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1. Requirements for Entitlement. This chapter outlines the basic requirements for a finding of entitlement in Black Lung claims.

2. Authority. Sections 412(a) and 422(a) and (c) of the BLBA; 20 CFR 718.2; 20 CFR 725 Subparts B, C, D, and E.

3. Policy. Except with respect to a claim governed by the automatic entitlement provision of 30 USC 932(1)(see discussion below), a claimant must establish that five criteria are met in order to qualify for benefits under the BLBA:

- a. The claimant must have filed a timely, valid claim for benefits.
- b. The claimant must be or have been a coal miner or the eligible survivor of a coal miner.
- c. The claimant (or the miner on whose record the claim is based) must be or have been suffering from pneumoconiosis.
- d. The claimant, if a miner, must establish that s/he is totally disabled due to pneumoconiosis, and if a survivor of a miner, must establish that the miner's death was due to pneumoconiosis.
- e. The miner's pneumoconiosis must have arisen from his/her coal mine employment in the Nation's coal mines.

A claimant must meet all five criteria to qualify for benefits. The medical criteria may be established with the aid of a statutory presumption. If the claimant does not meet any one of the criteria, the claim cannot be approved.

The Patient Protection and Affordable Care Act (PPACA) amended Section 422(1) of the BLBA, 30 USC 932(1). Under amended Section 422(1), the eligible survivor of a miner who was awarded benefits is entitled to benefits based on the miner's award. The survivor does not have to prove that the miner's death was due to pneumoconiosis. The amendment applies to claims that are filed after January 1, 2005 and that are pending on or after the March 23, 2010 enactment date of PPACA. The PPACA also reinstated 30 USC 921(c)(4), which provides a rebuttable presumption of total disability or death due to pneumoconiosis if certain conditions are met. That amended provision also applies to claims filed after January 1, 2005 and pending on or after March 23, 2010.

4. Definitions.

- a. The Schedule for the Submission of Additional Evidence is a document in which the District Director (DD), or the

Claims Examiner as the DD's designee, summarizes the evidence, makes a preliminary analysis of the evidence, designates a responsible operator and gives the parties a time frame in which they may submit additional evidence for the DD's consideration.

b. The Proposed Decision and Order (PDO) is the document in which the DD sets forth his/her findings regarding the claimant's eligibility for benefits, provides analyses of the medical, employment and other evidence, makes the final designation of the party liable for the payment of benefits, and notifies any interested party of the right to request a hearing. No claim shall be referred for a hearing without a PDO.

5. References. (Reserved)

6. Responsibilities.

a. The DD has a responsibility to develop all relevant evidence and assist the claimant, when appropriate, in obtaining necessary evidence. The DD is also responsible for the authorization of and payment for a complete pulmonary evaluation in miners' claims as required by §413(b) of the Act. The DD issues a Schedule for the Submission of Additional Evidence (see Chapter 2-1103), a Proposed Decision and Order (see Chapter 2-1105), and other documents as necessary.

b. The claimant has the burden of proof of establishing his/her own entitlement. While the DD may assist the claimant in developing evidence, the final responsibility for establishing eligibility lies with the claimant. The claimant must cooperate with the DD and with the responsible operator in responding to reasonable requests for evidence.

c. The Responsible Operator must respond timely to notices issued by the DD.

7. Filing a Timely, Valid Claim. Requirements for the filing of claims, including standards and time limitations, are discussed in BLBA PM Chapter 2-200.

8. Coal Miner or Survivor. Requirements for the determination of whether an individual comes within the jurisdiction of the BLBA on the basis of his/her employment as a coal miner are given in BLBA PM Chapter 2-700. The criteria for determining if an individual qualifies as the eligible survivor of a coal miner are given in BLBA PM Chapter 2-900.

9. Pneumoconiosis. Criteria for determining if an individual suffers or suffered from pneumoconiosis are given in BLBA PM Chapter 2-1001.

10. Total Disability or Death Due to Pneumoconiosis. Criteria for determining if a miner is or was totally disabled is given in BLBA PM Chapter 2-1002. Criteria for determining if a miner's death was due to pneumoconiosis are given in BLBA PM Chapter 2-1003.

11. Causal Relationship. Criteria for determining if a miner's pneumoconiosis arose from his coal mine employment are given in BLBA PM Chapter 2-1004.