

U.S. Department of Labor

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



BRB No. 25-0142 BLA

JERRY R. STOCKDILL)
)
 Claimant-Petitioner)
)
 v.)
)
 CARPENTERTOWN COAL & COKE)
 COMPANY)
)
 and)
)
 BIRMINGHAM FIRE INSURANCE/AIG)
)
 Employer/Carrier-)
 Respondents)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Party-in-Interest)

NOT-PUBLISHED

DATE ISSUED: 04/21/2026

DECISION and ORDER

Appeal of the Decision and Order on Remand Denying Benefits of Natalie A. Appetta, Administrative Law Judge, United States Department of Labor.

Heath M. Long and Matthew A. Gribler (Pawlowski, Bilonick and Long), Ebensburg, Pennsylvania, for Claimant.

Sean B. Epstein (Thomas, Thomas & Hafer, LLP), Pittsburgh, Pennsylvania, for Employer.

Before: GRESH, Chief Administrative Appeals Judge, ROLFE and ULMER, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals Administrative Law Judge (ALJ) Natalie A. Appetta's Decision and Order on Remand Denying Benefits (2021-BLA-05598) rendered on a claim filed on June 30, 2020, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Act). The case is before the Benefits Review Board for the second time.

In her initial Decision and Order Denying Benefits, the ALJ found Claimant did not establish complicated pneumoconiosis and, thus, could not invoke the irrebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(3) of the Act. 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. Next, she credited Claimant with eighteen years of underground coal mine employment, based on the parties' stipulation, but found he did not establish a totally disabling pulmonary or respiratory impairment. 20 C.F.R. §718.204(b)(2). Thus, she found Claimant could not invoke the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act or establish entitlement to benefits under 20 C.F.R. Part 718.¹ 30 U.S.C. §921(c)(4). Consequently, the ALJ denied benefits.

Pursuant to Claimant's appeal, the Board affirmed the ALJ's findings that Claimant did not establish total disability and thus could not invoke the Section 411(c)(4) presumption. *Stockdill v. Carpentertown Coal & Coke Co.*, BRB No. 23-0448 BLA, slip op. at 2 n.2 (Sep. 30, 2024) (unpub.). The Board also affirmed the ALJ's findings that neither the x-ray nor biopsy evidence supports a finding of complicated pneumoconiosis. *Id.* at 3 n.4. But the Board reversed the ALJ's findings concerning the computed tomography (CT) scan evidence and held Claimant established the CT scan evidence supports a finding of complicated pneumoconiosis. *Id.* at 5-6. The Board further vacated the ALJ's finding that Claimant did not establish complicated pneumoconiosis based on the weight of the evidence as a whole and remanded the case for additional consideration. *Id.* at 6-7.

On remand, the ALJ again found Claimant did not establish complicated pneumoconiosis and therefore could not invoke the Section 411(c)(3) presumption. 30 U.S.C. §921(c)(3); *see* 20 C.F.R. §718.304. Thus, she denied benefits.

¹ Section 411(c)(4) provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis if he has 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); *see* 20 C.F.R. §718.305.

On appeal, Claimant argues the ALJ erred in finding he did not establish complicated pneumoconiosis. Employer responds in support of the denial of benefits. The Director, Office of Workers' Compensation Programs, did not file a response brief.

The 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.² 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).

Section 411(c)(3) of the Act provides an irrebuttable presumption that a miner is totally disabled due to pneumoconiosis if he suffers from a chronic dust disease of the lung which: (a) when diagnosed by x-ray, yields one or more opacities greater than one centimeter in diameter that would be classified as Category A, B, or C; (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung; or (c) when diagnosed by other means, would be a condition that could reasonably be expected to yield a result equivalent to (a) or (b). *See* 20 C.F.R. §718.304. In determining whether Claimant has invoked the irrebuttable presumption, the ALJ must consider all evidence relevant to the presence or absence of complicated pneumoconiosis. 30 U.S.C. §923(b); *Truitt v. N. Am. Coal Corp.*, 2 BLR 1-199 (1979), *aff'd sub nom. Director, OWCP v. N. Am. Coal Corp.*, 626 F.2d 1137 (3d Cir. 1980); *see Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33 (1991) (en banc).

On remand, the ALJ observed the Board reversed her finding and held the CT scan evidence supports a finding of complicated pneumoconiosis. Decision and Order on Remand at 5-6; *Stockdill*, BRB No. 23-0448 BLA, slip op. at 5-6. She further noted the Board affirmed her findings that the x-ray and biopsy evidence do not support a finding of complicated pneumoconiosis. Decision and Order on Remand at 2-4; *Stockdill*, BRB No. 23-0448 BLA, slip op. at 3 n.4. Weighing the evidence together, she concluded Claimant failed to establish complicated pneumoconiosis by a preponderance of the evidence. Decision and Order on Remand at 6.

Claimant argues the ALJ's conclusion cannot be affirmed because she failed to reconcile conflicting evidence or explain the rationale underlying her conclusion. Claimant's Brief at 11. We agree.

² This case arises within the jurisdiction of the United States Court of Appeals for the Third Circuit because Claimant performed his coal mine employment in Pennsylvania. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 23; Director's Exhibit 3.

The ALJ summarized the evidence, stating one CT scan is positive for complicated pneumoconiosis while the other is “equivocal,” the x-ray and biopsy evidence are negative for the disease, and that, of the two medical opinions, one was silent as to the presence of the disease while the other opined it is not present. Decision and Order on Remand at 6. She then stated:

Therefore, after comparing the positive CT scan evidence of complicated pneumoconiosis to each of the negative examples of evidence, and weighing the entirety of the evidence all together, I find that Claimant failed to establish that it is more likely than not that he has a chronic dust disease of the lung that meets the requirements of 20 C.F.R. §718.304. Thus, Claimant cannot invoke the irrebuttable presumption of total disability due to pneumoconiosis.

Decision and Order on Remand at 6.

The ALJ’s explanation provides no basis for determining why she concluded the positive CT scan evidence is outweighed by the remainder of the evidence. Thus, we agree the ALJ’s finding does not satisfy the explanatory requirements of the Administrative Procedure Act (APA).³ See *Barren Creek Coal Co. v. Witmer*, 111 F.3d 352, 354 (3d Cir. 1997) (absence of explanation of findings renders meaningful review impossible); *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989).

We further agree the ALJ failed to reconcile conflicts in the evidence. As the Board noted in its prior decision, Dr. DePonte diagnosed complicated pneumoconiosis in her CT scan reading based in part on documentation from the October 19, 2018 biopsy identifying abundant anthracotic pigment as well as polarizable foreign material, which she opined supports diagnoses of coal workers’ pneumoconiosis and silicosis. *Stockdill*, BRB No. 23-0448 BLA, slip op. at 7; Director’s Exhibit 14 at 2. While the Board affirmed the ALJ’s finding that the biopsy evidence does not support a finding of complicated pneumoconiosis, *Stockdill*, BRB No. 23-0448 BLA, slip op. at 3 n.4, that did not absolve the ALJ of her duty to resolve the discrepancy between the CT scan and biopsy evidence. See *Wojtowicz*, 12 BLR at 1-165. Thus, we vacate the ALJ’s weighing of the evidence together at 20 C.F.R. §718.304 as well as her determination that Claimant failed to invoke the irrebuttable presumption.

³ The Administrative Procedure Act provides every adjudicatory decision must include “findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented” 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a).

Remand Instructions

On remand, the ALJ must weigh all relevant evidence together in determining whether Claimant invoked the Section 411(c)(3) presumption, interrelating the evidence from each category and applying the correct standard for the burden of proof (i.e., whether the evidence establishes it is more likely than not Claimant has a chronic dust disease of the lung meeting the diagnostic requirements of 20 C.F.R. §718.304). 30 U.S.C. §923(b); 20 C.F.R. §718.304; *see Truitt*, 2 BLR at 1-203; *see also Westmoreland Coal Co. v. Cox*, 602 F.3d 276, 283 (4th Cir. 2010); *Melnick*, 16 BLR at 1-33. Specifically, she must consider the explanations of the physicians' conclusions, the documentation underlying their medical judgment, and the sophistication of, and bases for, their diagnoses. *See Lango v. Director, OWCP*, 104 F.3d 573, 578 (3d Cir. 1997). In making her determinations, she must set forth her findings in detail and explain her rationale in accordance with the APA's requirements. *Wojtowicz*, 12 BLR at 1-165.

If the ALJ finds Claimant has met his burden to establish complicated pneumoconiosis, Claimant will have invoked the irrebuttable presumption of total disability due to pneumoconiosis. 20 C.F.R. §718.304. The ALJ must then consider whether Claimant's complicated pneumoconiosis arose out of his coal mine employment, applying the relevant rebuttable presumption. 20 C.F.R. §718.203(b). If the ALJ finds Claimant has invoked the Section 411(c)(3) irrebuttable presumption, and Claimant's pneumoconiosis arose out of his coal mine employment, she should award benefits.

If the ALJ finds Claimant is unable to invoke the irrebuttable presumption, she may reinstate the denial of benefits in light of Claimant's failure to establish total disability, a requisite element of entitlement under 20 C.F.R. Part 718. *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987).

Accordingly, we affirm in part and vacate in part the ALJ's Decision and Order on Remand Denying Benefits, and remand the case to the ALJ for further consideration consistent with this opinion.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge