

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LOUIS G. SUTER and DEPARTMENT OF AGRICULTURE,
FOOD SAFETY & INSPECTION SERVICE, Louisville, KY

*Docket No. 98-1796; Submitted on the Record;
Issued April 21, 2000*

DECISION and ORDER

Before MICHAEL J. WALSH, GEORGE E. RIVERS,
MICHAEL E. GROOM

The issue is whether appellant has greater than a five percent permanent binaural loss of hearing.

On May 26, 1997 appellant, then a 58-year-old meat inspector, filed a claim for a loss of hearing in both ears, which he attributed to his exposure to loud noise in his employment. Appellant retired effective May 30, 1997. Appellant submitted a report dated September 15, 1997 from Dr. Alice Minter-Sauer, a Board-certified family practitioner, noting that appellant was seen in May 1997 for trouble with his hearing, that a screening test showed significant high frequency losses, and that an audiological evaluation showed a moderately severe high frequency sensorineural hearing loss in both ears that the doctor felt was directly related to appellant's occupational noise exposure. This report was accompanied by an audiogram made by an audiologist on May 23, 1997.

On February 2, 1998 the Office of Workers' Compensation Programs referred appellant and a statement of accepted facts to Dr. Harold Blevins, a Board-certified otolaryngologist, for an audiologic and otologic evaluation. In a report dated February 20, 1998, Dr. Blevins concluded that appellant had a noise-induced sensorineural hearing loss. This report was accompanied by an audiogram made by an audiologist on February 19, 1998. An Office medical adviser applied the Office's standards for evaluating the extent of hearing loss to the February 19, 1998 audiogram and concluded that it showed a five percent binaural loss of hearing.

On April 14, 1998 the Office issued appellant a schedule award for a 5 percent binaural loss of hearing, entitling him to 10 weeks of compensation for a bilateral hearing loss, to be paid from February 17 to April 25, 1998.

The Board finds that appellant has no greater than a five percent permanent binaural loss of hearing.

The schedule award provision of the Federal Employees' Compensation Act provides for compensation to employees sustaining impairment from loss, or loss of use of, specified members of the body.¹ The Act, however, does not specify the manner in which the percentage loss of a member shall be determined. The method used in making such determination is a matter which rests in the sound discretion of the Office.² For consistent results and to ensure equal justice under the law to all claimants, good administrative practice necessitates the use of a single set of tables so that there may be a uniform standard applicable to all claimants.³ The American Medical Association, *Guides to the Evaluation of Permanent Impairment* has been adopted by the Office,⁴ and the Board has concurred in such adoption, as an appropriate standard for evaluating schedule losses.⁵

The Office 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 cycles per second. The losses at each frequency are added up and averaged and the "fence" of 25 decibels is deducted since, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday speech in everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. 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.

An Office medical adviser applied the Office's standardized procedures to the February 17, 1998 audiogram from Dr. Blevins. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed decibel losses of 25, 20, 20 and 60 respectively. These decibels were totaled at 125 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 31.25 decibels. The average of 31.25 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 6.25 which was multiplied by the established factor of 1.5 to compute a 9.38 percent loss of hearing for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 revealed decibel losses of 20, 20, 15 and 55 respectively. These decibels were totaled at 110 decibels and were divided by 4 to obtain the average hearing loss at those cycles of 27.5 decibels. The average of 27.5 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 2.5 which was multiplied by the established factor of 1.5 to compute a 3.75 percent loss of hearing for the left ear.

The Office medical adviser then computed the binaural hearing loss by multiplying the lesser loss, 3.75 by 5, added this to the greater loss, 9.38, and divided this figure by 6 to arrive at a 4.69 percent binaural hearing loss, which was rounded up to 5 percent.

¹ 5 U.S.C. § 8107.

² *Richard Beggs*, 28 ECAB 387 (1977).

³ *Henry L. King*, 25 ECAB 39 (1973); *August M. Buffa*, 12 ECAB 324 (1961).

⁴ FECA Program Memorandum No. 272 (issued February 24, 1986).

⁵ *Danniel C. Goings*, 37 ECAB 781 (1986).

The Board finds that the Office medical adviser correctly applied the Office's standards to Dr. Blevins' audiogram in determining that appellant had a five percent binaural loss of hearing. Dr. Blevins pointed out that his findings were "very similar" to those of Dr. Minter-Sauer, whose report was submitted by appellant. As Dr. Blevins is a specialist in the appropriate field of medicine, otolaryngology, and Dr. Minter-Sauer is not, the Office acted appropriately in using Dr. Blevins' evaluation to rate the extent of appellant's loss of hearing.⁶

The decision of the Office of Workers' Compensation Programs dated April 14, 1998 is affirmed.

Dated, Washington, D.C.

April 21, 2000

Michael J. Walsh
Chairman

George E. Rivers
Member

Michael E. Groom
Alternate Member

⁶ The opinions of physicians who have training and knowledge in a specialized medical field have greater probative value concerning medical questions peculiar to that field than the opinions of other physicians. *Elmer L. Fields*, 20 ECAB 250 (1969).