

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of WILLARD L. COBERN and DEPARTMENT OF THE NAVY,
NAVAL AIR SYSTEMS COMMAND, Pensacola, FL

*Docket No. 00-564; Submitted on the Record;
Issued January 4, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, WILLIE T.C. THOMAS,
PRISCILLA ANNE SCHWAB

The issue is whether appellant has more than a four percent bilateral hearing loss causally related to his federal employment.

The Board has duly reviewed the case record and finds that appellant has no more than a four 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*¹ in calculating appellant's permanent impairment for loss of hearing. Thereafter, on December 31, 1997, the Office issued appellant a schedule award for a four percent binaural hearing loss.

Subsequently, appellant's counsel filed a request for reconsideration by letter dated December 21, 1998 alleging that the Office erred in its hearing loss determination and that it was unclear upon what evidence the Office based its determination. In an August 9, 1999 merit decision, the Office denied appellant's request on the basis that the evidence submitted was insufficient to warrant modification of the prior decision.

The Office evaluates permanent hearing loss in accordance with the standards contained in the A.M.A., *Guides* (4th ed. 1993). Utilizing the hearing levels recorded at frequencies of 500, 1,000, 2,000 and 3,000 hertz, 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

¹ A.M.A., *Guides* (4th ed. 1993); see *Daniel C. Goings*, 37 ECAB 781 (1986) (where 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).

conditions.² The 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.³

After appellant filed his occupational disease claim for hearing loss, the Office referred appellant to Dr. Donald J. Muller, a Board-certified otolaryngologist, to resolve the conflict in medical opinion evidence between Dr. James Pennington, an attending Board-certified otolaryngologist, and Dr. John L. Pallin, a second opinion Board-certified otolaryngologist, on whether appellant had any employment-related hearing loss.

In a September 2, 1997 report, Dr. Muller opined that appellant's workplace noise exposure caused his hearing loss. Accompanying Dr. Muller's report was a September 2, 1997 audiogram, performed on the doctor's behalf. Based on this, the Office accepted that appellant had an employment-related bilateral hearing loss by decision dated October 6, 1997.⁴ An Office medical adviser, in an October 3, 1997 report, calculated permanent impairment based on the September 2, 1997 audiogram.

This audiogram revealed the following decibel losses for the right ear at the frequency levels of 500, 1,000, 2,000 and 3,000 hertz: 10, 10, 20 and 55, respectively, for a total of 95 decibels. When this figure, utilizing the above-noted formula, is divided by 4, the result is an average hearing loss of 23.75 decibels. The average loss of 23.75 is reduced by 25 decibels to equal 0, which when multiplied by the established factor of 1.5, results in a 0 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 hertz revealed decibel losses of 10, 10, 20 and 70, respectively, for a total of 110 decibels.

Applying the same formula results in a 3.75 hearing loss which the Office rounded up to a four percent monaural hearing loss for the left ear. Thus, only the left ear hearing loss was ratable under the standards used by the Office to calculate permanent impairment. Consequently, the evidence does not establish that appellant has a greater hearing loss than that for which he has previously received a schedule award.⁵

² See A.M.A., *Guides* at 224 (4th ed. 1993); see also *Danniel C. Goings*, *supra* note 1.

³ *Id.*

⁴ The Office also vacated the July 2, 1996 decision, which had rejected appellant's claim on the basis that his hearing loss was not employment related.

⁵ The Board notes that the hearing loss determination by Dr. Muller does not include the "fence" of 25 which is subtracted before multiplying by 1.5 to arrive at the total hearing loss. The Office medical adviser correctly calculated appellant's hearing loss based upon Dr. Muller's September 2, 1997 audiogram and the A.M.A., *Guides*.

The decision of the Office of Workers' Compensation Programs dated August 9, 1999 is affirmed.

Dated, Washington, DC
January 4, 2001

Michael J. Walsh
Chairman

Willie T.C. Thomas
Member

Priscilla Anne Schwab
Alternate Member