

July 15, 1976

No. 26



NOTICE TO INSURANCE CARRIERS, SELF-INSURED EMPLOYERS UNDER
THE LONGSHOREMEN'S COMPENSATION ACT, AS EXTENDED, AND OTHER
INTERESTED PERSONS

Subject: Guidelines for Loss of Hearing Determinations -
Longshoremen's Act and Extensions

The Office of Workers' Compensation Programs is issuing for use by its District Offices, including the District of Columbia Compensation Act District Office, a clarification of its guidelines and procedures for determining employment-related loss of hearing when the parties agree to an impartial evaluation. This is done to establish full uniformity of application throughout the OWCP District Offices -- which are currently using several different guidelines and procedures for determining employment-related loss of hearing. In this respect, the specific uniform guidelines and procedures being established are currently being used by the majority of the OWCP District Offices (nine out of 14).

The guidelines and procedures are based in part on findings of a study made by the National Institute of Occupational Safety and Health (NIOSH) of the U.S. Department of Health, Education, and Welfare, published in 1972. The study concluded that the most accurate measurement of hearing loss is the ability to hear and interpret speech at the frequencies of 1,000, 2,000, and 3,000 cycles per second (cps). This measurement standard is being officially adopted for use under the Longshore Act, effective immediately.

The guidelines and procedures, when utilized in applicable cases, require the agreement of the parties to use and accept the reported findings of an independent otologist selected by the Deputy Commissioner or claims examiner representing the Deputy Commissioner. The referral to the otologist selected will be made by Form Ltr. LS-525, a copy of which is attached to this notice.

Based on the otologist's reported test findings and opinion the District Office will calculate the percentage of monaural hearing loss, using the method given in the 1972 NIOSH publication. The NIOSH report did not contain a method for

calculating the percentage of binaural loss. The District Office will make this calculation, using the method described in the American Medical Association's "Guides to the Evaluation of Permanent Impairment, Ear, Nose, Throat, and Related Structures," published in 1961, applied to the frequencies of 1,000, 2,000, and 3,000 cps.

It should be noted that the guidelines and procedures for determining hearing loss require the concurrence of the parties, and do not preclude other informal methods of reaching agreement in hearing loss claims. Should the parties fail to agree and decline to utilize the procedures described in this notice or refuse to accept the findings and recommendation of the Deputy Commissioner or claims examiner representing the Deputy Commissioner, the case will be referred for a formal hearing before an Administrative Law Judge, and issuance of a decision and order thereafter.

Claims received prior to this date in those District Offices not currently using these guidelines and procedures may also be governed by them unless the District Office finds that their utilization would significantly delay this adjudication or otherwise unduly prejudice final adjudicatory action.



HERBERT A. DOYLE, JR.
Director, Office of Workers'
Compensation Programs

Attachment

U.S. DEPARTMENT OF LABOR

EMPLOYMENT STANDARDS ADMINISTRATION

Office of Workers' Compensation Programs

OWCP File No.

Employee:

Employer:

Insurance Carrier:



Pursuant to your agreement to accept this case, we are referring the above named employee for audiometric testing and otologic evaluation. Enclosed is all available information about the employee's exposure to noise and copies of all medical reports and audiograms.

Please arrange for ENT examination and measurement of the employee's hearing ability in the frequencies of 1,000, 2,000, and 3,000 cycles per second. You may, if you wish, refer the employee to a local speech and hearing center, and we encourage this procedure. If the employee is still working in a noisy environment, audiograms should be made only after he has been away from this environment for at least 16 hours.

If you have reason to question the accuracy of any previous or current tests or of the employee's responses thereto, you should repeat the tests, or make use of whatever additional tests or techniques you consider best.

Please submit your report, the reports of any consultants, and the audiograms showing whether they are ANSI, ISO, or ASA calibrated. Include in your report: (1) the date and hour of the examination; (2) the history obtained from the employee, including the date and hour of last exposure to employment-related noise; (3) your reasoned opinion on the relationship of any hearing loss to exposure to employment-related noise; (4) your recommendations for treatment, including whether a hearing aid is needed; (5) the date that each instrument used in the test was last calibrated; and (6) who performed the calibration.

Also submit your bill in duplicate with the report, and payment will be arranged.

Sincerely,

Enclosures

Attachment to Notice No. 26

Form Ltr. LS-525
Rev. July 1976

Include your address, ZIP code, and file number on all correspondence