWCP is responsible for requesting evidence. Its procedures further provide that the claims examiner should contact the claimant in writing to obtain evidence and should specifically request the information needed, tailored to the specifics of the individual case. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.0800.5 (November 2023); see also *Order Remanding Case M.P.*, Docket No. 24-0636 (issued September 30, 2024); *V.R.*, Docket No. 16-1167 (issued December 22, 2016).

was needed to establish his claim, nor did it provide him with a period of 60 days to submit the necessary information, pursuant to section 10.121 of its regulations.² Rather, it denied appellant's claim on June 3, 2025 based on the report of the second opinion physician, Dr. Whitt. As such, the Board finds that the decision denying his occupational disease claim was improper, as it was issued prematurely. The case must, therefore, be remanded to OWCP. On remand, OWCP shall send appellant a development letter outlining the type of evidence needed to establish his claim, and afford him 60 days to submit the necessary information, pursuant to section 10.121 of its regulations. Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision. Accordingly,

IT IS HEREBY ORDERED THAT the June 3, 2025 decision of the Office of Workers' Compensation Programs is set aside, and the case is remanded for further proceedings consistent with this order of the Board.

Issued: March 11, 2026
Washington, DC

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

Janice B. Askin, Judge
Employees' Compensation Appeals Board

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

² 20 C.F.R. § 10.121. Effective March 7, 2023, 20 C.F.R. § 10.121 was amended to allow a claimant 60 days, increased from the prior 30-day period, to submit supporting evidence on an initial claim. *See also* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Initial Development of Claims*, Chapter 2.0800.4c(2) (November 2023).