

FACTUAL HISTORY

On April 22, 2024 appellant, then a 60-year-old mail handler, filed an occupational disease claim (Form CA-2) alleging that her preexisting hearing loss worsened, and she now required hearing aids in both ears. She first became aware of her condition and that it was caused or aggravated by factors of her federal employment on April 12, 2018. Appellant indicated that she had an accepted claim for hearing loss.²

OWCP received reports and audiograms dated from February 7, 2020 to October 26, 2023 by Arielle Spector, an audiologist, which provided an assessment of binaural sensorineural hearing loss, and noted hearing aid checks.

In a March 18, 2024 report, Dr. Dempsey Gordon, an osteopath Board-certified in family practice, noted his review of the medical records, including an October 4, 2023 audiogram wherein Dr. John Gilmore, a Board-certified otolaryngologist, indicated 500, 1,000, 2,000, and 3,000 Hertz (Hz) losses of 50, 60, 80, and 80 decibels (dBs) in the left ear, respectively, and 70, 75, 85, and 90 dBs in the right ear, respectively. He presented examination findings and diagnosed binaural hearing loss, right worse than left, and bilateral ear tinnitus, right worse than left, which he opined was due to appellant's noise exposure at work. Under the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment*, (A.M.A., *Guides*),³ Dr. Gordon opined that maximum medical improvement (MMI) was reached on March 18, 2024, and appellant had 121.8 percent binaural hearing loss.

On July 8, 2024 OWCP referred appellant, along with a statement of accepted facts (SOAF) and a series of questions, for a second opinion examination with Dr. Mark D. Gibbons, 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 her hearing loss.

In an October 25, 2024 report, Dr. Gibbons noted his review of the SOAF, performed an audiological evaluation, and completed OWCP's questionnaire. He indicated by check mark that appellant's binaural sensorineural hearing loss and tinnitus were due to noise exposure encountered in her federal employment. Dr. Gibbons reviewed an audiogram performed on October 16, 2024, which demonstrated 500, 1,000, 2,000, and 3,000 Hz losses of 40, 55, 85, and 80 dBs in the left ear, respectively, and 65, 75, 95, and 100 dBs in the right ear, respectively. He completed a tinnitus handicap inventory severity scale with a score of 64, indicating a severe impairment interfering with sleep, ability to carry out normal daily activities, and quiet activities

² The record reflects appellant has three prior occupational hearing loss claims. Under master OWCP File No. xxxxx923, OWCP accepted binaural hearing loss and tinnitus and authorized hearing aids. By decision dated August 9, 2010, it granted appellant a schedule award for 54 percent binaural hearing loss. Under OWCP File No. xxxxx830, OWCP, on October 31, 2012, granted appellant a schedule award for an additional 15 percent binaural hearing loss, for a total 69 percent. Under OWCP File No. xxxxxx302, OWCP, on August 12, 2015, granted appellant an additional 3 percent permanent binaural hearing loss. In OWCP File No. xxxxxx830, OWCP found by decision dated March 13, 2017, that appellant's combined binaural hearing loss was 59 percent, not 69 percent. OWCP concluded that appellant had received an overpayment of compensation as appellant's total combined binaural hearing loss was 59 percent.

³ A.M.A., *Guides* (6th ed. 2009).

affected adversely. Dr. Gibbons diagnosed binaural sensorineural hearing loss and bilateral tinnitus. He applied the audiometric data to OWCP's standard for evaluating hearing loss under the sixth edition of the A.M.A., *Guides*⁴ which resulted in a left ear monaural loss of 60.0 percent, a right ear monaural loss of 88.13 percent, and a binaural hearing loss of 64.69 percent, with an additional 4 percent impairment for tinnitus.

On November 13, 2024, 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 her employment-related noise exposure.

In a November 17, 2024 report, Dr. Israel 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*⁵ to Dr. Gibbons' October 25, 2024 report and October 16, 2024 audiology results. He determined that appellant reached MMI on October 16, 2024, the date of the latest audiogram and the audiogram used by Dr. Gibbons in his second opinion examination. Dr. Israel concurred with Dr. Gibbons' calculations of 64.7 percent binaural impairment and 4 percent tinnitus impairment, for a binaural hearing loss of 68.7 percent. He noted that appellant had received past binaural hearing loss schedule awards of 54 percent + 15 percent + 3 percent, for a total binaural hearing loss of 72 percent. As to appellant's binaural hearing loss, which totaled 72 percent, Dr. Israel opined that no further award could be given. He suggested that appellant have yearly audiograms, noise protection for the ears, and authorization for hearing aids for hearing loss with integrated tinnitus masking.

By decision dated December 6, 2024, OWCP accepted appellant's claim for binaural sensorineural hearing loss, and tinnitus, unspecified ear.

By decision also dated December 6, 2024, OWCP denied appellant's claim for an increased schedule award, indicating that her hearing loss was not severe enough to be considered ratable. It found that appellant was entitled to benefits for the effects of her injury, including hearing aids.

On August 29, 2025 appellant requested reconsideration. She submitted a duplicative copy of Dr. Gibbons' October 25, 2024 report and the October 16, 2024 audiogram.

By decision dated September 11, 2025, OWCP denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

⁴ *Id.* Sixty-eight and seven tenths percent was below the previous binaural hearing loss awards

⁵ *Id.*

LEGAL PRECEDENT

Section 8128(a) of FECA vests OWCP with discretionary authority to determine whether to review an award for or against compensation. The Secretary of Labor may review an award for or against compensation at any time on his or her own motion or on application.⁶

To require OWCP to reopen a case for merit review pursuant to FECA, the claimant must provide evidence or an argument which: (1) shows that OWCP erroneously applied or interpreted a specific point of law; (2) advances a relevant legal argument not previously considered by OWCP; or (3) constitutes relevant and pertinent new evidence not previously considered by OWCP.⁷

A request for reconsideration must be received by OWCP within one year of the date of OWCP's decision for which review is sought.⁸ If it chooses to grant reconsideration, it reopens and reviews the case on its merits.⁹ If the request is timely, but fails to meet at least one of the requirements for reconsideration, OWCP will deny the request for reconsideration without reopening the case for review on the merits.¹⁰

ANALYSIS

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

On reconsideration, appellant did not demonstrate that OWCP erroneously applied or interpreted a specific point of law, nor did she advance a relevant legal argument not previously considered by OWCP. Accordingly, the Board finds that she is not entitled to a review of the merits of her claim based on either the first or second above-noted requirements under 20 C.F.R. § 10.606(b)(3).¹¹

Appellant also did not submit any relevant and pertinent new evidence with her August 29, 2025 request for reconsideration. Regarding the medical evidence submitted with her

⁶ 5 U.S.C. § 8128(a); *see S.B.*, Docket No. 24-0703 (issued December 13, 2024); *M.S.*, Docket No. 19-1001 (issued December 9, 2019); *L.D.*, Docket No. 18-1468 (issued February 11, 2019); *see also V.P.*, Docket No. 17-1287 (issued October 10, 2017); *W.C.*, 59 ECAB 372 (2008).

⁷ 20 C.F.R. § 10.606(b)(3); *see S.B.*, *id.*; *L.D.*, *id.*; *see also K.L.*, Docket No. 17-1479 (issued December 20, 2017); *C.N.*, Docket No. 08-1569 (issued December 9, 2008).

⁸ *Id.* at § 10.607(a). The one-year period begins on the next day after the date of the original contested decision. Federal (FECA) Procedure Manual, Part 2 -- Claims, *Reconsiderations*, Chapter 2.1602.4 (September 2020). Timeliness is determined by the document receipt date of the request for reconsideration as indicated by the received date in the Integrated Federal Employees Compensation System (iFECS). *Id.* at Chapter 2.1602.4b.

⁹ *Id.* at § 10.608(a); *see also M.S.*, 59 ECAB 231 (2007).

¹⁰ *Id.* at § 10.608(b); *M.S.*, Docket No. 19-0291 (issued June 21, 2019); *E.R.*, Docket No. 09-1655 (issued March 18, 2010).

¹¹ *C.B.*, Docket No. 26-0093 (issued February 23, 2026); *see L.W.*, Docket No. 21-0607 (issued October 18, 2022).

reconsideration request, the Board notes that Dr. Gibbons' second-opinion report dated October 25, 2024 and the October 16, 2024 audiogram were previously of record. As the Board has held, material which is cumulative or duplicative of that already in the record has no evidentiary value in establishing the claim and does not constitute a basis for reopening a case for further merit review.¹² Therefore, appellant is not entitled to further review of the merits of her claim based on the third above-noted requirement under 20 C.F.R. § 10.606(b)(3).¹³

The Board, therefore, finds that appellant has not met any of the requirements of 20 C.F.R. § 10.606(b)(3). Pursuant to 20 C.F.R. § 10.608, OWCP properly denied merit review.¹⁴

CONCLUSION

The Board finds that OWCP properly denied appellant's request for reconsideration of the merits of her claim, pursuant to 5 U.S.C. § 8128(a).

¹² See *K.G.*, Docket No. 25-0921 (issued February 13, 2026); *V.G.*, Docket No. 17-0494 (issued July 6, 2018); *Betty A. Butler*, 56 ECAB 545 (2000); *Eugene F. Butler*, 36 ECAB 393, 398 (1984).

¹³ 20 C.F.R. § 10.606(b)(3).

¹⁴ See *D.R.*, Docket No. 18-0357 (issued July 2, 2018); *A.K.*, Docket No. 09-2032 (issued August 3, 2010); *M.E.*, 58 ECAB 694 (2007); *Susan A. Filkins*, 57 ECAB 630 (2006).

ORDER

IT IS HEREBY ORDERED THAT the September 11, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

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