

THE DEARIE LAW FIRM, P.C.

WWW.DEARIELAW.COM
MANHATTAN OFFICE
515 MADISON AVENUE, 16TH FL.
NEW YORK, NY 10022
T: 212-980-0404 F: 212-980-0555

WORK-RELATED HEARING LOSS

Hearing loss is one of the most common work-related illnesses among American workers. Work-related hearing loss can be covered by New York State Workers' Compensation. A worker can suffer traumatic hearing loss due to one-time noise exposure, like an explosion. The more common claim is for hearing loss that develops over time, due to persistent exposure to loud noise.

A claim for traumatic hearing loss should be filed as soon as possible after the incident occurs. A claim for occupational hearing loss, the kind that develops after years on a noisy job, cannot be filed until after you have stopped working in the noisy environment. Because of this, hearing loss claims are often filed in connection with retirement. Due to the time requirements involved with filing any type of hearing loss claim, it is important to discuss your job situation with a lawyer.

Hearing loss claims generally require multiple Workers' Compensation Board hearings. Once a case is established you will be covered for hearing aids and related expenses, and may also receive a monetary award.

WORKERS' COMPENSATION RULES ABOUT OCCUPATIONAL HEARING LOSS

Under New York's workers' compensation laws, if a worker suffers occupational hearing loss, then special time limits apply to them. In New York, a worker who wants to file a claim for hearing loss has a choice of the following:

They can wait three months from the date that they were removed from the harmful noise at their workplace, **OR** they can wait three months after they left their employment, the location where the worker was exposed to harmful noise.

Under New York workers' compensation law, the last day of either 3-month period is considered the date the worker's disability began. However, the hearing-impaired worker can file after the two-year limit providing it is done within 90 days of the employee learning the hearing loss was work-related.

WHO CAN CONDUCT MEDICAL EXAMS UNDER NEW YORK STATE'S WORKERS' COMPENSATION LAW?

New York State's Workers' Compensation Law stipulates that medical exams must be conducted by "qualified physicians" or by a "registered nurse or other persons trained in laboratory or diagnostic techniques" who are under the "active and personal supervision of an authorized physician."

Once you are eligible for workers' compensation, you should make an appointment with a hearing loss specialist. This doctor will perform a number of tests to determine how much of your hearing ability remains, and discuss the nature of your job, your work environment, and the duties you perform. If the doctor believes that your hearing loss is work-related, he or she will fill out a workers' compensation form so you can begin the process of filing your claim.

THE FOLLOWING CHART, WHICH MUST BE COMPLETED BY A PHYSICIAN, HAS BEEN INCLUDED TO GIVE UNION MEMBERS AN UNDERSTANDING OF THE KIND OF INFORMATION A HEARING LOSS TEST REQUIRES:

STATE OF NEW YORK
WORKERS' COMPENSATION BOARD

RECORD OF PERCENTAGE HEARING LOSS

This form is only to be used to calculate and report percentage hearing loss in cases of **OCCUPATIONAL LOSS OF HEARING** pursuant to Workers' Compensation Law Section 49-gg. For measurement of traumatic loss of hearing, see the Board's Medical Guidelines (2012).

Claimant _____

WCB Case No. _____

NOTE

500 Hz. frequency is to be used only when the claimant's date of disablement is on or after January 1, 1984.

			RIGHT EAR				LEFT EAR			
			Hearing Levels at Frequencies of							
	Test No.	Name and Model Number of Audiometer	500 Hz	1,000 Hz	2,000 Hz	3,000 Hz	500 Hz	1,000 Hz	2,000 Hz	3,000 Hz
A.	1	Audiometer Standardized ISO (ANSI)	db.	db.	db.	db.	db.	db.	db.	db.
B.	*2	Audiometer Standardized ISO (ANSI)	db.	db.	db.	db.	db.	db.	db.	db.
C.	*3	Audiometer Standardized ISO (ANSI)	db.	db.	db.	db.	db.	db.	db.	db.
D.	If more than one test is given, the lowest at each Frequency		db.	db.	db.	db.	db.	db.	db.	db.
E.	Average of Hearing Levels indicated in item A (if one test) or item D (if more than one)		db.				db.			
F.	Adjusted Hearing Loss, In Decibels (Line E minus 25 db.)		db. minus 25 db. is				db. minus 25 db. is			
G.	Adjusted Hearing Loss, In Percentage (Line F times 1 1/2)		times 1 1/2 is				times 1 1/2 is			

Percent of Binaural Hearing Loss

Lower % _____ % times 5 equals _____ %

Higher % _____ % times 1 equals _____ %

TOTAL PERCENT..... _____ %

Binaural Loss in Percentage (Total ÷ 6) _____ %

Date of Test No. 1	Date of Test No. 2*	Date of Test No. 3*

*Internal test consistency and professional judgment should determine whether a second or third test battery or other more extensive forms of testing may be necessary. Where more extensive forms of testing are necessary, submit a narrative report.

CERTIFICATION

I hereby certify that the audiometric test was performed with an audiometer having specifications as prescribed by the American National Standards Institute, S3.6-1969, Specifications for Audiometers, and in a room whose background noise meets the requirements of the latest revision of the American National Standards Institute, S3.1-1960, Criteria for Background Noise in Audiometer Rooms. Audiometer calibrated at least once annually.

Signature _____ Date _____ Telephone No. _____

HIPAA NOTICE - In order to adjudicate a workers' compensation claim, WCL13-a(4)(a) and 12 NYCRR 325-1.3 require health care providers to regularly file medical reports of treatment with the Board and the carrier or employer. Pursuant to 45 CFR 164.512 these legally required medical reports are exempt from HIPAA's restrictions on disclosure of health information.