

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLIAM FOXWORTH and DEPARTMENT OF THE NAVY,
CHARLESTON NAVAL SHIPYARD, Charleston, SC

*Docket No. 00-1394; Submitted on the Record;
Issued March 16, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
BRADLEY T. KNOTT

The issue is whether appellant has more than a 13 percent binaural hearing loss for which he received a schedule award.

The Board has duly reviewed the case record in the present appeal and finds that appellant has no more than a 13 percent binaural hearing loss for which he received a schedule award.

The Office of Workers' Compensation Programs properly considered the medical evidence in support of appellant's claim and applied the American Medical Association, *Guides to the Evaluation of Permanent Impairment*¹ in calculating appellant's permanent impairment for loss of hearing.

The Office evaluates permanent hearing loss in accordance with the standards contained in the A.M.A., *Guides* (4th ed. 1993). Utilizing the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 hertz (Hz), the losses at each frequency are added up and averaged and a "fence" of 25 decibels is deducted because, as the A.M.A., *Guides* points out, losses below 25 decibels result in no impairment in the ability to hear everyday sounds under everyday conditions.² 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.³

¹ American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1993); see *Daniel C. Goings*, 37 ECAB 781 (1986) (where the Board concurred in the Office's use of the standards set forth in the A.M.A., *Guides* in evaluating hearing loss for schedule award purposes).

² *Jimmy B. Newell*, 39 ECAB 181 (1987).

³ See A.M.A., *Guides* at 224 (4th ed. 1993); see also *Daniel C. Goings*, *supra* note 1.

In this case, appellant, then a 46-year-old mechanical engineer technician, filed an occupational disease claim for hearing loss due to factors of his federal employment. The Office subsequently referred appellant to Dr. Rocco Cassone, a Board-certified otolaryngologist, to determine the nature and extent of the hearing loss. In a July 6, 1998 report, Dr. Cassone reviewed appellant's history and his findings on examination and opined that appellant had a high frequency sensorineural hearing loss related to his federal employment. Accompanying Dr. Cassone's report was a July 6, 1998 audiogram, performed on the doctor's behalf. Based on this, the Office accepted that appellant had an employment-related bilateral hearing loss.

An Office medical adviser, in a September 25, 1998 report, calculated a 13 percent binaural impairment based on the audiogram performed for Dr. Cassone. Thereafter, on January 4, 1999, the Office issued appellant a schedule award for a 13 percent binaural hearing loss.

On January 26, 1999 appellant disagreed and requested a review of the written record; however, by decision dated January 27, 2000, an Office hearing representative affirmed the prior decision.

The audiogram performed for Dr. Cassone revealed the following decibel losses for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz: 20, 30, 35 and 65, respectively, for a total of 150 decibels. When this figure, utilizing the above-noted formula, is divided by 4, the result is an average hearing loss of 37.5 decibels. The average loss of 37.5 is reduced by 25 decibels to equal 12.5, which when multiplied by the established factor of 1.5, results in a 18.75 percent monaural hearing loss for the right ear. Testing for the left ear at the frequency levels of 500, 1,000, 2,000 and 3,000 Hz revealed decibel losses of 15, 25, 35 and 55 decibels respectively, for a total of 130 decibels. Utilizing the same above-noted formula results in an average hearing loss of 32.5 decibels. The average loss of 32.5 is reduced by 25 decibels to equal 7.5, which when multiplied by 1.5, results in a 11.25 percent loss of hearing in the left ear. When the lesser loss of 11.25 is multiplied by 5, then added to the greater loss of 18.25, and the total is divided by 6, it is determined that appellant has a 12.5 percent binaural hearing loss. The Office rounded this up to 13 percent. Consequently, the evidence does not establish that appellant has a greater hearing loss than that for which he has previously received a schedule award.⁴

The schedule award provisions of the Federal Employees' Compensation Act specify the number of weeks of compensation to be paid for each permanent impairment listed in the schedule.⁵ As appellant has a 13 percent binaural loss of hearing, he is entitled to 13 percent of 200 weeks which is 26 weeks. The Office properly determined the number of weeks of compensation for which appellant is entitled under the schedule award provisions of the Act.

⁴ There is no audiogram of record, certified by a physician, which shows a greater hearing loss; see *Joshua A. Holmes*, 42 ECAB 231 (1990).

⁵ 5 U.S.C. § 8107(13).

The decisions of the Office of Workers' Compensation Programs dated January 27, 2000 and January 4, 1999 are affirmed.

Dated, Washington, DC
March 16, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

Bradley T. Knott
Alternate Member