

## PART VII

### ESTABLISHING ENTITLEMENT UNDER 20 C.F.R. PART 718

#### A. IN GENERAL

##### 3. ENTITLEMENT

In order to establish entitlement, a claimant must establish that the miner has or had pneumoconiosis, that such pneumoconiosis arose out of coal mine employment, and that such pneumoconiosis is totally disabling or caused the miner's death. See 20 C.F.R. §§718.3, 718.202, 718.203, 718.204, 718.205; *Director, OWCP v. Mangifest*, 826 F.2d 1318, 10 BLR 2-220 (3d Cir. 1987); *Strike v. Director, OWCP*, 817 F.2d 395, 10 BLR 2-45 (7th Cir. 1987); *Grant v. Director, OWCP*, 857 F.2d 1102, 12 BLR 2-1 (6th Cir. 1988); *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989); *Baumgartner v. Director, OWCP*, 9 BLR 1-65 (1986); *Roberts v. Bethlehem Mines Corp.*, 8 BLR 1-211 (1985). Failure to prove any of these requisite elements (in either a living miner's claim or a survivor's claim) compels a denial of benefits. See *Anderson, supra*; *Baumgartner, supra*. Note also that all elements of entitlement must be established by a preponderance of the evidence. See *Perry v. Director, OWCP*, 9 BLR 1-1 (1986).

The Part 718 regulations also implement the various presumptions, based largely on the length of the miner's coal mine employment, applicable to eligibility determinations under the Act. 20 C.F.R. Part 718, Subpart D. See Parts VIII and X of the Desk Book.

6/95