United States Department of Labor
Employees' Compensation Appeals Board

B.C., Appellant	)	
and	)	**Docket No. 26-0625**
	)	**Issued: October 13, 2026**
DEPARTMENT OF ENERGY, OFFICE OF SECURE TRANSPORTATION, Oak Ridge, TN, Employer	)	

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

Case Submitted on the Record

DECISION AND ORDER

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

JURISDICTION

On June 26, 2026 appellant filed a timely appeal from a May 28, 2026 merit decision of the Office of Workers' Compensation Programs (OWCP). Pursuant to the Federal Employees' Compensation Act[1] (FECA) and 20 C.F.R. §§ 501.2(c) and 501.3, the Board has jurisdiction over the merits of this case.[2]

[1] 5 U.S.C. § 8101 *et seq*.

[2] The Board notes that following the May 28, 2026 decision, appellant submitted additional evidence to OWCP and with his appeal to the Board. However, the Board's *Rules of Procedure* provides: "The Board's review of a case is limited to the evidence in the case record that was before OWCP at the time of its final decision. Evidence not before OWCP will not be considered by the Board for the first time on appeal." 20 C.F.R. § 501.2(c)(1). Thus, the Board is precluded from reviewing this additional evidence for the first time on appeal. *Id.*

ISSUE

The issue is whether appellant has met his burden of proof to establish ratable hearing loss, warranting a schedule award.

FACTUAL HISTORY

On June 17, 2025 appellant, then a 49-year-old nuclear material courier, filed an occupational disease claim (Form CA-2) alleging that he developed hearing loss due to factors of his federal employment, including prolonged exposure to hazardous noise from small arms fire, loud diesel engine noise, flash bands, explosive entries, and ground burst simulators. He noted that he first became aware of his condition and realized its relationship to his federal employment on June 4, 2025. Appellant retired from the employing establishment on June 25, 2025.

In support of his claim, appellant provided evidence detailing his federal employment history and his 21½ year exposure to loud noise at the employing establishment. He noted that he used employing establishment issued personal proactive equipment (ear plugs and muffs) when appropriate.

OWCP received hearing conservation data from 2003 through 2025, from the employing establishment's hearing conservation program.

In a development letter dated June 30, 2025, OWCP informed appellant that the evidence of record was insufficient to establish his claim. It advised him of the type of factual and medical evidence needed to establish his claim and afforded him 60 days to provide the necessary evidence. In a separate development letter of even date, OWCP requested information from the employing establishment, including comments from a knowledgeable supervisor regarding appellant's allegations. It afforded the employing establishment 30 days to respond.

OWCP received a September 11, 2025 audiogram prepared by audiologist Alexandra Ostrowski which revealed the following losses at 500, 1,000, 2,000, and 3,000 Hertz (Hz): 35, 20, 25, and 20 decibels (dBs) for the right ear, and 25, 25, 35, and 35 dBs for the left ear, respectively. Appellant's monaural hearing loss for the right ear was calculated at 0 percent, for the left ear at 7.5 percent, binaural loss at 1.3 percent, and 2 percent tinnitus impairment, for a total hearing impairment of 3.3 percent.

On October 24, 2025 OWCP referred appellant, along with the medical record, an October 16, 2025 statement of accepted facts (SOAF), and a series of questions, to Dr. Elaina George, a Board-certified otolaryngologist, for a second opinion evaluation to determine the nature and extent of any hearing loss causally related to appellant's claimed employment-related noise exposure.

In a November 18, 2025 report, Dr. George noted her review of the October 16, 2025 SOAF, discussed her November 18, 2025 evaluation, and completed OWCP's evaluation questionnaire. She reported that appellant was a firefighter. Dr. George evaluated the audiology testing obtained on November 18, 2025, which revealed the following losses at 500, 1,000, 2,000, and 3,000 Hz: 20, 20, 20, and 20 dBs for the right ear, and 25, 20, 15, and 15 dBs for the left ear,

respectively. She reported that appellant's first industrial audiogram in 2015 demonstrated normal hearing but in March 2018 there was a threshold shift in the left ear at 4,000-5,000 Hz and in the right ear at 6,000 Hz with progressive hearing loss from March 2019 through March 2025, which showed a high-frequency sensorineural hearing loss due to his occupational noise exposure. Dr. George reported that appellant's hearing loss was not due to presbycusis and there was no indication of any medical condition such as an acoustic neuroma or Meniere's disease. She also diagnosed bilateral tinnitus due to appellant's occupational noise exposure. In a November 18, 2025 worksheet, Dr. George applied OWCP's standard for evaluating hearing loss to the November 18, 2025 audiogram and determined that appellant had zero percent monaural hearing impairment on the right, zero percent monaural hearing impairment on the left, and zero percent binaural hearing impairment. She also determined that appellant had a four percent impairment due to tinnitus. Dr. George added the zero percent binaural hearing impairment to the four percent tinnitus impairment for four percent binaural hearing impairment. Bilateral hearing aids were recommended.

On November 24, 2025 OWCP accepted the claim for binaural sensorineural hearing loss and bilateral tinnitus.

In a December 15, 2025 narrative report, Dr. George recommended that appellant use binaural hearing aids with tinnitus masking to improve his auditory acuity. She opined that his hearing loss was noise induced and would likely be progressive.

On April 4, 2026 appellant filed a claim for compensation (Form CA-7) for a schedule award.

On April 13, 2026 OWCP referred the medical record and an April 13, 2026 updated 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 causally related to his employment-related noise exposure.

In a report dated April 15, 2026, Dr. Israel reviewed Dr. George's November 18, 2025 report and the November 18, 2025 audiogram. He noted that testing at the frequency levels of 500, 1,000, 2,000, and 3,000 Hz revealed dB losses of 20, 20, 20, and 20 for the right ear, and 25, 20, 15, and 15, for the left ear, respectively. Dr. Israel opined that the pattern of appellant's hearing loss was suggestive of sensorineural hearing loss" due at least in part to noise-induced work-related acoustic trauma." He applied OWCP's procedures to his evaluation. Referencing the sixth edition of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (A.M.A., *Guides*),[3] Dr. Israel totaled the losses for the right ear at 80 dBs and then divided by 4 to obtain the average hearing loss of 20 dBs. After subtracting the 25 dB fence, he multiplied the 0 balance by 1.5 to equal 0 percent right ear monaural hearing loss. For the left ear, Dr. Israel totaled the losses at 75 dBs and then divided by 4 to obtain the average hearing loss of 18.75 dBs. After subtracting the 25 dB fence, he multiplied the 0 balance by 1.5 to equal 0 percent left ear monaural hearing loss. Dr. Israel then multiplied the zero percent right ear lessor loss by five, added the zero percent left ear greater loss, and divided by six, to find zero percent binaural loss. He opined that he concurred with Dr. George's calculations, other than her rating for four percent binaural hearing

[3] A.M.A., *Guides* (6th ed. 2009).

loss for tinnitus. Dr. Israel noted that a tinnitus award could not be rendered when there is zero percent binaural hearing impairment as stipulated on page 249 of the A.M.A., *Guides*.[4] He also noted that, while Dr. George stated appellant was a firefighter, the SOAF indicated that appellant had been employed as a national nuclear security administrator for 21.5 years. Dr. Israel recommended yearly audiograms, use of noise protection, and hearing aids for hearing loss with integrated tinnitus masking. He also determined that appellant had reached maximum medical improvement (MMI) on November 18, 2025, the date of the most recent audiogram and Dr. George's examination.

By decision dated May 28, 2026, 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.

LEGAL PRECEDENT

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

A claimant seeking compensation under FECA has the burden of proof to establish the essential elements of his or her claim.[9] 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.[10]

[4] *Id.* at 249.

[5] 5 U.S.C. § 8107.

[6] 20 C.F.R. § 10.404.

[7] *Supra* note 3.

[8] *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).

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

[10] *J.D.,* Docket No. 26-0108 (issued May 15, 2026); *R.R.,* Docket No. 19-0750 (issued November 15, 2019); *Edward Spohr,* 54 ECAB 806, 810 (2003); *Tammy L. Meehan,* 53 ECAB 229 (2001).

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*.[11] Using the frequencies of 500, 1,000, 2,000, and 3,000 Hz, the losses at each frequency are added up and averaged.[12] Then, the fence of 25 dBs is deducted because, as the A.M.A., *Guides* provides, losses below 25 dBs result in no impairment in the ability to hear everyday speech under everyday conditions.[13] The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.[14] 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 binaural hearing loss.[15] The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.[16]

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.[17] 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.[18]

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.[19] It may follow the advice of its medical adviser or consultant where he or she has properly utilized the A.M.A., *Guides*.[20]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish ratable hearing loss, warranting a schedule award.

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[11] *Supra* note 3.

[12] *Id.* at 250.

[13] *Id.*

[14] *Id.*

[15] *Id.*

[16] *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).

[17] *Supra* note 3.

[18] *Id.*; *R.H.,* Docket No. 10-2139 (issued July 13, 2011); *see also Robert E. Cullison,* 55 ECAB 570 (2004).

[19] *See* Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims,* Chapter 2.808.6(f) (version 1.2, issued May 4, 2026); *D.J.,* Docket No. 19-0352 (issued July 24, 2020).

[20] *See B.B.,* Docket No. 25-0789 (issued September 19, 2025); *Ronald J. Pavlik,* 33 ECAB 1596 (1982).

A September 11, 2025 audiogram by audiologist Alexandra Ostrowski recorded losses of 35, 20, 25, and 20 dBs for the right ear, and 25, 25, 35, and 35 dBs for the left ear, respectively. Appellant's monaural hearing loss for the right ear was calculated at zero percent, for the left ear at 7.5 percent, binaural loss of 1.3 percent, and 2 percent tinnitus impairment, for a total hearing impairment rating of 3.3 percent. However, the audiogram does not comply with the requirements for audiograms set forth by OWCP[21] as it was not prepared or certified as accurate by a physician as defined by FECA.[22] If an audiogram is prepared by an audiologist, it must be certified by a physician as accurate before it can be used to determine the percentage of hearing loss.[23]

OWCP referred appellant to Dr. George for a second opinion examination to evaluate his hearing loss. In her November 18, 2025 report, Dr. George diagnosed bilateral sensorineural hearing loss and bilateral tinnitus. She opined that the conditions were due to noise exposure encountered in appellant's federal employment.[24] Dr. George determined that appellant sustained right monaural loss of zero percent, left monaural loss of zero percent, and binaural hearing loss of four percent for tinnitus.

On April 13, 2026 OWCP forwarded appellant's medical record and an updated SOAF to Dr. Israel, OWCP's DMA, to provide an opinion regarding any permanent employment-related hearing loss.

Dr. Israel, in a report dated April 15, 2026, reviewed Dr. George's report, and determined that appellant had zero percent monaural hearing loss in each ear. He related that testing at the frequencies of 500, 1,000, 2,000, and 3,000 Hz revealed losses of 20, 20, 20, and 20 dBs for the right ear, respectively, and 25, 20, 15, and 15 dBs for the left ear, respectively. The decibel losses for the right ear were totaled at 80 and divided by 4 to obtain an average hearing loss of 20. The decibel losses for the left ear were totaled at 75 and divided by 4 to obtain an average hearing loss of 18.75. After subtracting the 25-decibel fence, both the right and left ear losses were reduced to zero. When multiplied by 1.5, the resulting monaural hearing loss in each ear was zero percent, resulting in a zero percent binaural hearing loss.

The DMA, Dr. Israel, properly concluded that appellant did not have ratable hearing loss warranting a schedule award.[25] 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* unless such

[21] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8, Exhibit 4 (version 1.2, issued May 4, 2026). *See also K.G.*, Docket No. 14-1827 (issued January 5, 2015).

[22] A doctor of audiology is not a physician as defined by FECA. 5 U.S.C. § 8101(2); 20 C.F.R. § 10.5(t). *See also J.D.,* Docket No. 26-0108 (issued May 15, 2026); *L.C.,* Docket No. 14-1954 (issued January 5, 2015).

[23] *J.D., id.*; *A.L.,* Docket No. 21-1233 (issued January 31, 2022); *Joshua A. Holmes*, 42 ECAB 231, 236 (1990).

[24] Dr. George incorrectly stated that appellant was a firefighter. The Board finds, however, that this is harmless error as OWCP accepted appellant's bilateral hearing loss and bilateral tinnitus were causally related to his federal employment.

[25] *J.D.,* Docket No. 26-0108 (issued May 15, 2026); *J.N.,* Docket No. 24-0508 (issued June 18, 2024); *T.B.*, Docket No. 23-0303 (issued August 11, 2023).

hearing loss is ratable.[26] The Board finds, therefore, that the opinion of Dr. Israel constitutes the weight of the medical evidence and establishes that appellant is not entitled to a schedule award.[27]

As the medical evidence of record is insufficient to establish ratable hearing loss, warranting a schedule award, the Board finds that appellant has not met his burden of proof.

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 ratable hearing loss, warranting a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the May 28, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 13, 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

[26] *J.D., id.*; *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).

[27] *P.C.,* Docket No. 23-1152 (issued January 19, 2024).