U.S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of JIMMIE W. HENINGTON and DEPARTMENT OF AGRICULTURE, FOOD SAFETY & INSPECTION SERVICE, Austin, Tex.

Docket No. 97-1757; Submitted on the Record;
Issued January 8, 1999

DECISION and ORDER

Before GEORGE E. RIVERS, DAVID S. GERSON,
BRADLEY T. KNOTT

The issue is whether appellant has more than a 13 percent binaural hearing loss.

In a letter decision dated November 13, 1996, the Office of Workers' Compensation Programs determined that appellant had no more than a 13 percent permanent impairment for bilateral hearing loss. On April 14, 1997 the Office denied appellant's request for reconsideration in a nonmerit decision.

The Board has reviewed the case record and finds that appellant has not established more than a 13 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 sounds in everyday conditions. The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural hearing loss. To determine the loss for both ears (binaural), the lesser monaural loss is multiplied by 5, then added to the greater loss, with the total divided by 6. The Board has concurred in the Office's use of this standard for evaluating hearing losses for schedule award purposes.[1]

In the present case, appellant was referred by the Office to Dr. Mark L. Winter, a Board-certified otolaryngologist, who provided a July 26, 1996 report and accompanying audiogram from a certified audiologist. Dr. Winter provided results on examination and opined that the hearing loss was consistent with a high frequency sensorineural hearing loss, noise induced. The January 26, 1996 audiogram revealed the following: for the right ear, decibel levels of 15, 15,

[1] *See Danniel C. Goings*, 37 ECAB 781 (1986).

30 and 75 at the frequencies of 500, 1,000, 2,000 and 3,000 Hz; for the left ear at these same frequencies the decibel levels were 15, 20, 25 and 75.

An Office medical adviser reviewed the evidence and calculated the percentage of hearing loss in accordance with the A.M.A., *Guides.* Applying the standard noted above, the decibel levels at the relevant frequencies are averaged, the fence of 25 dBs deducted, and the balance multiplied by 1.5. In this case, the monaural loss for the right ear is 13.1 percent, and 13.1 percent for the left ear. The binaural loss is determined by multiplying 8.75 by 5, adding 8.75, and dividing by 6, for a 13 percent binaural hearing loss. The record thus indicates that, based on the probative medical evidence of record, the Office properly calculated the percentage of appellant's hearing loss in this case. Accordingly, the Board finds that appellant has not demonstrated entitlement to more than a 13 percent impairment for binaural hearing loss.

The decisions of the Office of Workers' Compensation Programs dated April 14, 1997 and November 13, 1996 are affirmed.

Dated, Washington, D.C.
January 8, 1999

George E. Rivers
Member

David S. Gerson
Member

Bradley T. Knott
Alternate Member