



to factors of his federal employment. He indicated that he first became aware of his claimed conditions and their relation to his federal employment on August 20, 2024. Appellant advised that, since starting work for the employing establishment on March 20, 2008, he had been exposed to loud noises from firearms during quarterly firearm qualification sessions, as well as from cars, buses, all-terrain vehicles, helicopters, sirens, and other sources. He asserted that he had not been aware of the adverse effects of these noises on his hearing until he underwent hearing testing on August 20, 2024. Appellant did not stop work.

In an accompanying September 23, 2024 statement, appellant provided additional information regarding his work-related noise exposure, noting that he used several different weapons, including shotguns, automated rifles, nine-millimeter pistols, and .40 caliber pistols, during quarterly firearm qualification sessions. He indicated that his duties also exposed him to noise from generators, cell doors being slammed shut, and handheld radios which he listened to through earpieces.

Appellant submitted an audiogram obtained on May 4, 2007 wherein an audiologist noted that the results were normal in each ear. He also submitted an audiogram obtained on August 20, 2024. Neither audiogram was signed by a physician. Appellant provided a job description for the position of border patrol agent, and workplace sound level surveys from 1981 and 1983 detailing firearm noise in his workplace.

In an October 22, 2024 development letter, OWCP notified appellant of the deficiencies of his claim. It advised him of the type of 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 information regarding appellant's workplace noise exposure. OWCP afforded the employing establishment 30 days to respond.

In his response to the October 22, 2024 development letter, appellant further discussed his noise exposure, including noise exposure during quarterly firearm qualification sessions, and advised that the employing establishment provided foam ear plugs as hearing protection but only recently provided earmuffs. He indicated he was exposed to hazardous noise for up to 10 hours per day, five days per week. Appellant noted that he was never exposed to loud noises when he worked for a private fiber optics company from May 2000 to October 2001, and that he was exposed to minimal mid-level noises from machines when he worked for a private aviation services company from October 2001 to March 2008. He reported that he continued to be exposed to hazardous noise at the employing establishment.

In its response, the employing establishment indicated that it agreed with appellant's description of workplace noise exposure and noted that hearing protection was not provided for some tasks.

On January 14, 2025 OWCP referred appellant, along with a statement of accepted facts (SOAF), the medical record, and a series of questions, to Dr. Matthew Steehler, a Board-certified otolaryngologist, for a second opinion examination and evaluation regarding his auditory condition.

In a March 11, 2025 report, Dr. Steehler discussed appellant's factual and medical history and reported the findings of the otologic and audiologic testing performed on appellant on that date. He noted that appellant had normal ear canals, that the tympanic membranes moved well with otoscopy, and that clinical speech reception was good. Appellant denied dizziness/vertigo, but reported ringing in both ears. Tympanometry and reflex threshold measurements revealed bilateral presence of ipsilateral and contralateral reflexes. Dr. Steehler diagnosed bilateral sensorineural hearing loss and bilateral tinnitus. With respect to the diagnosis of bilateral sensorineural hearing loss, he indicated that, similar to the August 2024 hearing test results, the results of the audiometric hearing test he conducted were not reliable, noting that the discrepancies between speech reception threshold (SRT) and pure tone average (PTA) results were too high to believe that appellant was not malingering. With respect to the diagnosis of bilateral tinnitus, Dr. Steehler noted that he highly suspected malingering based on the audiogram he obtained and questionable response consistency/accuracy of appellant's responses with large discrepancies between SRT and PTA results. In a separate portion of his report, he noted that appellant had normal hearing when his noise exposure from federal employment began. Dr. Steehler indicated, however, that due to likely malingering upon audiogram testing it was unclear whether appellant had a sensorineural loss in excess of the normally expected level of presbycusis. He stated that the presence of tinnitus was "not applicable" as the audiogram demonstrated likely malingering. Dr. Steehler diagnosed probable malingering and checked "not due" boxes in response to questions regarding whether sensorineural hearing loss and tinnitus were due to noise exposure in appellant's federal employment. As rationale for this opinion, he stated, "The audiogram demonstrated poor response consistency with questionable participant reliability. The left ear PTA and SRT discrepancy is so far apart he is likely malingering." Dr. Steehler advised that auditory brainstem response (ABR) testing was needed to obtain true hearing thresholds.

Dr. Steehler attached a copy of the March 11, 2025 audiogram which indicated that testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hertz (Hz) revealed losses of 50, 50, 55 and 65 decibels (dBs) respectively, and that testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed losses of 70, 70, 70 and 75 dBs respectively. He attached a hearing evaluation calculation sheet which he completed on March 11, 2025 despite indicating the unreliability of the March 11, 2025 audiogram. Appellant's right ear hearing losses totaled 220 dBs and were divided by 4 to obtain the average hearing loss of 55 dBs. This average loss was then reduced by 25 dBs to equal 30 which was multiplied by the established factor of 1.5 to compute a 45 percent hearing loss in the right ear. Appellant's left ear hearing losses totaled 285 dBs and were divided by 4 to obtain the average hearing loss of 71.25 dBs. This average loss when reduced by 25 dBs to equal 46.25 which was multiplied by the established factor of 1.5 to compute a 69.38 percent hearing loss in the left ear. To compute the binaural hearing loss, Dr. Steehler multiplied the lesser loss in the right ear, *i.e.*, 45 percent, by the established factor of 5, and added the result to the 69.38 percent loss in the left ear. He divided this sum by the established factor of 6 to calculate a 49.06 percent binaural hearing loss. Dr. Steehler indicated on the calculation sheet that appellant did not have tinnitus as he "likely malingered on audiogram." He attached tinnitus handicap inventory documents which contained the notation, "The tinnitus handicap inventory is irrelevant today given the high likelihood of malingering on audiogram."

Given Dr. Steehler's opinion in his March 11, 2025 report that ABR testing was needed, OWCP referred for ABR testing. In an April 28, 2025 report, an audiologist reported threshold

ABR findings for each ear at the 500, 1,000, 2,000, and 4,000 Hz levels. The audiologist provided an audiogram with hearing results for each ear at the 500, 1,000, 2,000, and 4,000 Hz levels. OWCP requested that Dr. Steehler review the results of the ABR test results and provide a supplemental report clarifying his March 11, 2025 report.

In a May 28, 2025 addendum report, Dr. Steehler noted that appellant's ABR results were normal. He stated, "Given the normal hearing with the ABR and malingering on [a]udiogram, he does not have occupational noise[-]induced hearing loss and also cannot have occupational noise[-]induced tinnitus because there is no hearing loss." Dr. Steehler indicated that appellant "gets no disability benefits, because there is no hearing loss."

By decision dated July 2, 2025, OWCP denied appellant's claim, finding that he established exposure to hazardous noise at work but had not submitted medical evidence containing a diagnosis made in connection with the accepted employment factors. It found that the well-rationalized opinion of Dr. Steehler represented the weight of the medical opinion evidence regarding appellant's claim. OWCP stated, "[Y]our claim is denied on the medical component of the third basic element, [f]act of injury, because the medical evidence is not sufficient to establish that a medical condition was diagnosed in connection with the claimed event and/or work factors. The requirements have not been met for establishing that you sustained an injury as defined by the 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 the fact that the individual is an employee of the United States within the meaning of FECA, that the claim was filed with the applicable time limitation, 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>3</sup> These are the essential elements of every compensation claim regardless of whether the claim is predicated upon a traumatic injury or an occupational disease.<sup>4</sup>

To establish that an injury was sustained in the performance of duty in an occupational disease claim, a claimant must submit 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

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

<sup>3</sup> *E.S.*, Docket No. 18-1580 (issued January 23, 2020); *M.E.*, Docket No. 18-1135 (issued January 4, 2019); *C.S.*, Docket No. 08-1585 (issued March 3, 2009); *Bonnie A. Contreras*, 57 ECAB 364 (2006).

<sup>4</sup> *E.S.*, *id.*; *S.P.*, 59 ECAB 184 (2007); *Joe D. Cameron*, 41 ECAB 153 (1989); *Elaine Pendleton*, 40 ECAB 1143 (1989).

condition for which compensation is claimed; and (3) medical evidence establishing that the diagnosed condition is causally related to the identified employment factors.<sup>5</sup>

Causal relationship is a medical question that requires rationalized medical opinion evidence to resolve the issue.<sup>6</sup> A physician's opinion on whether there is causal relationship between the diagnosed condition and the implicated employment factor(s) must be based on a complete factual and medical background.<sup>7</sup>

### ANALYSIS

The Board finds that appellant has not met his burden of proof to establish a diagnosed auditory condition in connection with the accepted employment factors.

In a March 11, 2025 report, Dr. Steehler, the OWCP referral physician, reported the findings of the otologic and audiologic testing he performed on appellant on that date. He provided diagnoses of bilateral sensorineural hearing loss and bilateral tinnitus, but explained that these diagnoses were invalid. With respect to the diagnosis of bilateral sensorineural hearing loss, Dr. Steehler indicated that, similar to the August 2024 hearing test results, the results of the audiometric hearing test he conducted were not reliable, noting that the discrepancies between speech reception threshold SRT and PTA results were too high to believe that appellant was not malingering. With respect to the diagnosis of bilateral tinnitus, he noted that he highly suspected malingering based on the audiogram he obtained and questionable response consistency/accuracy of appellant's responses with large discrepancies between SRT and PTA results. In a separate portion of his report, Dr. Steehler diagnosed probable malingering and checked "not due" boxes in response to questions regarding whether sensorineural hearing loss and tinnitus were due to noise exposure in appellant's federal employment. He advised that ABR testing was needed to obtain true hearing thresholds.

After obtaining the results of ABR testing, Dr. Steehler produced a supplemental report of May 28, 2025 wherein he noted that appellant's ABR testing results were normal. Dr. Steehler stated, "Given the normal hearing with the ABR and malingering on [a]udiogram, he does not have occupational noise[-]induced hearing loss and also cannot have occupational noise[-]induced tinnitus because there is no hearing loss."<sup>8</sup> He concluded that appellant "gets no disability benefits, because there is no hearing loss."

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<sup>5</sup> *R.G.*, Docket No. 19-0233 (issued July 16, 2019). See also *Roy L. Humphrey*, 57 ECAB 238, 241 (2005); *Ruby I. Fish*, 46 ECAB 276, 279 (1994); *Victor J. Woodhams*, 41 ECAB 345 (1989).

<sup>6</sup> *W.M.*, Docket No. 14-1853 (issued May 13, 2020); *T.H.*, 59 ECAB 388, 393 (2008); *Robert G. Morris*, 48 ECAB 238 (1996).

<sup>7</sup> *M.V.*, Docket No. 18-0884 (issued December 28, 2018).

<sup>8</sup> The Board notes that a schedule award for tinnitus is not payable unless the medical evidence establishes that the condition caused or contributed to a ratable hearing loss. See *S.M.*, Docket No. 21-0648 (issued May 4, 2023).

The Board finds that OWCP properly relied on the opinion of Dr. Steehler to deny appellant's hearing loss claim. Although appellant established that he was exposed to hazardous noise at work, he failed to submit evidence establishing a diagnosed auditory condition in connection with the accepted employment factors. As Dr. Steehler's opinion is detailed, well rationalized, and based on a proper factual background, it represents the weight of the medical opinion evidence regarding appellant's claimed auditory condition and demonstrates that appellant had not established a diagnosable auditory condition in connection with the accepted employment factors.<sup>9</sup>

Appellant may request a schedule award or increased schedule award at any time based on evidence of a new exposure or medical evidence showing progression of an employment-related condition resulting in permanent impairment or increased permanent impairment.

### **CONCLUSION**

The Board finds that appellant has not met his burden of proof to establish a diagnosed auditory condition in connection with the accepted employment factors.

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<sup>9</sup> *B.W.*, Docket No. 25-0622 (issued November 18, 2025); *R.G.*, Docket No. 21-0491 (issued March 23, 2023).

**ORDER**

**IT IS HEREBY ORDERED THAT** the July 2, 2025 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: March 25, 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