WEST VIRGINIA CODE: §23-4-6B

§23-4-6b. Occupational hearing loss claims.

(a) In all claims for occupational hearing loss caused by either a single incident of trauma or by exposure to hazardous noise in the course of and resulting from employment, the degree of permanent partial disability, if any, shall be determined in accordance with the provisions of this section and awards made in accordance with the provisions of section six of this article.

(b) The percent of permanent partial disability for a monaural hearing loss shall be computed in the following manner:

(1) The measured decibel loss of hearing due to injury at the sound frequencies of five hundred, one thousand, two thousand and three thousand hertz shall be determined for the injured ear and the total shall be divided by four to ascertain the average decibel loss;

(2) The percent of monaural hearing impairment for the injured ear shall be calculated by multiplying by one and six-tenths percent the difference by which the aforementioned average decibel loss exceeds twenty-seven and one-half decibels, up to a maximum of one hundred percent hearing impairment, which maximum is reached at ninety decibels; and

(3) The percent of monaural hearing impairment obtained shall be multiplied by twenty-two and one-half to ascertain the degree of permanent partial disability.

(c) The percent of permanent partial disability for a binaural hearing loss shall be computed in the following manner:

(1) The measured decibel loss of hearing due to injury at the sound frequencies of five hundred, one thousand, two thousand and three thousand hertz is determined for each ear and the total for each ear shall be divided by four to ascertain the average decibel loss for each ear;

(2) The percent of hearing impairment for each ear is calculated by multiplying by one and six-tenths percent the difference by which the aforementioned average decibel loss exceeds twenty-seven and one-half decibels, up to a maximum of one hundred percent hearing impairment, which maximum is reached at ninety decibels;

(3) The percent of binaural hearing impairment shall be calculated by multiplying the smaller percentage (better ear) by five, adding this figure to the larger percentage (poorer ear) and dividing the sum by six; and

(4) The percent of binaural hearing impairment obtained shall be multiplied by fifty-five to ascertain the degree of permanent partial disability.

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(d) No permanent partial disability benefits shall be granted for tinnitus, psychogenic hearing loss, recruitment or hearing loss above three thousand hertz.

(e) An additional amount of permanent partial disability shall be granted for impairment of speech discrimination, if any, to determine the additional amount for binaural impairment, the percentage of speech discrimination in each ear shall be added together and the result divided by two to calculate the average percentage of speech discrimination, and the permanent partial disability shall be ascertained by reference to the percentage of permanent partial disability in the table below on the line with the percentage of speech discrimination obtained. To determine the additional amount for monaural impairment, the permanent partial disability shall be ascertained by reference to the percentage of permanent partial disability in the table below on the line with the percentage of speech discrimination in the injured ear.

TABLE

% of Permanent

% of Speech Discrimination Partial Disability

90% and up to and including 100% 0%

80% and up to but not including 90% 1%

70% and up to but not including 80% 3%

60% and up to but not including 70% 4%

0% and up to but not including 60% 5%

(f) No temporary total disability benefits shall be granted for noise-induced hearing loss.

(g) An application for benefits alleging a noise-induced hearing loss shall set forth the name of the employer or employers and the time worked for each. The Insurance Commissioner may allocate to and divide any charges resulting from the claim among the employers with whom the claimant sustained exposure to hazardous noise for as much as sixty days during the period of three years immediately preceding the date of last exposure. The allocation is based upon the time of exposure with each employer. In determining the allocation, the Insurance Commissioner shall consider all the time of employment by each employer during which the claimant was exposed and not just the time within the three-year period under the same allocation as is applied in occupational pneumoconiosis cases.

(h) The employer against whom the claim is filed shall provide for prompt referral the claims for evaluation, for all medical reimbursement and for prompt authorization of hearing enhancement devices.

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