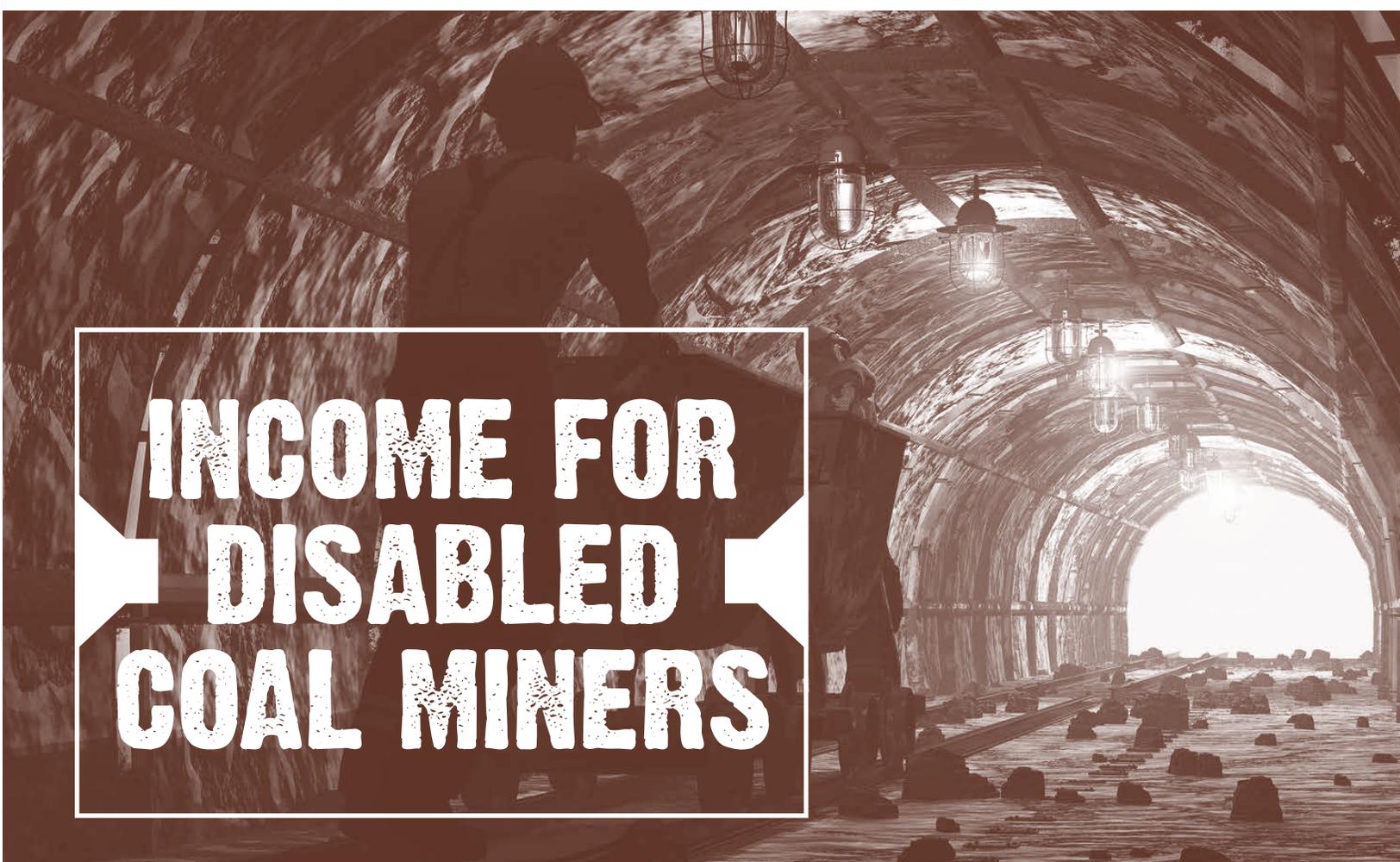


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INCOME FOR DISABLED COAL MINERS

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Black Lung Benefits for Disabled Coal Miners and Their Families

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On April 5, 2010, coal miners were working underground at the Upper Big Branch mine in West Virginia when the mine exploded. Twenty-nine miners died. The explosion and deaths focused attention on the inherently dangerous nature of a coal miner's work, which garners little attention until a disaster reminds us that energy from coal comes at an extraordinary human price. Yet, for all the attention focused on a disastrous event, the most common work-related cause of death among coal miners is black lung disease.¹

Black lung disease, or coal workers' pneumoconiosis, is an entirely preventable, irreversible occupational disease affecting coal miners. Breathing coal mine dust promotes various respiratory problems with potentially serious consequences. Miners afflicted with black lung often are breathless and suffer a sensation of smothering, even without exertion. Over time they are unable to perform the simplest activities, such as walking or climbing stairs. Notwithstanding that black lung can, and by law must, be prevented, its prevalence among miners is increasing.² Removing the miner from exposure to excessive coal mine dust is the only effective means of preventing black lung. Once a miner has contracted black lung, the disease is permanent and irreversible.³

¹Of the twenty-nine miners killed at Upper Big Branch, only twenty-four had sufficient lung tissue to make a proper examination. The West Virginia Medical Examiner found black lung disease, or coal workers' pneumoconiosis, in seventeen of twenty-four miners killed at Upper Big Branch (J. DAVITT McATEER ET AL., UPPER BIG BRANCH: THE APRIL 5, 2010, EXPLOSION: A FAILURE OF BASIC COAL MINE SAFETY PRACTICES 32 (May 2011), <http://bit.ly/XnbF9s>).

²To curb the incidence of pneumoconiosis, the 1969 Federal Coal Mine Health and Safety Act limited the amount of dust permitted in the ambient air of coal mines (30 U.S.C. § 842 (2013)). Various methods, including water suppression systems and ventilation to remove dusty air from the work environment, are used to control dust. Miners may also wear personal dust masks.

³No therapy has been developed to arrest black lung disease, although various medicines and supplemental oxygen are used to treat symptoms.

Clinical coal workers' pneumoconiosis is diagnosed by macules in the lungs. The macules may coalesce and form nodules, resulting in scarring, stiffness, and reduced lung function. In recent years the National Institute for Occupational Health and Safety, a part of the Centers for Disease Control, has noticed a significant increase in x-ray evidence of clinical pneumoconiosis among coal miners. More miners are also showing x-ray evidence of massive lesions or progressive massive fibrosis—an indication of severe lung damage due to coal mine dust inhalation.⁴ Medical research has identified coal mine dust exposure as a significant cause of chronic obstructive pulmonary disease.

The life-threatening danger posed by breathing in a dusty environment is not well understood or widely publicized. The understanding of black lung disease, attempts to eliminate it, and attempts to compensate those harmed by exposure to coal mine dust have been plagued by conflicting political forces and the imbalance of power between miners and the coal mining industry. Here I discuss the Federal Black Lung Benefits Program, a program created in 1969 to compensate miners disabled by black lung and their

survivors and dependent family members. I briefly examine the history of the federal system and the applicable statutes and regulations. I explain the processing of a claim for black lung benefits. I also note the changes in the Patient Protection and Affordable Care Act of 2010.

Overview of Federal Black Lung Benefits Law

In 1969 Congress passed the Federal Coal Mine Health and Safety Act. The Act provides for a national compensation system for black lung.⁵ The Black Lung Benefits Program is administered by the U.S. Department of Labor. Congress periodically takes up perceived shortcomings in the program, and, as a result, black lung claims are adjudicated through sets of rules varying with when the claim was filed.⁶ In late 2000 the Labor Department published extensive regulatory amendments that apply to claims filed after January 19, 2001.⁷

As part of the Patient Protection and Affordable Care Act of 2010, Congress amended the Black Lung Benefits Act again by reinstating two provisions that had been removed in 1981. One amendment creates an automatic entitlement

⁴While the causes of the increases in severity and prevalence of black lung are uncertain, they are likely due in part to modern methods of coal extraction and the difficulty of controlling exposure to the minute particles of coal and rock dust they produce. Underground miners cut and shear coal by using high-speed continuous mining machines and long wall miners. On surface mines, rock is drilled and blasted to uncover the coal seam. Bulldozers constantly move rock, and excavators load rock and coal into large haul trucks that travel over the mine site and grind the rock and dust underneath.

⁵Federal Coal Mine Health and Safety Act of 1969 § 401, as amended by Black Lung Benefits Act of 1972, 30 U.S.C. §§ 901–945. The Federal Coal Mine Health and Safety Act was passed as a direct result of the deaths of seventy-eight miners who were killed in a mine explosion in Farmington, West Virginia. In response to this disaster, Congress convened hearings on the need for comprehensive coal mine safety legislation. A group of West Virginia grassroots activists who had been advocating workers' compensation reform for miners disabled by black lung testified about the need for federal black lung compensation. Their efforts resulted in the inclusion of the black lung benefits program in the 1969 Act.

⁶Initially the black lung benefits program was administered by the Social Security Administration. Claims filed before July 1, 1973, were processed pursuant to regulations promulgated by the U.S. Department of Health, Education, and Welfare secretary; when allowed, these "Part B" claims were paid from federal funds (30 U.S.C. §§ 921–925). "Part C" claims are those filed on or after July 1, 1973; they are paid by private employers or by a fund to which the employers contribute, and they are administered by the Director of the Office of Workers' Compensation Programs pursuant to regulations promulgated by the secretary of labor (30 U.S.C. §§ 931–945). Part C has two subparts: claims filed after April 1, 1980, are governed by "permanent criteria" and regulations contained in 20 C.F.R. Part 718; claims filed before April 1, 1980, are governed by the "interim criteria" and regulations contained in 20 C.F.R. Part 727. Definitions and procedural rules that apply to black lung claims are in 20 C.F.R. Part 725. Adding to its complexity, the Black Lung Benefits Act incorporates elements of the Longshore and Harbor Workers' Compensation Act (33 U.S.C. §§ 901–950). Proceedings are also subject to the Administrative Procedure Act (5 U.S.C. §§ 551–559).

⁷Regulations Implementing the Federal Coal Mine Health and Safety Act of 1969, as Amended, 65 Fed. Reg. 79920 (Dec. 20, 2000). The amended regulations attempted to "level the playing field" between the claimant and the party opposing the claim by placing clear limits on the type and amount of evidence that could be introduced. The amended regulations were adopted after prolonged grassroots lobbying by the National Black Lung Association, an organization of miners and their families, who battled against the systematic abuse caused by the submission of voluminous and repetitious x-ray rereadings and multiple consultant reports submitted in opposition to claims.

for a survivor of a miner who had had been awarded benefits at the time of the miner's death. The other amendment creates a rebuttable presumption that the disability of a miner who worked fifteen years in underground mining is due to pneumoconiosis; if the miner is deceased, there is a rebuttable presumption that the miner's death was due to pneumoconiosis.⁸

Seeking Black Lung Benefits

Processing a claim for black lung benefits begins with the district director for the Labor Department; the district director makes an initial decision on the claim.⁹ A party may reject the district director's decision and ask for a formal hearing with an administrative law judge. The judge's decision may be appealed to the Benefits Review Board and then to the U.S. court of appeals.

Claimants have the burden of establishing their entitlement to benefits by a preponderance of the evidence. Disabled miners must prove that they (1) worked as a coal miner as defined in the Act and regulations, (2) suffer from pneumoconiosis, the pneumoconiosis arising at least in part out of their coal mine employment, and (3) are totally disabled due to pneumoconiosis. Survivors must prove that the miners' deaths were due to pneumoconiosis.

The District Director. The claimant files the initial claim for benefits with the dis-

trict director for the Labor Department. A miner's claim must be filed within three years after a medical determination of total disability due to pneumoconiosis has been communicated to the miner.¹⁰ Survivors' claims are not subject to a statute of limitations.

The district director gives the claimant a list of government-approved physicians; from the list the claimant selects a doctor and arranges for a pulmonary examination, consisting of a history and physical examination, a chest x-ray, ventilatory study, arterial blood gas test, and the physician's diagnosis and opinion. Every miner is entitled to this evaluation at no cost when the miner files a claim.¹¹ The claimant completes several forms including one listing the names of the miner's coal mine employers and another describing the miner's last coal mine employment.¹²

The Director obtains the miner's statement of earnings from the Social Security Administration and identifies the potentially liable operator. The Black Lung Benefits Act places the liability for payment of a claim on the coal mine employer where the miner had the most recent cumulative employment of at least one year including at least 125 working days. This employer is referred to as the "responsible operator." The responsible operator must be notified of the claim and has thirty days to respond regarding whether it will

⁸30 U.S.C. §§ 921(c)(4), 932(l). These changes apply only to claims that were filed after January 1, 2005, and that were pending on or after March 23, 2010. The constitutionality of the Patient Protection and Affordable Care Act's automatic entitlement provision for survivors has been upheld (see *West Virginia Coal Workers' Pneumoconiosis Fund v. Stacy*, 671 F.3d 378 (4th Cir. 2011), cert. denied, 133 S. Ct. 127 (2012); *B&G Construction Company v. Director, Office of Workers' Compensation Programs*, 662 F.3d 233 (3d Cir. 2011)). The constitutionality of the Patient Protection and Affordable Care Act's revival of the fifteen-year presumption also has been upheld (see *West Virginia Coal Workers' Pneumoconiosis Fund*, 671 F.3d 378; *Keene v. Consolidation Coal Company*, 645 F.3d 844 (7th Cir. 2011)).

⁹See Division of Coal Mine Workers' Compensation, Office of Workers' Compensation Programs, U. S. Department of Labor, About the Black Lung Program (n.d.), <http://1.usa.gov/WSOLES>.

¹⁰20 C.F.R. § 725.308 (2012).

¹¹*Id.* § 725.406. The choice of physician to perform the initial evaluation is extremely important. The claimant is best served by choosing a qualified physician who is familiar with the most recent medical science regarding lung disease due to dust exposure, can write a clear and reasoned report, and can articulate the reasoning behind the physician's opinion if the physician is deposed. Some of the listed physicians have significant biases; for example, some criticize recent medical science showing a causal relationship between all forms of emphysema and coal mine dust exposure.

¹²The form asks for specific information about the physical requirements of the miner's coal mine employment. Because the issue of disability is based on whether a miner is able to perform the miner's usual coal mine work, the claimant must carefully describe all of the tasks that the claimant was required to perform. While many miners primarily operate equipment, they also shovel loose coal, move concrete blocks and construct brattice walls, spread rock dust, and move conveyor belt lines that carry coal out of the mine. They may assist in repairs that involve lifting and moving machines, transmissions, and other heavy materials. This work often requires heavy physical exertion.

contest or accept the designation as the operator liable for the claim.¹³

Submission of Evidence and the 2001 Regulatory Limits. After the district director receives the report on the pulmonary evaluation, it sends the parties a schedule for the submission of additional evidence.¹⁴ The schedule contains the district director's preliminary finding based on the review of the evidence.

The regulations are very specific as to the nature and amount of evidence that may be submitted as affirmative and rebuttal evidence.¹⁵ Each party may submit as affirmative evidence no more than two x-ray readings, two ventilatory studies, two arterial blood gas studies, and two medical opinions. Each party may offer a rebuttal reading to the other party's affirmative x-ray reading and may offer opinion evidence as to whether the other party's test results are technically acceptable and valid. The parties may offer biopsy and autopsy findings and evidence reviewing tissue samples collected during autopsy and biopsy. Either party may offer records—such as records made during hospitalization—of the claimant's treatment relevant to the claimant's respiratory or pulmonary conditions.¹⁶

After the deadline for submitting evidence, the district director reviews the evidence and issues a proposed decision and order. An award entitles a claimant to benefits at a rate equal to 50 percent of the minimum monthly payment to which a totally disabled federal employee in Grade GS-2 is entitled.¹⁷ These basic

benefits are increased if the claimant has dependents. Benefits are reduced to account for certain alternative income, such as compensation for black lung under a state compensation system. In addition to these monthly benefits, the claimant is awarded medical benefits to pay for treatment of the claimant's respiratory and pulmonary condition related to pneumoconiosis. The parties have thirty days to request a revision of the district director's decision or to request a hearing. If the district director awards benefits and the responsible operator requests a hearing, the operator may decline to pay benefits; in that instance benefits are paid by the Black Lung Disability Trust Fund on an interim basis pending the decision on the hearing.¹⁸

Hearings. When a party requests a hearing, the district director refers the claim to the Office of Administrative Law Judges.¹⁹ The district director prepares a transmittal form stating the issues in dispute and sends the complete record to the Office of Administrative Law Judges and the parties. The hearing must be held within seventy-five miles of the claimant's residence unless the claimant requests an alternative location.²⁰

The administrative law judge has broad authority over the hearing procedure.²¹ The administrative law judge must inquire fully into all matters at issue. The administrative law judge is not bound by common law, statutory rules of evidence, or technical or formal rules of procedure except as required by the Administra-

¹³An operator must be insured for federal black lung claims, unless it has been approved to be self-insured. Operators must file information about the insurance coverage with the district director.

¹⁴20 C.F.R. § 725.410. The schedule allows the parties sixty days to submit affirmative evidence to support their positions and thirty days to submit rebuttal evidence. These deadlines may be extended for good cause.

¹⁵*Id.* § 725.414. The regulations also limit the number of depositions (*id.* § 725.414(c)).

¹⁶For good cause, a party may be permitted to offer evidence in excess of the limitations.

¹⁷30 U.S.C. § 922(a)(1). In 2012 the individual claimant's entitlement was \$625.60 per month.

¹⁸20 C.F.R. § 725.420.

¹⁹See Office of Administrative Law Judges, U.S. Department of Labor (n.d.), www.oalj.dol.gov. For a helpful reference for case law under the Black Lung Benefits Act, see OFFICE OF ADMINISTRATIVE LAW JUDGES, U.S. DEPARTMENT OF LABOR, JUDGES' BENCHMARK OF THE BLACK LUNG BENEFITS ACT (2008), <http://1.usa.gov/YeYEPG>; *id.*, Supplement to the 2008 Edition of the Judges' Benchmark: Black Lung Benefits Act (Seena Foster ed., 2012), <http://1.usa.gov/Wv9n9T>.

²⁰20 C.F.R. § 725.454.

²¹*Id.* § 725.455.

tive Procedure Act. The administrative law judge determines the issues to be decided and admits the record of the claim. At the hearing the parties may offer additional evidence, subject to the evidentiary limits in the regulations and subject to the objection by any party. Any additional documentary evidence to be offered at the hearing must be exchanged with the opposing party at least twenty days before the hearing.²² At the hearing the parties may offer testimony; however, in practice generally the claimant is the only witness.

Because a determination of disability is based on whether a miner's respiratory or pulmonary impairment prevents the miner from performing the miner's last coal mining job, if disability is at issue a miner's attorney should question the miner at the hearing about the miner's work duties and the specific activities the miner regularly performed. If the length of coal mine employment is at issue, the miner's attorney should question the miner about all of the miner's coal mine employment. The social security itemized statement of earnings is in the director's record, and it can be used to question the miner or the miner's survivor about the employment reported.²³ The attorney must determine whether the miner had any other coal mine employment not reported on the statement of earnings or whether the miner had any coal mine work reported on the statement of earnings as self-employment.

Coal mine dust is presumed to have caused the miner's disability when the miner is disabled and has fifteen years of work at underground coal mining operations or in similar conditions. The miner should be questioned about each place

the miner worked to determine the nature of the mining operation.²⁴

Many administrative law judges ask the parties to submit written arguments in posthearing briefs. These briefs should summarize the record evidence and the testimony at the hearing; discuss the issues identified as in dispute; set forth the relevant statutes, regulations, and case law; and show how the evidence satisfies the legal requirements to prove eligibility. After the hearing and subsequent briefing, the administrative law judge issues a decision and order. Pursuant to the Administrative Procedure Act and the regulations, the administrative law judge must address the issues and the evidence, make written findings, and explain the reasons for the decision.

Attorney fees may be available to the claimant's attorney if the claimant is awarded benefits. The attorney fees are payable by the party opposing the claim; the claimant may not be charged a fee.²⁵ The attorney representing the prevailing claimant must apply with the appropriate adjudication officer at each stage of the proceedings, with a statement of time and activities and the attorney's qualifications. The party against whom the fee award is made may contest the fee application, usually by challenging the reasonableness of the hourly rate and the time spent on individual activities. Fees are paid only upon the ultimate success of the claim.

Appeals. A party dissatisfied with the administrative law judge's decision may request reconsideration by the judge or may appeal to the Benefits Review Board within thirty days.²⁶ Generally the board decides appeals on the briefs and re-

²²*Id.* § 725.456(b)(2).

²³The miner's coworkers are also potential witnesses, particularly in a survivor's claim, where the survivor often does not know detailed information about the miner's employment.

²⁴The presumption also applies where conditions of a miner's employment in a coal mine other than an underground mine were substantially similar to conditions in an underground mine. If the miner worked at a coal mine operation that was not an underground mine, an attorney must ensure that the record contains adequate evidence that the miner's work was in a dusty environment. Proof of dusty work conditions may be obtained through testimony of the miner and from coworkers familiar with the miner's daily work activities.

²⁵20 C.F.R. § 725.366–367.

²⁶*Id.* § 725.481; see *id.* §§ 802.101–105 (board's practice and procedure rules).

cord without oral argument. The board is authorized to determine whether the administrative law judge's decision is supported by substantial evidence and is not arbitrary or capricious and not legally erroneous.²⁷ If the board determines that the administrative law judge's findings are not supported by substantial evidence, then the board may vacate the judge's findings and decision. In that case the board generally will remand the case to the administrative law judge for further fact finding. The board does not have authority to make findings of fact, and it must defer to the administrative law judge's findings, including credibility determinations.

Assuming the board does not remand, the board's decision is the final agency action, and the parties may appeal the board's decision within sixty days to the U.S. court of appeals for the circuit where the miner worked.²⁸ The review standard for the court is the same as the board's: the administrative law judge's decision must be affirmed if it is rational, supported by substantial evidence in the record, and in accordance with law.²⁹

Multiple Claims and Request for Modification. Miners may file multiple claims for black lung benefits. If a miner files another claim after the miner's initial claim is denied, the new claim is referred to as a "subsequent claim."³⁰ The subsequent claim must be denied unless newly submitted evidence establishes a change in conditions. A claimant can reopen a decision by filing a request for modifi-

cation within one year.³¹ The request for modification allows the adjudicator to review the decision and to grant modification based on a mistake of fact or a change in condition.

Proving the Medical Elements of a Claim. Again, disabled miners must prove that they (1) worked as coal miners as defined in the Black Lung Benefits Act and regulations, (2) suffer from pneumoconiosis that arose at least in part out of their coal mine employment, and (3) are totally disabled due to pneumoconiosis.

Pneumoconiosis. To establish entitlement for black lung benefits, claimants must prove that they have pneumoconiosis, defined broadly as "a chronic dust disease of the lung ... arising out of coal mine employment."³² Lung disease arises "out of coal mine employment" when it is "significantly related to, or substantially aggravated by, dust exposure in coal mine employment."³³ Because pneumoconiosis is a latent and progressive disease, it may become detectable only after a miner has left the coal mines.³⁴

Pneumoconiosis can be proven in four ways: x-ray, biopsy, autopsy, and a reasoned medical opinion, based on objective medical evidence, notwithstanding negative x-ray evidence.³⁵ Although not specifically mentioned in the regulation, CT (computed tomography) scan evidence is also used to prove pneumoconiosis. No category is conclusive, and all of the relevant evidence must be considered to determine whether the

²⁷*Id.* § 802.301(a).

²⁸*Id.* § 725.482.

²⁹33 U.S.C. § 921(b)(3), as incorporated into the Black Lung Benefits Act by 30 U.S.C. § 932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates*, 380 U.S. 359 (1965).

³⁰20 C.F.R. § 725.309.

³¹*Id.* § 725.310(b).

³²30 U.S.C. § 902(b); 20 C.F.R. § 718.201(a). Practitioners often distinguish between clinical pneumoconiosis and legal pneumoconiosis. Clinical pneumoconiosis consists of "those diseases recognized by the medical community as pneumoconioses, i.e., the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment" (20 C.F.R. § 718.201(a)(1)). Legal pneumoconiosis "includes, but is not limited to, any chronic restrictive or obstructive pulmonary disease arising out of coal mine employment" (*id.* § 718.201(a)(2)).

³³20 C.F.R. § 718.201(b).

³⁴*Id.* § 718.201(c).

³⁵*Id.* § 718.202(a).

miner has or had pneumoconiosis. However, the board recognizes that biopsy and autopsy evidence are the most reliable evidence of pneumoconiosis.³⁶

Causation. The claimant must prove that the pneumoconiosis is due to coal mine employment. However, if a miner has at least ten years of coal mine work and the evidence is positive for pneumoconiosis, then the law rebuttably presumes that the coal mine dust exposure caused the pneumoconiosis.³⁷ The burden to disprove the causal relationship shifts to the party opposing the claim. Emphysema, chronic obstructive pulmonary disease, bronchitis, or other chronic respiratory ailments constitute pneumoconiosis only if a physician specifically states that the disease is significantly related to, or substantially aggravated by, dust exposure in coal mine employment.

Total Disability. Under the Black Lung Benefits Act, a miner shall be considered “totally disabled” and consequently entitled to compensation “when pneumoconiosis prevents him or her from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines in which he or she previously engaged with some regularity and over a substantial period of time.”³⁸

Disability may be shown through the results of pulmonary function tests, arterial blood gas studies, evidence of pneumoconiosis with right-sided congestive heart failure, and reasoned medical opinion evidence.³⁹ A finding of “complicated” pneumoconiosis creates an irrebuttable

presumption of total disability.⁴⁰ The adjudicator must weigh all of the relevant evidence on disability. In weighing test results, the recency of testing is important as is the overall consistency of results.

Cause of Disability. A miner is considered totally disabled due to pneumoconiosis if pneumoconiosis is a “substantially contributing cause” of the miner’s disability.⁴¹ Pneumoconiosis is a substantially contributing cause of disability if it has a material adverse effect on the miner’s respiratory or pulmonary condition or if it materially worsens a totally disabling respiratory or pulmonary condition that is caused by a disease or exposure not related to coal mine employment. A documented and reasoned medical opinion is needed to establish that pneumoconiosis is a substantially contributing cause of disability.

However, as discussed above, under the Patient Protection and Affordable Care Act, if the miner is disabled and establishes that the miner worked for fifteen years in qualifying coal mine employment, then the miner is presumed to be disabled due to pneumoconiosis.⁴² The burden of rebuttal requires that the party opposing entitlement prove that the miner does not have pneumoconiosis or that the miner’s disability is due to something other than coal mine dust exposure. The party opposing entitlement must rule out any causal relationship by a preponderance of the evidence. The presumption of causation is not rebutted on the basis of evidence demonstrating the existence of a totally disabling pulmonary disease of unknown origin.⁴³

³⁶See *Terlip v. Director, Office of Workers’ Compensation Programs*, 8 Black Lung Rep. (Juris) 1-363 (Benefits Review Board 1985).

³⁷20 C.F.R. § 718.203(b).

³⁸30 U.S.C. § 902(f)(A); 20 C.F.R. § 718.204(b)(1).

³⁹20 C.F.R. § 718.204. Because of the technical aspects of the medical testing for respiratory and pulmonary impairment, a full discussion of the medical tests used to prove disability is beyond my scope here.

⁴⁰*Id.* § 718.304.

⁴¹*Id.* § 718.204(c)(1).

⁴²30 U.S.C. § 921(c)(4).

⁴³The secretary of labor has not published final rules on the Patient Protection and Affordable Care Act amendments, but proposed regulations discussed in detail the rebuttable presumption and burden to rebut the presumption (see Regulations Implementing the Byrd Amendments to the Black Lung Benefits Act: Determining Coal Miners’ and Survivors’ Entitlement to Benefits, 77 Fed. Reg. 19456, 19462–64 (March 30, 2012)).

Death Due to Pneumoconiosis. A survivor must prove that the miner's death was due to pneumoconiosis, meaning it caused, contributed to, or hastened the miner's death.⁴⁴ As with proving the cause of disability, the Patient Protection and Affordable Care Act created a presumption that a miner died due to pneumoconiosis if a miner worked fifteen years in qualifying coal mine employment and was totally disabled due to a respiratory or pulmonary impairment. The party opposing entitlement must prove in rebuttal that the miner did not have pneumoconiosis or that the miner's death was due to something other than coal mine dust exposure.

■ ■ ■

The Black Lung Benefits Program is an important source of income for disabled miners, their families, and their survivors. Because of the complexity of the program's regulations and the medical issues involved, an uneducated claimant is likely to be overwhelmed if the claimant tries to navigate the program without assistance of a skilled advocate. Too few advocates understand the program sufficiently to advise and represent miners and survivors who apply for these benefits. Former coal miners live in all parts of the country, not just the coal mining regions. Advocates nationwide need to be able to identify potential claimants and assist them on their claims. These advocates can help injured workers and their families navigate the system and find expert representation to secure justice for victims of black lung disease.

⁴⁴20 C.F.R. § 718.205(c). As noted above, a survivor of a miner who had been awarded benefits at the time of the miner's death is automatically entitled to benefits (30 U.S.C. § 932(l)).



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