

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM BURNS, JR. and DEPARTMENT OF THE NAVY,
NAVAL AIR STATION, Alameda, Calif.

*Docket No. 97-668; Submitted on the Record;
Issued October 7, 1998*

DECISION and ORDER

Before MICHAEL J. WALSH, BRADLEY T. KNOTT,
A. PETER KANJORSKI

The issue is whether appellant has more than an 11 percent binaural hearing loss.

In the present case, appellant filed a claim alleging that he sustained a binaural hearing loss causally related to noise exposure in his federal employment. The Office of Workers' Compensation Programs referred appellant to Dr. Howard C. Lonsdale, an otolaryngologist, for examination. In a report dated November 13, 1995, Dr. Lonsdale reported that appellant had a bilateral sensorineural hearing loss compatible with noise-induced hearing loss. In a report dated January 10, 1996, an Office medical adviser found that the audiometric test results from Dr. Lonsdale revealed a mixed type hearing loss, with significant differences in air and bone conduction scores at low frequencies. The medical adviser recommended a further examination to accurately determine the hearing thresholds.

The Office then referred appellant to Dr. A.J. Hadeed, an otolaryngologist, who provided a May 15, 1996 report with accompanying audiogram. By report dated July 15, 1996, the Office medical adviser indicated that the audiogram performed for Dr. Hadeed showed an asymmetrical hearing loss, without the previously noted conductive component, and he opined that it represented an accurate reflection of appellant's hearing. The medical adviser calculated that appellant had an 11 percent binaural hearing loss.

In a decision dated August 24, 1996, the Office awarded appellant 22 weeks of compensation for an 11 percent binaural hearing loss. The period of the award was May 15 to October 15, 1996.

In a letter received on September 10, 1996, appellant requested reconsideration of his claim. He submitted employing establishment audiograms from 1974 and 1987 through 1996. In a report dated November 14, 1996, the Office medical adviser stated that the audiograms showed a progression of hearing loss and Dr. Hadeed's audiogram was similar to recent

audiograms from the employing establishment. He concluded that his opinion had not changed regarding the accuracy of Dr. Hadeed's examination.

By decision dated September 26, 1996, the Office denied modification of its prior decision.

The Board finds that appellant has not established more than an 11 percent binaural hearing loss.

The Office evaluates industrial hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment* using the frequencies of 500, 1,000, 2,000 and 3,000 Hertz (Hz). The threshold levels at each frequency are added up and averaged to determine the estimated hearing level for speech. A "fence" of 25 decibels (dBs) is deducted since, as the A.M.A., *Guides* points out, losses below 25 dBs 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. Binaural impairment is determined by multiplying the hearing impairment in the better ear by five, adding the impairment in the poorer ear, and dividing the total by six.¹ The Board has concurred in the Office's use of this standard for evaluating hearing losses for schedule award purposes.²

In this case, the Office relied on the examination by and audiometric testing for Dr. Hadeed. This represents the most contemporaneous evidence and, as noted by the Office medical adviser, it is substantially similar to previous testing both by the employing establishment and by Dr. Lonsdale. For the right ear, the May 15, 1996 audiogram showed decibel levels of 30, 35, 40 and 70 at the relevant frequencies noted above. The average decibel level is 43.75 or 18.75 after the fence of 25 is deducted, multiplied by 1.5 for a 28.1 percent monaural hearing loss. For the left ear, the same formula applied to the decibel levels of 15, 20, 30 and 55 results in a 7.5 percent monaural loss for the left ear. To calculate the binaural loss, the 7.5 is multiplied by 5, added to 28.1 and divided by 6, for an 11 percent binaural hearing loss.

According to the compensation schedule at 5 U.S.C. § 8107, the maximum number of weeks of compensation for binaural hearing loss is 200;³ appellant is therefore entitled to 11 percent of 200 or 22 weeks of compensation.⁴ The Board notes that on appeal, appellant states that the period covered should reflect the period of actual hearing loss, and the employing establishment audiograms show a hearing loss over a long period of time. It is well established, however, that the period covered by a schedule award commences on the date that the employee

¹ A.M.A., *Guides*, 224 (4th ed. 1993).

² See *Danniel C. Goings*, 37 ECAB 781 (1986).

³ 5 U.S.C. § 8107(13)(B).

⁴ Monaural hearing loss is based on a maximum of 52 weeks of compensation and therefore calculating the monaural losses individually and adding them together would result in fewer weeks of compensation in this case. 5 U.S.C. § 8107(13)(A).

reaches maximum medical improvement from residuals of the employment injury.⁵ The number of weeks of compensation is, as noted above, determined by the provisions of 5 U.S.C. § 8107. In this case, the date of maximum medical improvement is the date of examination by Dr. Hadeed and the period of the award properly runs for 22 weeks from that date.

The decisions of the Office of Workers' Compensation Programs dated November 26 and August 24, 1996 are affirmed.

Dated, Washington, D.C.
October 7, 1998

Michael J. Walsh
Chairman

Bradley T. Knott
Alternate Member

A. Peter Kanjorski
Alternate Member

⁵ *Albert Valverde*, 36 ECAB 233, 237 (1984).