United States Department of Labor
Employees' Compensation Appeals Board

R.R., Appellant	)	
and	)	
DEPARTMENT OF JUSTICE, FEDERAL BUREAU OF PRISONS, LA TUNA FEDERAL CORRECTIONAL INSTITUTION, Anthony, TX, Employer	)	**Docket No. 26-0638** **Issued: October 2, 2026**

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

Case Submitted on the Record

DECISION AND ORDER

Before:
ALEC J. KOROMILAS, Chief Judge
PATRICIA H. FITZGERALD, Deputy Chief Judge
VALERIE D. EVANS-HARRELL, Alternate Judge

JURISDICTION

On June 29, 2026 appellant filed a timely appeal from a February 25, 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.

ISSUE

The issue is whether appellant has met his burden of proof to establish greater than 13 percent binaural hearing loss, for which he previously received a schedule award.

[1] 5 U.S.C. § 8101 *et seq*.

FACTUAL HISTORY

On June 14, 2018 appellant, then a 55-year-old trust fund program specialist, filed an occupational disease claim (Form CA-2) alleging that he developed binaural hearing loss and tinnitus due 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 6, 2009. In a supplemental statement, appellant explained that from 1995 until 2009 he was a member of a special response team and as a member of the team he was exposed to prolonged and repeated exposure to gunshots from pistols, shotguns, machine guns, and grenade explosions. Appellant did not stop work. By decision dated December 7, 2018, OWCP accepted the claim for bilateral sensorineural hearing loss and bilateral tinnitus.

On July 10, 2024 OWCP received an April 9, 2024 audiogram and report from Robert P. Wright, an audiologist, diagnosing mild-to-moderate bilateral sensorineural hearing loss and tinnitus. He recommended regular audiograms and hearing aids.

On July 16, 2024 appellant filed a claim for compensation (Form CA-7) for a schedule award. On the reverse side of the claim form, the employing establishment noted that appellant continued to work with no loss of time and that he had retired effective December 31, 2019.

On July 18, 2024, OWCP referred appellant, together with the case record, a statement of accepted facts (SOAF), and a series of questions to Matthew H. Lyon, an audiologist, for an audiologic evaluation.

On August 2, 2024, OWCP referred appellant, together with the case record, a SOAF, and a series of questions to Dr. Benjamin Westbrook, a Board-certified otolaryngologist, for a second opinion evaluation.

An August 7, 2024 audiogram by Mr. Lyon recorded losses at 500, 1,000, 2,000, and 3,000 Hertz (Hz) of 20, 20, 20, and 25 decibels (dBs) for the right ear, and 10, 20, 25, and 45 dBs for the left ear, respectively.

In a report dated September 11, 2024, Dr. Westbrook completed a tinnitus handicap inventory (THI) worksheet finding a score of 80. He diagnosed binaural sensorineural hearing loss and severe tinnitus. Dr. Westbrook opined that appellant's binaural sensorineural hearing loss and tinnitus were due to noise exposure in the course of his federal employment. In a September 20, 2024 worksheet, he applied OWCP's standard for evaluating hearing loss to a September 11, 2024 audiogram and determined that appellant had 0 percent monaural hearing impairment on the right, 0 percent monaural hearing impairment on the left, and 0 percent binaural hearing impairment. Dr. Westbrook also determined that appellant had severe tinnitus or five percent tinnitus impairment. He added the 0 percent binaural hearing impairment to the 5 percent tinnitus impairment for a total of 5 percent binaural hearing impairment. Bilateral hearing aids were recommended.

OWCP referred the medical evidence to its district medical adviser (DMA), Dr. Jeffrey M. Israel, a Board-certified otolaryngologist. In a report dated October 18, 2024, Dr. Israel advised that he was unable to provide a DMA report at that time as there was no audiogram or outline for

otologic evaluation (Form CA-1332) that correlated with the September 11, 22024 date noted in Dr. Westbrook's report.

On August 7, 2025, OWCP referred appellant to Organ Mountain Audiology for an updated audiogram.

On August 13, 2025, OWCP referred appellant to Dr. Westbrook for an updated evaluation.

OWCP received a July 16, 2025 audiogram by audiologist Bo Martinez, wherein he reported losses at 500, 1,000, 2,000, and 3,000 Hz of 20, 25, 30, and 40 dBs for the right ear, and 25, 35, 40, and 60 dBs for the left ear, respectively.

In a report dated October 3, 2025, Dr. Westbrook completed a THI worksheet finding a score of 84. He diagnosed right severe sensorineural hearing loss, left moderate-to-severe sensorineural hearing loss, and severe tinnitus. Dr. Westbrook opined that appellant's binaural sensorineural hearing loss and tinnitus were due to noise exposure in the course of his federal employment. In an October 3, 2025 worksheet, he applied OWCP's standard for evaluating hearing loss to the July 16, 2025 audiogram and determined that appellant had 5.625 percent monaural hearing impairment on the right, 22.50 percent monaural hearing impairment on the left, and 8.4375 percent binaural hearing impairment. Dr. Westbrook also determined that appellant had severe tinnitus or five percent tinnitus impairment. He added the 8.4375 percent binaural hearing impairment to the 5 percent tinnitus impairment for 13.4375 percent binaural hearing impairment. Bilateral hearing aids were recommended.

OWCP referred the medical evidence to its DMA, Dr. Israel. In a report dated January 24, 2026, Dr. Israel reviewed Dr. Westbrook's October 3, 2025 report and the July 16, 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, 25, 30, and 40 for the right ear, and 25, 35, 40, and 60, for the left ear, respectively. Dr. Israel 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*),[2] he totaled the losses for the right ear at 115 dBs and then divided by 4 to obtain the average hearing loss of 28.75 dBs. After subtracting the 25 dB fence, Dr. Israel multiplied the balance of 3.75 percent by 1.5 to equal 5.625 percent right ear monaural hearing loss. For the left ear, he totaled the losses at 160 dBs and then divided by 4 to obtain the average hearing loss of 40 dBs. After subtracting the 25 dB fence, Dr. Israel multiplied the balance of 15 percent by 1.5 to equal 22.5 percent left ear monaural hearing loss. He then multiplied the 5.63 right ear lessor loss by 5, added the 22.5 left ear greater loss, and divided by 6, to find 8.4 percent binaural loss. Next, Dr. Israel added the 5 percent tinnitus award, to find 13.4 percent total binaural award. He agreed with Dr. Westbrook's impairment calculations. Dr. Israel opined that appellant had reached MMI on July 16, 2025, the date of the latest audiogram. He recommended authorization for hearing aids.

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

By decision dated February 25, 2026, OWCP granted appellant a schedule award for 13 percent binaural hearing impairment. The period of the award ran for 26 weeks from July 16, 2025 through January 13, 2026.

LEGAL PRECEDENT

The schedule award provisions of FECA[3] and its implementing federal regulations,[4] 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 way 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. OWCP evaluates the degree of permanent impairment according to the standards set forth in the specified edition of the A.M.A., *Guides*, published in 2009.[5] The Board has approved the use by OWCP of the A.M.A., *Guides* for the purpose of determining the percentage loss of use of a member of the body for schedule award purposes.[6]

OWCP evaluates industrial hearing loss in accordance with the standards contained in the A.M.A., *Guides*. Using the frequencies of 500, 1,000, 2,000, and 3,000 Hz, the losses at each frequency are added up and averaged.[7] Then, the fence of 25 dBs is deducted because, as the A.M.A., *Guides* points out, losses below 25 dBs result in no impairment in the ability to hear everyday speech under everyday conditions.[8] The remaining amount is multiplied by a factor of 1.5 to arrive at the percentage of monaural hearing loss.[9] 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

[3] *Supra* note 1.

[4] 20 C.F.R. § 10.404.

[5] For decisions issued after May 1, 2009, the sixth edition of the A.M.A., *Guides* is used. A.M.A., *Guides* (6th ed. 2009); Federal (FECA) Procedure Manual, Part 2 -- Claims, *Schedule Awards and Permanent Disability Claims*, Chapter 2.808.5a (March 2017); *see also* Part 3 -- Medical, *Schedule Awards*, Chapter 3.700, Exhibit 1 (January 2010).

[6] *J.L.*, Docket No. 26-0350 (issued July 7, 2026); *J.M.,* Docket No. 24-0833 (issued March 20, 2024); *P.R.,* Docket No. 19-0022 (issued April 9, 2018); *Isidoro Rivera,* 12 ECAB 348 (1961).

[7] *See* Section 11.2, *Hearing and Tinnitus*, A.M.A., *Guides* 248-51 (6th ed. 2009).

[8] *Id.* at 250.

[9] *Id.* at 250-251.

binaural hearing loss.[10] The Board has concurred in OWCP's adoption of this standard for evaluating hearing loss.[11]

The A.M.A., *Guides* provide that 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 measurable binaural hearing impairment.[12]

OWCP's procedures provide that, after obtaining all necessary medical evidence, the file should be routed to a DMA for an opinion concerning the nature and percentage of permanent impairment in accordance with the A.M.A., *Guides*, with the DMA providing rationale for the percentage of impairment specified.[13]

ANALYSIS

The Board finds that appellant has not met his burden of proof to establish greater than 13 percent binaural hearing loss, for which he previously received a schedule award.

OWCP properly referred appellant to Dr. Westbrook for a second opinion evaluation regarding the hearing loss claim for a schedule award. Dr. Westbrook's October 3, 2025 report related the July 16, 2025 audiogram findings and concluded that appellant's binaural sensorineural hearing loss and bilateral tinnitus were due to his workplace noise exposure. In an October 3, 2025 work sheet, he determined that appellant had 5.625 percent monaural hearing impairment on the right, and 22.50 percent monaural hearing impairment on the left, which converted to 8.4375 percent binaural hearing impairment.[14] Dr. Westbrook also determined that appellant had severe tinnitus for 5 percent tinnitus impairment, which he added to the 8.4375 percent binaural hearing impairment for 13.4375 percent binaural hearing impairment.

On January 24, 2026, Dr. Israel, serving as the DMA, reviewed Dr. Westbrook's October 3, 2025 report and the July 16, 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, 25, 30, and 40 for the right ear, and 25, 35, 40, and 60, for the left ear, respectively. Referencing the sixth edition of the A.M.A., *Guides*, Dr. Israel totaled the losses for the right ear at 115 dBs and then divided by 4 to obtain the average hearing loss of 28.75 dBs. After subtracting the 25 dB fence, he multiplied the balance of 3.75 percent by 1.5 to equal 5.625 percent right ear monaural hearing loss. For the left ear, Dr. Israel totaled the losses at 160 dBs and then divided by 4 to obtain the average hearing loss of 40 dBs. After subtracting the 25 dB fence, he multiplied the balance of 15 percent by 1.5 to equal

[10] *Id.* at 251.

[11] *See J.L.*, *supra* note 6; *D.R.,* Docket No. 20-1570 (issued April 14, 2021); *B.E.,* Docket No. 18-1785 (issued April 1, 2019).

[12] A.M.A., *Guides* 249.

[13] *Supra* note 5 at Chapter 2.808.6f.

[14] *Supra* note 2.

22.5 percent left ear monaural hearing loss. Dr. Israel then multiplied the 5.63 right ear lessor loss by 5, added the 22.5 left ear greater loss, and divided by 6, to find 8.4 percent binaural loss. Next, he added 5 percent tinnitus award, to find 13.4 percent total binaural award. Dr. Israel agreed with Dr. Westbrook's impairment calculations. He opined that appellant had reached MMI on July 16, 2025, the date of the latest audiogram.

The Board finds that Dr. Westbrook's October 3, 2025 report accurately summarized the relevant medical evidence, provided detailed findings on examination, and reached conclusions which comported with his findings and the appropriate provisions of the A.M.A., *Guides*.[15] Utilizing this report, Dr. Israel properly applied the standards for rating hearing loss under the A.M.A., *Guides* to the July 16, 2025 audiogram and found that appellant had a total of 13.4 percent binaural hearing loss which, in accordance with OWCP policy, is rounded down to 13 percent.[16]

The record contains several audiograms obtained prior to the July 16, 2025 audiogram. However, these audiograms dated April 9 and August 7, 2024 do not comply with the requirements for audiograms set forth by OWCP[17] as they were not prepared or certified as accurate by a physician as defined by FECA.[18] 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.[19]

As there is no current medical evidence of record supporting ratable hearing loss greater than the 13 percent binaural hearing loss previously awarded, the Board finds that appellant has not met his burden of proof.[20]

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.

[15] *R.F.,* Docket No. 26-0151 (issued April 3, 2026); *see R.R.,* Docket No. 26-0142 (issued March 10, 2026); *R.L.,* Docket No. 25-0834 (issued November 26, 2025); *R.B.,* Docket No. 25-0532 (issued June 6, 2025); *J.M.,* Docket No. 18-1387 (issued February 1, 2019).

[16] *See R.B., id.*; *F.T.,* Docket No. 16-1236 (issued March 12, 2018). The policy of OWCP is to round the calculated percentage of impairment to the nearest whole number. Results should be rounded down for figures less than 0.5 and up for 0.5 and over. *Supra* note 5 at Chapter 3.700.4b (January 2010); *see also R.M.,* Docket No. 18-0752 (issued December 6, 2019); *V.M.,* Docket No. 18-1800 (issued April 23, 2019).

[17] Federal (FECA) Procedure Manual, Part 3 -- Medical, *Requirements for Medical Reports*, Chapter 3.600.8, Exhibit 4 (September 1995). *See also K.G.*, Docket No. 14-1827 (issued January 5, 2015).

[18] 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).

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

[20] *A.L.,* Docket No. 21-0248 (issued April 19, 2023); *R.H.,* Docket No. 18-1721 (issued March 25, 2019); *J.W.,* Docket No. 17-1339 (issued August 21, 2018); *J.B.,* Docket No. 15-1474 (issued March 4, 2016).

CONCLUSION

The Board finds that appellant has not met his burden of proof to establish greater than 13 percent binaural hearing loss, for which he previously received a schedule award.

ORDER

IT IS HEREBY ORDERED THAT the February 25, 2026 decision of the Office of Workers' Compensation Programs is affirmed.

Issued: October 2, 2026
Washington, DC

Alec J. Koromilas, Chief Judge
Employees' Compensation Appeals Board

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

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