

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

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A.A., Appellant	)	
	)	
and	)	
	)	<b>Docket No. 26-0162</b>
	)	<b>Issued: March 26, 2026</b>
<b>DEPARTMENT OF HOMELAND SECURITY,</b>	)	
<b>U.S. CUSTOMS &amp; BORDER PROTECTION,</b>	)	
<b>U.S. BORDER PATROL, Eagle Pass, TX,</b>	)	
<b>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 9, 2025 appellant filed a timely appeal from a September 30, 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.

**ISSUE**

The issue is whether appellant met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of his federal employment.

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

## **FACTUAL HISTORY**

On March 12, 2025 appellant, then a 41-year-old border patrol agent, filed an occupational disease claim (Form CA-2) alleging that he developed binaural hearing loss causally related to factors of his federal employment. He noted that he first became aware of his condition and realized its relationship to his federal employment on February 25, 2015. On the reverse side of the form, the employing establishment noted the date of last exposure as March 18, 2025. Appellant did not stop work.

In a development letter dated March 20, 2025, 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 comments from a knowledgeable supervisor regarding the accuracy of appellant's allegations, including information about his noise exposure and the type of ear protection provided. OWCP requested that the employing establishment respond within 30 days.

On May 28, 2025 OWCP received a statement from appellant who described his work history and noise exposure. Appellant related that he was exposed to hazardous noise during firearms training, and while working checkpoint operations noise from tractor trailers, cars, trucks, buses, and motorcycles.

On July 22, 2025 OWCP referred appellant, together with the case record and a statement of accepted facts (SOAF) to Dr. David M. Gleinser, a Board-certified otolaryngologist, for a second opinion evaluation.

In a report dated September 11, 2025, Dr. Gleinser noted his review of the SOAF, and the results of appellant's audiological evaluation conducted that day. He noted that audiometric data from the beginning of appellant's accepted noise exposure in 2007 was normal and that current audiometric data was normal. Dr. Gleinser noted normal hearing on testing. He stated that appellant did not show a sensorineural hearing in excess of what would normally be predicated on presbycusis. In response to the question of whether appellant's workplace exposure was sufficient as to intensity and duration to have caused sensorineural hearing loss, Dr. Gleinser checked the "Not Due" box. Next, he opined that appellant's work exposure was sufficient to cause tinnitus. Dr. Gleinser further noted that appellant's canals and drums, drum motility, and basic fork tests were normal and that there was no indication of an underlying medical condition such as an acoustic neuroma or Meniere's disease. He diagnosed bilateral tinnitus and indicated that the tinnitus was due to prolonged exposure to a lot of noise during his career. Dr. Gleinser recommended hearing protection and masking. In accompanying audiometric test results, he noted his review of an audiogram performed that day which demonstrated at 500, 1,000, 2,000, and 3,000 Hertz (Hz), losses of 25, 25, 20, and 15 decibels (dBs) in the right ear, respectively, and 25, 20, 20 and 15 dBs in the left ear, respectively. For the right ear, Dr. Gleinser calculated zero percent monaural impairment. For the left ear, he calculated zero percent monaural impairment. Dr. Gleinser also calculated a binaural hearing impairment of zero percent and one percent tinnitus impairment, for a total binaural hearing impairment of one percent. He opined that appellant reached maximum medical improvement (MMI) on September 11, 2025. Dr. Gleinser recommended hearing aids.

On September 22, 2025 OWCP referred the case record, along with a SOAF to Dr. Jeffrey M. Israel, a Board-certified otolaryngologist serving as an OWCP district medical adviser (DMA), to determine whether appellant had a diagnosed medical condition and, if so, whether there was any resulting employment-related permanent impairment.

In a September 23, 2025 report, Dr. Israel reviewed the SOAF and the medical records, including Dr. Gleinser's September 11, 2025 report and audiogram. He indicated that the audiometric data while in federal service was partial and difficult to read, noting it showed normal hearing in both ears through 4 KHz. A review of the September 11, 2025 audiogram revealed normal to low normal hearing across the board in both ears. Dr. Israel opined that these patterns were suggestive of a sensorineural hearing loss due at least in part to noise-induced work-related acoustic trauma, noting that the audiometric test results were valid and representative of appellant's hearing sensitivity. He opined that appellant reached MMI on September 11, 2025. Dr. Israel also concurred with Dr. Gleinser's hearing impairment calculations of zero percent binaural hearing impairment. However, he disagreed with Dr. Gleinser's finding of a hearing impairment based on the one percent tinnitus impairment. Dr. Israel noted that while appellant's tinnitus handicap inventory yielded a one percent score, he explained that a tinnitus schedule award could not be given as there was no binaural hearing impairment. He recommended yearly audiograms, noise protection for both ears, and no authorization for hearing aids at this time.

By decision dated September 30, 2025, OWCP denied appellant's claim. It found that the evidence of record was sufficient to establish the alleged employment exposure, but insufficient to establish a diagnosed medical condition in connection with the accepted employment exposure. OWCP concluded, therefore, that the requirements had not been met to establish an injury as defined by FECA.

### **LEGAL PRECEDENT**

An employee seeking benefits under FECA<sup>2</sup> has the burden of proof to establish the essential elements of his or her claim, including that the individual is an employee of the United States within the meaning of FECA, that the claim was filed within the applicable time limitation period of FECA,<sup>3</sup> that an injury was sustained while in the performance of duty as alleged, and that any disability or specific condition for which compensation is claimed is causally related to the employment injury.<sup>4</sup> These are the essential elements of each and every compensation claim, regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>5</sup>

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<sup>2</sup> *Id.*

<sup>3</sup> *A.C.*, Docket No. 25-0783 (issued September 15, 2025); *B.W.*, Docket No. 25-0585 (issued August 27, 2025); *S.M.*, Docket No. 21-0937 (issued December 21, 2021); *S.B.*, Docket No. 17-1779 (issued February 7, 2018); *J.P.*, 59 ECAB 178 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989).

<sup>4</sup> *A.C.*, *id.*; *B.W.*, *id.*; *J.M.*, Docket No. 17-0284 (issued February 7, 2018); *R.C.*, 59 ECAB 427 (2008); *James E. Chadden, Sr.*, 40 ECAB 312 (1988).

<sup>5</sup> *See A.M.*, Docket No. 25-0386 (issued April 18, 2025); *M.T.*, Docket No. 20-1814 (issued June 24, 2022); *K.M.*, Docket No. 15-1660 (issued September 16, 2016); *L.M.*, Docket No. 13-1402 (issued February 7, 2014); *Delores C. Ellyett*, 41 ECAB 992 (1990).

In an occupational disease claim, appellant's burden of proof requires submission of the following: (1) a factual statement identifying employment factors alleged to have caused or contributed to the presence or occurrence of the disease or condition; (2) medical evidence establishing the presence or existence of the disease or condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the employment factors identified by the employee.<sup>6</sup>

Causal relationship is a medical issue, and the medical evidence required to establish causal relationship is rationalized medical opinion evidence.<sup>7</sup> The opinion of the physician must be based on a complete factual and medical background of the claimant, must be one of reasonable medical certainty, and must be supported by medical rationale explaining the nature of the relationship between the diagnosed condition and the specific employment factors identified by the claimant.<sup>8</sup>

### ANALYSIS

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of his federal employment.

In his report dated September 11, 2025, Dr. Gleinser reviewed audiometric test results from audiometry testing performed that day. He related that the audiogram performed that day demonstrated at 500, 1,000, 2,000, and 3,000 Hertz (Hz), losses of 25, 25, 20, and 15 decibels (dBs) in the right ear, respectively, and 25, 20, 20 and 15 dBs in the left ear, respectively. Dr. Gleinser also diagnosed bilateral tinnitus.

On September 23, 2025 Dr. Israel reviewed the SOAF and appellant's medical records, including Dr. Gleinser's September 11, 2025 report and audiogram. He explained that the September 11, 2025 audiogram revealed normal to low normal hearing across the board in both ears. Dr. Israel opined that these patterns were suggestive of sensorineural hearing loss due at least in part to noise-induced work-related acoustic trauma, noting that the audiometric test results were valid and representative of appellant's hearing sensitivity. He also related that appellant's tinnitus handicap inventory yielded a one percent score.

The Board finds that the reports from Dr. Gleinser and Dr. Israel establish a diagnosis of hearing loss in connection with the accepted factors of appellant's federal employment. Both physicians found that appellant's audiogram dated September 11, 2025 did reveal findings of noise-induced sensorineural hearing loss. The Board also finds that both physicians related a diagnosis of tinnitus. Consequently, the case shall be remanded for consideration of the medical evidence with regard to whether appellant has met his burden of proof to establish that his diagnosed medical conditions are causally related to the accepted employment exposure.

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<sup>6</sup> *A.C.*, *supra* note 3; *S.C.*, Docket No. 18-1242 (issued March 13, 2019); *stat*, 59 ECAB 382 (2008).

<sup>7</sup> *B.W.*, *supra* note 3; *K.R.*, Docket No. 21-0822 (issued June 28, 2022); *A.M.*, Docket No. 18-1748 (issued April 24, 2019); *T.H.*, 59 ECAB 388 (2008).

<sup>8</sup> *B.W.*, *id.*; *G.S.*, Docket No. 22-0036 (issued June 29, 2022); *M.V.*, Docket No. 18-0884 (issued December 28, 2018); *I.J.*, 59 ECAB 408 (2008).

Following this and other such further development as deemed necessary, OWCP shall issue a *de novo* decision.

**CONCLUSION**

The Board finds that appellant has met his burden of proof to establish a diagnosed medical condition in connection with the accepted factors of his federal employment.

**ORDER**

**IT IS HEREBY ORDERED THAT** the September 30, 2025 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 26, 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