

U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001



BRB Nos. 24-0434 BLA
and 24-0435 BLA

NICHOLAS COX)
(o/b/o and Survivor of DAVID COX))

Claimant-Respondent)

v.)

WELLMORE ENERGY COMPANY, LLC,)
c/o UNITED COAL COMPANY)

and)

SUMMITPOINT INSURANCE COMPANY)

Employer/Carrier-)
Petitioners)

DIRECTOR, OFFICE OF WORKERS')
COMPENSATION PROGRAMS, UNITED)
STATES DEPARTMENT OF LABOR)

Party-in-Interest)

NOT-PUBLISHED

DATE ISSUED: 04/23/2025

DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Theodore W. Annos,
Administrative Law Judge, United States Department of Labor.

Charity A. Barger (Street Law Firm, LLP), Grundy, Virginia, for Employer
and its Carrier.

Before: GRESH, Chief Administrative Appeals Judge, BOGGS and JONES,
Administrative Appeals Judges.

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Theodore W. Annos's Decision and Order Awarding Benefits (2019-BLA-05988 and 2021-BLA-05834), rendered pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act). This case involves a miner's claim filed on February 1, 2018, and a survivor's claim filed on April 7, 2021.¹

In the miner's claim, the ALJ credited the Miner with ten years of coal mine employment and thus found Claimant² could not invoke the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act,³ 30 U.S.C. §921(c)(4) (2018). Considering entitlement under 20 C.F.R. Part 718, the ALJ found Claimant did not establish clinical pneumoconiosis, but established the Miner had legal pneumoconiosis in the form of a chronic restrictive lung disease due to both coal mine dust exposure and cigarette smoking⁴ and a totally disabling respiratory or pulmonary impairment due to pneumoconiosis. 20 C.F.R. §§718.202, 718.204(b)(2), (c). Therefore, he awarded benefits in the miner's claim. Because the Miner was entitled to benefits at the time of his death,

¹ The Board has consolidated Employer's appeal in the miner's claim, BRB No. 24-0434 BLA, and in the survivor's claim, BRB No. 24-0435 BLA, for purposes of decision only.

² The Miner died on February 11, 2021. Miner's Claim (MC) Director's Exhibit 63. Claimant is the son of the Miner and is pursuing the miner's claim on behalf of his father's estate, along with his own survivor's claim. Survivor's Claim (SC) Director's Exhibit 3.

³ Section 411(c)(4) of the Act provides a rebuttable presumption that a miner was totally disabled due to pneumoconiosis if he had at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305.

⁴ "Legal pneumoconiosis" includes any chronic lung disease or impairment and its sequelae arising out of coal mine employment. 20 C.F.R. §718.201(a)(2). The definition includes "any chronic pulmonary disease or respiratory or pulmonary impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b). "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).

the ALJ also found Claimant is automatically entitled to survivor's benefits under Section 422(l) of the Act,⁵ 30 U.S.C. §932(l) (2018).

On appeal, Employer argues the ALJ erred in finding Claimant established legal pneumoconiosis and total disability causation.⁶ Neither Claimant nor the Acting Director, Office of Workers' Compensation Programs, has filed a response brief.

The Benefits Review Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in accordance with applicable law.⁷ 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

Entitlement to Benefits – 20 C.F.R. Part 718

Without the benefit of the statutory presumptions, Claimant must establish disease (pneumoconiosis); disease causation (it arose out of coal mine employment); disability (a totally disabling respiratory or pulmonary impairment); and disability causation (pneumoconiosis substantially contributed to the disability). 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes an award of benefits. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (en banc).

Legal Pneumoconiosis

⁵ Section 422(l) of the Act provides that the survivor of a miner who was eligible to receive benefits at the time of his death is automatically entitled to survivor's benefits, without having to establish the miner's death was due to pneumoconiosis. 30 U.S.C. §932(l) (2018).

⁶ We affirm, as unchallenged on appeal, the ALJ's finding Claimant established total disability. 20 C.F.R. §718.204(b)(2); see *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 8-9, 26-32.

⁷ This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit because the Miner performed his coal mine employment in Virginia. See *Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); MC Director's Exhibit 3.

To establish legal pneumoconiosis, Claimant must prove the Miner had a chronic lung disease or impairment “significantly related to, or substantially aggravated by, dust exposure in coal mine employment.” 20 C.F.R §718.201(a)(2), (b).

The ALJ considered the medical opinions of Drs. Nader, Forehand, Fino, and Dahhan. Decision and Order at 15-25. Dr. Nader diagnosed legal pneumoconiosis in the form of a totally disabling chronic restrictive lung disease with chronic bronchitis arising out of coal mine dust exposure and cigarette smoking. Miner’s Claim (MC) Director’s Exhibit 13 at 2-3. Dr. Forehand diagnosed legal pneumoconiosis in the form of a totally disabling chronic obstructive pulmonary disease (COPD) and emphysema arising out of coal mine dust exposure. Claimant’s Exhibit 7 at 2. Dr. Fino opined the Miner did not have legal pneumoconiosis but had blood clots and scarring in his lungs unrelated to coal mine dust exposure. Employer’s Exhibits 16, 17. Dr. Dahhan excluded legal pneumoconiosis, opining the Miner’s COPD and hypoxemia are due to his smoking history alone and are unrelated to coal mine dust exposure. Employer’s Exhibits 5 at 4, 14 at 3-4.

The ALJ found Dr. Nader’s opinion reasoned and documented. Decision and Order at 16. He found the opinions of Drs. Forehand, Fino, and Dahhan inadequately reasoned. *Id.* at 17-25. Thus, he found Claimant established the Miner had legal pneumoconiosis based on Dr. Nader’s opinion. *Id.* at 25.

Employer contends the ALJ erred in weighing the opinions of Drs. Nader, Fino, and Dahhan. Employer’s Brief at 10-27. We disagree.

Dr. Nader conducted the Department of Labor (DOL)-sponsored complete pulmonary evaluation of the Miner on February 27, 2018. MC Director’s Exhibit 13. He noted the Miner worked underground as a coal miner and had “heavy coal and rock dust exposure.” *Id.* at 2. Further, he observed the Miner complained of shortness of breath, could not make any steps uphill, and could only walk up to twenty feet with oxygen before stopping to catch his breath. *Id.* at 3. He diagnosed legal pneumoconiosis in the form of chronic restrictive lung disease with chronic bronchitis arising out of coal mine dust exposure and cigarette smoking based on the Miner’s chronic symptoms of cough, wheezing, shortness of breath, and sputum production, as well as the February 27, 2018 pulmonary function study. *Id.* at 2-3. Dr. Nader opined the pulmonary function study showed severe restrictive airway disease with a decrease in diffusing capacity which reflected an underlying interstitial lung disease. *Id.* at 2. He indicated the Miner was a former cigarette smoker who started smoking in 1983 and stopped in 2018, for a total of thirty-four years of cigarette smoking. *Id.* at 3. But he opined “it is not possible to distinguish the relative contribution” of cigarette smoking and coal mine dust exposure to the Miner’s pulmonary diagnosis. *Id.* However, he stated the Miner’s severe restrictive lung disease is “unusual” for a smoking history and mostly seen in chronic pulmonary

disease related to coal and rock dust exposure. *Id.* Given the Miner's ten years of exposure to "coal and rock dust," he concluded coal mine dust is a "major contributing and aggravating factor" in his chronic restrictive lung disease. *Id.*

The ALJ credited Dr. Nader's opinion because he relied on an accurate length of the Miner's coal mine employment and identified the data supporting his diagnosis, including the Miner's symptoms, pulmonary function study results, occupational exposure, and cigarette smoking history. Decision and Order at 16. He found Dr. Nader's reliance on the Miner's symptoms is consistent with his treatment records which documented wheezing, shortness of breath, and productive cough. *Id.* Additionally, the ALJ found that although Dr. Nader's reliance on a thirty-four-pack-year smoking history is less than his finding the Miner had a forty-pack-year smoking history, it does not undermine the doctor's opinion because he recognized the Miner's smoking history "played a role" in his impairment. *Id.* The ALJ found Dr. Nader sufficiently explained how he attributed the Miner's lung disease to both coal mine dust exposure and cigarette smoking, consistent with the preamble to the revised 2001 regulations that coal dust-induced diseases and smoke-induced diseases occur through similar mechanisms and that the effects of both exposures are additive. *Id.* Thus, the ALJ permissibly found Dr. Nader's opinion reasoned and documented. *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); Decision and Order at 16-17.

Employer argues the ALJ erred in crediting Dr. Nader's opinion because it contends the physician relied on the x-ray evidence to diagnose legal pneumoconiosis while the ALJ found the x-ray evidence in equipoise for clinical pneumoconiosis. Employer's Brief at 10. We disagree. The ALJ found Dr. Nader diagnosed legal pneumoconiosis in the form of a chronic restrictive lung disease with chronic bronchitis arising out of coal mine dust exposure and cigarette smoking independent of his diagnosis of clinical pneumoconiosis. MC Director's Exhibit 13 at 2-3. The ALJ permissibly found Dr. Nader's opinion reasoned and documented because he relied on the Miner's pulmonary function studies, symptoms, and smoking and coal mine dust exposure histories to support his conclusion.⁸ *See Island Creek Coal Co. v. Compton*, 211 F.3d 203, 207-08, 211 (4th Cir. 2000); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19, 1-21-22 (1987) (reasoned opinion is one in which the ALJ

⁸ We also reject Employer's argument that the ALJ erred in shifting the burden of proof from Claimant to Employer. Employer's Brief at 12-13. The ALJ properly acknowledged Claimant bears the burden of proof and ultimately concluded he met his burden of establishing the Miner had legal pneumoconiosis. Decision and Order at 3, 25.

finds the underlying documentation adequate to support the physician's conclusions); Decision and Order at 16-17.

Further, we reject Employer's argument that the ALJ erred in crediting Dr. Nader's opinion because he stated he could not apportion the effects of smoking and coal mine dust exposure in the Miner's respiratory impairment. Employer's Brief at 10-13. Contrary to Employer's contention, a physician need not apportion the causes of a miner's lung disease to establish the existence of legal pneumoconiosis. 20 C.F.R. §718.201(a)(2); *see Consolidation Coal Co. v. Williams*, 453 F.3d 609, 622 (4th Cir. 2006). Rather, the physician need only credibly diagnose a chronic respiratory or pulmonary impairment that is "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b). Because Dr. Nader specifically opined the Miner's chronic restrictive lung disease and chronic bronchitis were significantly related to, or substantially aggravated by, dust exposure in his coal mine employment, we see no error in the ALJ's determination that Dr. Nader's opinion is sufficient to establish legal pneumoconiosis. *See Westmoreland Coal Co. v. Cochran*, 718 F.3d 319, 322-23 (4th Cir. 2013); *Harman Mining Co. v. Director, OWCP [Looney]*, 678 F.3d 305, 313 (4th Cir. 2012); Decision and Order at 16-17.

Employer also argues the ALJ erred in failing to provide valid reasons for discrediting Dr. Fino's opinion that the Miner did not have legal pneumoconiosis. Employer's Brief at 13-18. We disagree.

In his initial report, Dr. Fino excluded legal pneumoconiosis because the Miner's computed tomography (CT) scans revealed no abnormalities. Employer's Exhibit 16 at 4. At his deposition, Dr. Fino testified the Miner's pulmonary function testing showed a disabling moderate reduction in the FEV1 and FVC values. Employer's Exhibit 17 at 17. He also testified the CT scans showed blood clots and scarring in the Miner's lungs. *Id.* at 19. Ultimately, he opined there is no evidence of obstruction, but rather he attributed the moderate reduction in pulmonary function to the blood clots and scarring. *Id.* at 19-20. He explained blood clots in the lungs can "block off necessary blood supply" which cause the lungs "to not function properly." *Id.* at 21. However, he concluded coal mine dust had no role in those reductions. *Id.* at 20. Dr. Fino also testified the variability in the Miner's arterial blood gas studies does not represent legal pneumoconiosis. *Id.* at 21-22. He opined that the February 2018 blood gas study showed a "low" PO2 of 56 and a PCO2 of 36 and that because the December 2018 blood gas study was "normal," the blood gas studies suggest the Miner's hypoxemia "went away." *Id.* Thus, he concluded the variability in the Miner's blood gas studies is not consistent with coal mine dust exposure but instead attributed it to the blood clots. *Id.* at 22.

The ALJ discredited Dr. Fino's opinion because he failed to address relevant contrary evidence that the Miner was diagnosed with emphysema. Decision and Order at 20. Employer argues the ALJ erred because Dr. Fino explained there is no evidence of an obstructive lung disease, including emphysema. Employer's Brief at 15-16. However, the ALJ accurately noted the interpretations of the CT scans that are in evidence and the Miner's treatment records all diagnosed the Miner with emphysema. Decision and Order at 20; *see* MC Director's Exhibit 18; Claimant's Exhibits 8-10; Employer's Exhibits 2, 7, 8, 11. The ALJ further found Dr. Fino relied significantly on the CT scans to support his opinion that the Miner did not have an obstruction, but instead blood clots and scarring which caused his moderate reduction. Decision and Order at 20. Contrary to Employer's argument, the ALJ permissibly discredited Dr. Fino's opinion as he failed to adequately address that all the CT scans in evidence diagnosed the Miner with emphysema. *Compton*, 211 F.3d at 212; *Hicks*, 138 F.3d at 528; *Akers*, 131 F.3d at 441; Decision and Order at 20; Employer's Brief at 15-16.

Further, the ALJ permissibly found Dr. Fino's opinion, that scarring from blood clots caused the Miner's impairment, was entitled to less weight because he did not explain why he excluded coal mine dust exposure as a contributing cause or factor of the Miner's impairment.⁹ *See Westmoreland Coal Co. v. Stallard*, 876 F.3d 663, 673-74 n.4 (4th Cir. 2017); *Mingo Logan Coal Co. v. Owens*, 724 F.3d 550, 558 (4th Cir. 2013); *Cochran*, 718 F.3d at 324; *Looney*, 678 F.3d at 313-14; Decision and Order at 20-21. Employer's general argument that Dr. Fino's opinion is reasoned and documented is a request to reweigh the evidence, which we are not empowered to do. *See Anderson*, 12 BLR at 1-113; Employer's Brief at 16-18.

We also reject Employer's argument that the ALJ erred in weighing Dr. Dahhan's opinion. Employer's Brief at 18-24.

Dr. Dahhan initially noted the Miner's ten years of coal mine dust exposure and stated this exposure is sufficient to be injurious to the respiratory system and cause an obstructive ventilatory impairment. Employer's Exhibit 5 at 4. However, he later opined the character and duration of the Miner's ten-year exposure was not severe or sufficient enough to cause occupational lung disease. Employer's Exhibit 14 at 3. Dr. Dahhan

⁹ Because the ALJ provided valid reasons for discrediting Dr. Fino's opinion that the Miner did not have a chronic lung disease or impairment significantly related to, or substantially aggravated by, coal mine dust exposure, we need not consider Employer's remaining arguments concerning the ALJ's weighing of the doctor's opinion. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983); Employer's Brief at 16-18.

diagnosed the Miner with COPD based on the significant loss in FEV1 demonstrated on his pulmonary function studies. Employer's Exhibit 5 at 4. Nevertheless, he opined this impairment was due solely to smoking and unrelated to coal mine dust exposure. *Id.* While generally acknowledging coal mine dust can cause an obstructive impairment, Dr. Dahhan concluded the Miner's impairment was not consistent with one caused by the Miner's ten years of coal mine dust exposure because "[t]he literature indicates that a coal miner will lose [five to nine] cc of his FEV1 [on pulmonary function testing] per year of coal dust exposure" and the Miner lost more than that. *Id.* Dr. Dahhan also excluded a diagnosis of legal pneumoconiosis based on his opinion that the Miner's pulmonary function studies demonstrate he had centriacinar emphysema, which is caused by cigarette smoking and not coal mine dust exposure, whereas coal mine dust exposure causes focal emphysema. *Id.* at 5.

The ALJ found Dr. Dahhan's opinion contradictory and internally inconsistent because he initially opined the Miner's ten years of coal mine employment was sufficient to cause an obstructive impairment, but he opined in his supplemental report that the Miner's occupational exposure was not significant enough to cause a coal mine dust-related lung disease. *Looney*, 678 F.3d at 314-16; *Compton*, 211 F.3d at 211; *Akers*, 131 F.3d at 441; Decision and Order at 24; Employer's Exhibits 5 at 4, 14 at 3. He also found Dr. Dahhan focused extensively on the "primary cause" of the Miner's impairment, but did not explain why the Miner's ten years of coal mine dust exposure did not significantly contribute to or substantially aggravate the Miner's respiratory impairment. *Owens*, 724 F.3d at 555; *Hicks*, 138 F.3d at 533; Decision and Order at 24.

The ALJ permissibly discredited Dr. Dahhan's opinion for relying upon statistical generalities, rather than an individualized consideration of the Miner's condition. *See Cochran*, 718 F.3d at 324; *Knizner v. Bethlehem Mines Corp.*, 8 BLR 1-5, 1-7 (1985); 65 Fed. Reg. 79,920, 79,941 (Dec. 20, 2000) (statistical averaging can hide the effects of coal mine dust exposure in individual miners); Decision and Order at 24-25. Moreover, the ALJ permissibly found Dr. Dahhan did not adequately explain his conclusion that there is "no evidence" of legal pneumoconiosis given his earlier acknowledgement that coal mine dust caused at least some reduction in the Miner's FEV1 values on pulmonary function testing. Employer's Exhibit 14 at 3; *see Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order at 24.

We also reject Employer's argument that the ALJ erred in relying on the preamble to the 2001 revised regulations when weighing Dr. Dahhan's opinion. Employer's Brief at 19-24. Contrary to Employer's argument, the comments in the preamble about the additive risk of cigarette smoking and coal dust exposure are not an unlawful rule that is binding on ALJs, nor did the ALJ treat it as binding in this case. *Id.* at 22-24. Federal circuit courts of appeals have consistently held an ALJ may permissibly evaluate expert

opinions in conjunction with the DOL's resolution of questions of scientific fact relevant to the elements of entitlement. *See Looney*, 678 F.3d at 313; *see also Cent. Ohio Coal Co. v. Director, OWCP [Sterling]*, 762 F.3d 483, 491 (6th Cir. 2014); *A & E Coal Co. v. Adams*, 694 F.3d 798, 801-02 (6th Cir. 2012); *see also Energy West Mining Co. v. Estate of Blackburn*, 857 F.3d 817, 830-31 (10th Cir. 2017); *Helen Mining Co. v. Director, OWCP [Obush]*, 650 F.3d 248, 257 (3d Cir. 2011), *aff'g J.O. [Obush] v. Helen Mining Co.*, 24 BLR 1-117, 1-125-26 (2009); *Consolidation Coal Co. v. Director, OWCP [Beeler]*, 521 F.3d 723, 726 (7th Cir. 2008). In this case, the ALJ permissibly evaluated Dr. Dahhan's opinion in conjunction with the DOL's discussion of the prevailing medical science set forth in the preamble. *See Looney*, 678 F.3d at 313; Decision and Order at 15-25.

Moreover, the ALJ's references to the preamble did not, as Employer suggests, result in substituting his own opinion for Dr. Dahhan's; rather, he permissibly evaluated whether the physician credibly explained his opinion that the Miner did not have legal pneumoconiosis. *Owens*, 724 F.3d at 557 (duty of explanation under the APA is satisfied as long as the reviewing court can discern what the ALJ did and why he did it); *Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order at 15-25; Employer's Brief at 20-23.

Because the ALJ permissibly credited Dr. Nader's opinion over the opinions of Drs. Fino and Dahhan, we affirm his determination that Claimant established legal pneumoconiosis. 20 C.F.R. §718.202.

Disability Causation

To establish total disability due to pneumoconiosis, Claimant must prove pneumoconiosis was a "substantially contributing cause" of the Miner's totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c)(1). Pneumoconiosis was a substantially contributing cause if it had "a material adverse effect on the miner's respiratory or pulmonary condition," or if it "[m]aterially worsen[ed] a totally disabling respiratory or pulmonary impairment which [was] caused by a disease or exposure unrelated to coal mine employment." 20 C.F.R. §718.204(c)(1)(i), (ii); *see Robinson v. Pickands Mather & Co.*, 914 F.2d 35, 38 (4th Cir. 1990); *Gross v. Dominion Coal Co.*, 23 BLR 1-8, 1-17 (2003).

Employer argues the ALJ erred in concluding the Miner's legal pneumoconiosis was a substantial cause of his disabling pulmonary impairment. Employer's Brief at 24-27. We disagree.

Dr. Nader opined the Miner was totally disabled by a restrictive lung disease arising out of his coal mine employment and cigarette smoking. MC Director's Exhibit 13 at 2-3. As discussed above, the ALJ permissibly relied on Dr. Nader's opinion to conclude the

Miner's totally disabling lung disease constituted legal pneumoconiosis. Decision and Order at 16, 25. We therefore see no error in the ALJ's finding Dr. Nader's opinion is also sufficient to establish the Miner's legal pneumoconiosis was a substantially contributing cause of his total disability. *Island Creek Ky. Mining v. Ramage*, 737 F.3d 1050, 1062 (6th Cir. 2013) (legal pneumoconiosis inquiry "completed the causation chain from coal mine employment to legal pneumoconiosis which caused [the miner's] pulmonary impairment that led to his disability."); *Dixie Fuel Co. v. Director, OWCP [Hensley]*, 820 F.3d 833, 847 (6th Cir. 2016) (physician's opinion that a miner has a totally disabling pulmonary impairment supports disability causation if that impairment is found to constitute legal pneumoconiosis); 20 C.F.R. §718.204(c).

In addition, the ALJ rationally discredited the disability causation opinions of Drs. Fino and Dahhan because they did not diagnose legal pneumoconiosis, contrary to his finding the Miner had the disease. *Hobet Mining, LLC v. Epling*, 783 F.3d 498, 504-05 (4th Cir. 2015); Decision and Order at 32-33. Because it is supported by substantial evidence, we affirm the ALJ's finding Claimant established the Miner's total disability was due to legal pneumoconiosis through Dr. Nader's opinion. 20 C.F.R. §718.204(c). Consequently, we affirm the ALJ's determination that the Miner was totally disabled due to legal pneumoconiosis. 20 C.F.R. §718.204(c); Decision and Order at 33. We therefore affirm the award of benefits in the miner's claim.

Survivor's Claim

The ALJ found Claimant entitled to survivor's benefits based on the award in the miner's claim pursuant to Section 422(l) of the Act. Decision and Order at 33. Employer raises no specific error regarding this finding. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983). Having affirmed the ALJ's award of benefits in the miner's claim, we affirm his determination that Claimant is derivatively entitled to survivor's benefits. 30 U.S.C. §932(l) (2018); see *Thorne v. Eastover Mining Co.*, 25 BLR 1-121, 1-126 (2013); Decision and Order at 33.

Accordingly, the ALJ's Decision and Order Awarding Benefits is affirmed.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge