

§612. Occupational loss of hearing

In case of loss of hearing resulting from occupational disease, the following rules are applicable in determining eligibility for compensation and the period during which compensation is payable. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

1. Definition. As used in this chapter, "occupational hearing loss" means a sensorineural loss of hearing in one or both ears due to prolonged exposure to injurious noise in employment. Injurious noise means sound capable of producing occupational hearing loss.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

2. Limitations on sound frequencies. Losses of hearing due to industrial noise for compensation purposes is limited to the frequencies of 500, 1,000 and 2,000 cycles per second. Loss of hearing ability for frequency tones above 2,000 cycles per second does not constitute disability for hearing.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

3. Determination of hearing loss. The percent of hearing loss, for purposes of the determination of compensation claims for occupational deafness, must be calculated as the average, in decibels, of the thresholds of hearing for the frequencies of 500, 1,000 and 2,000 cycles per second. Hearing levels must be measured by means of pure-tone air-conduction audiometric instruments calibrated in accordance with American National Standards Institute Standards S3.6-1969-R 1973 and S3.13-1972, referred to in this section as the "ANSI standard," or American Standards Association Standard Z24.5, 1951, referred to in this section as the "ASA standard," and in an area with ambient noise level within the limits specified in American National Standards Institute Criteria for Background Noise in Audiometric Room Standard S3.1, 1960-R 1977. If the losses of hearing average 25 decibels or less under the ANSI standard or 15 decibels or less under the ASA standard in the 3 frequencies, the losses of hearing do not constitute a compensable hearing disability. If the losses of hearing average 92 decibels or more under the ANSI standard or 82 decibels or more under the ASA standard in the 3 frequencies, then the losses are deemed a 100% compensable hearing loss.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

4. Compensation payable. Permanent partial disability is payable as follows:

A. For total occupational deafness of one ear, 50 weeks of compensation; [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

B. For total occupational deafness of both ears, 200 weeks of compensation; and [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

C. For partial occupational deafness in one or both ears, compensation is payable for those periods as are proportionate to the relation that the hearing loss bears to the amount provided in this subsection for total loss of hearing in one or both ears, as the case may be. [PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

The amount of hearing loss must be reduced by the average amount of hearing loss from nonoccupational causes found in the population at any given age.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

5. Measurement of hearing impairment. In measuring hearing impairment, the lowest measured losses in each of the 3 frequencies must be added together and divided by 3 to determine the average decibel loss. For every decibel of loss exceeding 15 decibels under the ASA standard or 25 decibels under the ANSI standard, an allowance of 1 1/2% must be made up to the maximum of 100%, which is reached at 82 decibels under the ASA standard or 92 decibels under the ANSI standard.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

6. Hearing impairment in both ears. In determining the percentage of loss in both ears, the percentage of impairment in the better ear is multiplied by 5. The resulting figure is added to the

percentage of impairment in the poorer ear, and the sum of the 2 divided by 6. The final percentage represents the hearing impairment for both ears.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

7. Deductions by age. Before determining the percentage of hearing impairment, in order to allow for the average amount of hearing loss from nonoccupational causes found in the population at any given age, 1/2 decibel for each year of the employee's age over 40 at the time of last exposure to industrial noise must be deducted from the total average decibel loss.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

8. Filing of claims. A claim for compensation for occupational deafness may not be filed until after the employee has been separated from the occupational noise for a period of at least 30 days. The last day of this period is the date of disability. "Separation from the occupational noise" means the use of hearing protective devices or equipment, including noise attenuators and ear plugs.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

9. Employers limit of liability. An employer is liable for the entire occupational deafness to which the employment has contributed, except that, if previous deafness is established by a hearing test or by other competent evidence, whether or not the employee was exposed to noise within 30 days preceding the test, the employer is not liable for previous loss so established. In addition, the employer is not liable for any loss for which compensation has previously been paid or awarded.

An employer is not liable for the payment of compensation for occupational deafness unless the employee claiming benefits has worked for the employer in employment exposing the employee to harmful noise for a total period of at least 90 days.

Consideration may not be given to the question of whether or not the ability of an employee to understand speech is improved by the use of a hearing aid.

[PL 1991, c. 885, Pt. A, §8 (NEW); PL 1991, c. 885, Pt. A, §§9-11 (AFF).]

10. Restriction on liability. Compensation is not payable for temporary disability for loss of hearing due to exposure to injurious noise in employment.

[RR 2001, c. 1, §47 (COR).]

SECTION HISTORY

PL 1991, c. 885, §A8 (NEW). PL 1991, c. 885, §§A9-11 (AFF). RR 2001, c. 1, §47 (COR).

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