PART VII

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

D. TOTAL DISABILITY: SECTION 718.204

2. SECTION 718.204(c)(1)

Pursuant to Section 718.204(c)(1), claimant may offer pulmonary function study evidence to establish total disability. This evidence must be ultimately weighed against any contrary probative evidence of record by the administrative law judge.

The interpretation of medical data is a matter for the medical experts. An administrative law judge may not apply Part 718 Appendix B, paragraph (2)(ii)(G) to evaluate whether qualifying pulmonary function studies are valid. ***Schetroma v. Director, OWCP***, 18 BLR 1-19 (1993). The administrative law judge may properly consider the reliability of pulmonary function studies in accordance with the standards found in Appendix B. to 20 C.F.R. Part 718. ***Winchester v. Director, OWCP***, 9 BLR 1-177 (1986).

CASE LISTINGS

DIGESTS

The administrative law judge could properly find that qualifying pulmonary function evidence is insufficient to meet claimant's burden pursuant to Section 718.204 based upon a physician's opinion that claimant's disability is unrelated to coal mine employment. ***Gee v. W.G. Moore and Sons***, 9 BLR 1-4 (1986).

An administrative law judge may properly consider the reliability of pulmonary function studies in accordance with the standards found in Appendix B. to 20 C.F.R. Part 718. ***Winchester v. Director, OWCP***, 9 BLR 1-177 (1986).

Where the administrative law judge applied Part 718 Appendix B, paragraph (2)(ii)(G) himself and deemed two qualifying pulmonary function studies invalid, the Board held that the interpretation of the medical data is a matter for the medical experts, noted that the administrative law judge's conclusion was not supported by medical evidence of record, vacated the administrative law judge's Section 718.204(c)(1) finding and

remanded the case for reconsideration of the pulmonary function study evidence. The Board noted in a footnote, however, that invalidation reports concerning excessive variability between the FEV_1 curves (and therefore supportive of the administrative law judge's conclusion) had been excluded from the evidence of record by the administrative law judge. ***Schetroma v. Director, OWCP***, 18 BLR 1-19 (1993).

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