

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of LARRY E. SHERIFF and DEPARTMENT OF THE NAVY,
PUBLIC WORKS CENTER, Mechanicsburg, PA

*Docket No. 00-2738; Submitted on the Record;
Issued May 9, 2002*

DECISION and ORDER

Before COLLEEN DUFFY KIKO, WILLIE T.C. THOMAS,
MICHAEL E. GROOM

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

The Board has duly reviewed the case on appeal and finds that appellant has no more than a four percent loss of hearing.

On January 16, 2000 appellant, then a 48-year-old rigging worker, filed an occupational disease claim, alleging that he sustained a bilateral hearing loss due to employment-related noise exposure. On July 11, 2000 the Office of Workers' Compensation Programs referred appellant, along with the medical record and a statement of accepted facts, to Dr. Edward F. Sickel, a Board-certified otolaryngologist, for evaluation. In a report dated August 6, 2000, he advised that appellant's hearing loss was due to a long history of employment-related noise exposure. Dr. Sickel also submitted audiographic testing results.

By letter dated August 8, 2000, the Office accepted that appellant sustained an employment-related bilateral hearing loss and informed him that his case would be evaluated regarding entitlement to a schedule award. On September 4, 1996 appellant filed a claim for a schedule award. After review by an Office medical adviser, by decision dated August 24, 2000, the Office granted appellant a schedule award for a four percent binaural hearing loss and authorized compensation for eight weeks, to run from December 7, 1999 to January 31, 2000. The instant appeal follows.¹

The Office evaluates permanent hearing loss in accordance with the standards contained in the American Medical Association, *Guides to the Evaluation of Permanent Impairment*,² using

¹ Appellant requested an oral argument and this was scheduled for April 16, 2001. However, as appellant did not appear for the scheduled oral argument, the appeal has proceeded to a decision on the record.

² At the time of the August 24, 2000 decision, the fourth edition of the A.M.A., *Guides* (1993) was utilized in determining entitlement to schedule award claims.

the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 cycles per second. The losses at each frequency are added up and averaged. Then 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.³ The remaining amount is multiplied by 1.5 to arrive at the percentage of monaural 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.⁴

Dr. Sickel, a Board-certified otolaryngologist to whom appellant was referred for audiometric testing and otologic evaluation, and the Office medical adviser applied the Office’s standardized procedures to the audiogram performed by audiologist S.M. Chamberlin on August 3, 2000. Testing for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 cycles per second, revealed thresholds of 5, 15, 55 and 60 decibels, respectively. These were totaled at 135 decibels and divided by 4 to obtain the average hearing loss at those cycles of 33.75 decibels. The average of 33.75 decibels was then reduced by 25 decibels (the first 25 decibels were discounted as discussed above) to equal 8.75 which was multiplied by the established factor of 1.5 to compute a 13.125 percent loss of hearing for the right ear. Testing in the left ear at frequency levels of 500, 1,000, 2,000 and 3,000 revealed thresholds of 5, 10, 35 and 55 decibels. These were totaled at 105 decibels and divided by 4 to obtain the average hearing loss at those cycles of 26.25 decibels. The average of 26.25 decibels was then reduced by 25 decibels to equal 1.25 decibels which was multiplied by the established factor of 1.5 to compute a 1.875 percent loss of hearing for the left ear. Appellant’s binaural hearing loss was computed by multiplying the lesser loss, 1.875, by 5 to equal 9.375, which was added to the greater loss, 13.125, and divided by 6 to arrive at a 3.749 percent binaural hearing loss. This was then rounded up to equal a four percent binaural hearing loss.

The Board finds that the proper standards were applied to the findings of the August 3, 2000 audiogram. This resulted in a calculation of a four percent binaural hearing loss as set forth above. The Federal Employees’ Compensation Act⁵ provides that for a complete binaural hearing loss an employee shall receive a maximum of 200 weeks of compensation.⁶ Accordingly, the amount payable for a four percent binaural hearing loss would be four percent of 200 weeks or eight weeks of compensation. The Office therefore properly calculated that appellant had a four percent binaural hearing loss and paid compensation for the period December 7, 1999 to January 31, 2000.

³ See A.M.A., *Guides* at 224 (4th ed. 1993).

⁴ FECA Program Memorandum No. 272 (issued February 24, 1986).

⁵ 5 U.S.C. §§ 8101-8193.

⁶ See *Arthur E. Anderson*, 43 ECAB 691 (1992).

The decision of the Office of Workers' Compensation Programs dated August 24, 2000 is hereby affirmed.

Dated, Washington, DC
May 9, 2002

Colleen Duffy Kiko
Member

Willie T.C. Thomas
Alternate Member

Michael E. Groom
Alternate Member