

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WALTER L. BAILEY and DEPARTMENT OF THE NAVY,
NORFOLK NAVAL SHIPYARD, Portsmouth, VA

*Docket No. 01-1934; Submitted on the Record;
Issued August 28, 2002*

DECISION and ORDER

Before MICHAEL J. WALSH, ALEC J. KOROMILAS,
WILLIE T.C. THOMAS

The issue is whether appellant is entitled to more than a 40 percent permanent impairment to each lung for which he received a schedule award.

The Board has given careful consideration to the issue involved, the contentions of the parties on appeal and the entire case record. The Board finds that the August 17, 2000 decision of the Office of Workers' Compensation Programs is in accordance with the facts and the law in this case and hereby adopts the findings and conclusions of the hearing representative.¹

¹ The Office hearing representative properly determined that appellant had a 40 percent impairment to each lung based on the Medical Director's review of the August 20, 1998 pulmonary function study and his use of the American Medical Association, *Guides to the Evaluation of Permanent Impairment* (4th ed. 1994), and that pursuant to 20 C.F.R. § 404(a), appellant was entitled to a schedule award for 124.8 weeks. *See Boyd Haupt*, 53 ECAB _____ (Docket No. 00-1683, issued March 29, 2001); *James C. Hall*, 39 ECAB 342, 348 (1988).

The August 17, 2000 decision of the Office of Workers' Compensation Programs is hereby affirmed.

Dated, Washington, DC
August 28, 2002

Michael J. Walsh
Chairman

Alec J. Koromilas
Member

Willie T.C. Thomas
Alternate Member