

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

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In the Matter of GLENN D. FARMER and DEPARTMENT OF AGRICULTURE,  
FOOD SAFETY INSPECTION SERVICE, Louisville, KY

*Docket No. 00-1005; Submitted on the Record;  
Issued February 2, 2001*

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DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,  
A. PETER KANJORSKI

The issue is whether appellant has more than a 19 percent binaural hearing loss for which he received a schedule award.

On July 9, 1998 appellant, then a 48-year-old meat inspector, filed a notice of occupational disease and claim for compensation alleging that he sustained bilateral hearing loss as a result of exposure to hazardous noise in the performance of duty. In a statement supporting his claim, appellant asserted that from 1973 to 1984, while working as a meat inspector for the employing establishment, he was regularly exposed to high noise levels from the machinery used in slaughtering animals. Appellant also submitted a progress note and accompanying audiogram dated May 8, 1998.

The Board has duly reviewed the case record in the present appeal and finds that appellant has no more than a 19 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*<sup>1</sup> in issuing him a schedule award, on July 26, 1999, for a 19 percent binaural hearing loss.

The Office evaluates permanent hearing loss in accordance with the standards contained in the A.M.A., *Guides*. 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.<sup>2</sup> The

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<sup>1</sup> A.M.A., *Guides*; 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).

<sup>2</sup> See A.M.A., *Guides* at 224 (4<sup>th</sup> ed. 1993); see also *Goings*, *id.*

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.<sup>3</sup>

After appellant filed his occupational disease claim for hearing loss, the Office referred him to Dr. Burton J. Cohen, a Board-certified otolaryngologist, for examination and evaluation. In a February 24, 1999 report, Dr. Cohen opined that appellant's workplace noise exposure caused his binaural hearing loss. Accompanying Dr. Cohen's report was a February 24, 1999 audiogram, performed on his behalf. After the Office accepted appellant's binaural hearing loss as being employment related, an Office medical adviser calculated permanent impairment based on the audiogram performed for Dr. Cohen.

The audiogram 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, 30 and 65 decibels respectively, for a total of 145 decibels. When this figure, utilizing the above-noted formula, is divided by 4, the result is an average hearing loss of 36.25 decibels. The average loss of 36.25 is reduced by 25 decibels to equal 11.25, which when multiplied by the established factor of 1.5, results in a 16.88 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 25, 35, 40 and 85 decibels respectively, for a total of 185 decibels. Utilizing the same above-noted formula results in a 31.88 percent monaural hearing loss for the left ear. To obtain the binaural hearing loss, the 16.88 percent hearing loss for the right ear is multiplied by 5, to obtain the total of 84.40. The 84.40 is then added to the 31.88 percent hearing loss for the left ear to obtain the total of 116.28. The 116.28 is then divided by 6, in order to calculate a binaural loss of hearing of 19.38 percent which the Office properly rounded down to 19 percent.<sup>4</sup> Consequently, the evidence does not establish that appellant has greater than a 19 percent binaural hearing loss, for which he received a schedule award.<sup>5</sup>

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.<sup>6</sup> For total loss of hearing in one ear, the Act provides for 52 weeks of compensation.<sup>7</sup> For total loss of hearing in both (binaural) ears, the amount is 200 weeks.<sup>8</sup> Any loss less than a

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<sup>3</sup> A.M.A., *Guides*, *id.*

<sup>4</sup> See *Donald C. Swiger*, 50 ECAB \_\_\_\_ (Docket No. 97-2809, issued July 8, 1999).

<sup>5</sup> There is no audiogram of record, certified by a physician, which shows a greater hearing loss; see *Joshua A. Holmes*, 42 ECAB 231 (1990).

<sup>6</sup> 5 U.S.C. § 8107(13).

<sup>7</sup> 5 U.S.C. § 8107(c)(13)(A). The Office's regulations provide that where, as in the instant case, appellant has at least one dependent, compensation for schedule awards is payable at 75 percent of the employee's pay. 20 C.F.R. § 10.404(b). In this case, the Office determined that appellant's pay was \$20.05 an hour.

<sup>8</sup> 5 U.S.C. § 8107(c)(13)(B).

total loss is compensated at a proportionate rate.<sup>9</sup> As appellant has a 19 percent binaural loss of hearing, he is entitled to 19 percent of 200 weeks which is 38 weeks.<sup>10</sup> The Office properly determined the number of weeks of compensation to which appellant is entitled under the schedule award provisions of the Act.

The July 26, 1999 decision of the Office of Workers' Compensation Programs is affirmed.

Dated, Washington, DC  
February 2, 2001

Michael J. Walsh  
Chairman

Willie T.C. Thomas  
Member

A. Peter Kanjorski  
Alternate Member

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<sup>9</sup> *Sheldon H. Pellow*, 33 ECAB 148 (1981).

<sup>10</sup> While on occasion, the allowances for loss of hearing in each ear, if computed separately, may be greater than the combined value of bilateral hearing loss, in this case, appellant benefits from the use of the formula for binaural hearing loss. Calculated separately appellant's schedule award using the monaural hearing loss figures would result in 25.48 weeks of compensation (31.88 percent multiplied by 52 weeks plus 16.88 percent multiplied by 52 weeks), as opposed to the 38 weeks of compensation for an 19 percent binaural hearing loss awarded by the Office; *see Clarence L. Weeks*, 38 ECAB 613 (1987); FECA Program Memorandum No. 181.