

U.S. Department of Labor

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



BRB No. 25-0161 BLA

JOHN ADKINS, JR.)
)
Claimant-Respondent)
)
v.)
)
FOOLS GOLD ENERGY CORPORATION)
)
Employer-Petitioner)
)
DIRECTOR, OFFICE OF WORKERS’)
COMPENSATION PROGRAMS, UNITED)
STATES DEPARTMENT OF LABOR)
)
Party-in-Interest)

NOT-PUBLISHED

DATE ISSUED: 04/17/2026

DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Steven D. Bell, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe and Cameron Blair (Wolfe Williams & Austin), Norton, Virginia, for Claimant.

Thomas L. Ferreri and Matthew J. Zanetti (Ferreri Partners, PLLC), Louisville, Kentucky, for Employer.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Steven D. Bell’s Decision and Order Awarding Benefits (2020-BLA-05967) rendered on a subsequent claim filed on

August 6, 2019,¹ pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Act).

Employer stipulated to twenty-five years of underground coal mine employment, which the ALJ accepted. The ALJ also found Claimant established complicated pneumoconiosis. 20 C.F.R. §718.304. Thus, he found Claimant invoked the irrebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(3) of the Act and established a change in an applicable condition of entitlement.² 30 U.S.C. §921(c)(3); 20 C.F.R. §§718.304, 725.309(c). Further, he found Claimant's complicated pneumoconiosis arose out of his coal mine employment, 20 C.F.R. §718.203(b), and thus awarded benefits.

On appeal, Employer argues the ALJ erred in weighing the computed tomography (CT) scan and medical opinion evidence in finding Claimant established complicated pneumoconiosis. It further challenges the ALJ's determination regarding the onset date of when Claimant became totally disabled due to pneumoconiosis for determining the date for the commencement of benefits. Claimant responds in support of the award. Employer filed a reply, reiterating its arguments.³ The Director, Office of Workers' Compensation Programs, declined to file 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

¹ Claimant filed three previous claims. Director's Exhibits 62-64. He withdrew his first two claims; thus, they are considered not to have been filed. 20 C.F.R. §725.306(b); Director's Exhibits 62, 63. His most recent prior claim, filed in 2015, was denied for failing to establish total disability and disability causation. Director's Exhibits 1, 52.

² When a miner files a claim for benefits more than one year after the denial of a previous claim becomes final, the ALJ must also deny the subsequent claim unless he finds that "one of the applicable conditions of entitlement . . . has changed since the date upon which the order denying the prior claim became final." 20 C.F.R. §725.309(c); *see White v. New White Coal Co.*, 23 BLR 1-1, 1-3 (2004). The "applicable conditions of entitlement" are "those conditions upon which the prior denial was based." 20 C.F.R. §725.309(c)(3). Because the district director denied Claimant's prior claim for failure to establish total disability and disability causation, Claimant had to submit new evidence establishing one of these elements to obtain review of his current claim on the merits. *White*, 23 BLR at 1-3; Director's Exhibit 52.

³ We affirm, as unchallenged on appeal, the ALJ's accepting Employer's stipulation to twenty-five years of underground coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4.

accordance with applicable law.⁴ 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O’Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

Invocation of the Section 411(c)(3) Presumption

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 large 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, is a condition that would yield results equivalent to (a) or (b). 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. In determining whether Claimant has invoked the irrebuttable presumption, the ALJ must weigh all evidence relevant to the presence or absence of complicated pneumoconiosis. *See Gray v. SLC Coal Co.*, 176 F.3d 382, 388-89 (6th Cir. 1999); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33-34 (1991) (en banc).

The ALJ found the x-ray, CT scan, and medical opinion evidence support a finding of complicated pneumoconiosis.⁵ 20 C.F.R. §718.304(a), (c); Decision and Order at 9, 12, 17. When weighing the evidence as a whole, the ALJ determined that Claimant established he has complicated pneumoconiosis and thus invoked the irrebuttable presumption. 20 C.F.R. §718.304; Decision and Order at 17.

20 C.F.R. §718.304(c) - Other Medical Evidence

CT Scans

The ALJ considered four interpretations of three CT scans dated June 22, 2016, March 3, 2020, and May 25, 2023. Decision and Order at 10-12. He found all three CT scans support a finding of complicated pneumoconiosis. *Id.*

⁴ The Board will apply the law of the United States Court of Appeals for the Sixth Circuit because Claimant performed his last coal mine employment in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 10.

⁵ As the ALJ correctly found, there is no pathology evidence of record. 20 C.F.R. §718.304(b); Decision and Order at 7. Employer does not challenge the ALJ’s finding that the x-ray evidence supports a finding of complicated pneumoconiosis; thus, we affirm this finding. 20 C.F.R. §718.304(a); *see Skrack*, 6 BLR at 1-711; Decision and Order at 9.

The June 22, 2016 CT scan was interpreted by Drs. Siegler⁶ and Crum. Employer's Exhibit 3; Claimant's Exhibit 2. Dr. Siegler's impression was that there were "innumerable noncalcified lung nodules with upper lobe predominance and areas of conglomeration in keeping with coal workers pneumoconiosis in the appropriate clinical setting." Employer's Exhibit 3. He noted the nodules were "subcentimeter" and the areas of conglomeration were within the right upper lobe. *Id.* Dr. Crum similarly noted "numerous bilateral subcentimeter pulmonary nodules" consistent with pneumoconiosis. Claimant's Exhibit 2. He also identified coalescence and multiple bilateral large opacities,⁷ which he indicated were consistent with Category B complicated pneumoconiosis. *Id.* The ALJ found Dr. Siegler's interpretation weighs neither for nor against a finding of complicated pneumoconiosis and Dr. Crum's interpretation supports a finding of complicated pneumoconiosis. *Id.* at 11. Thus, weighing the readings together, he found the June 22, 2016 CT scan weighs in favor of a finding of complicated pneumoconiosis. *Id.*

Dr. Ammisetty, Claimant's treating physician, provided the only interpretation of the March 3, 2020 CT scan. Director's Exhibit 136 at 91. He noted "numerous pulmonary nodules and masses" and an increase in size of the most dominant nodule in the right upper lung with a "confluent mass density" measuring up to three centimeters, which he indicated most likely reflects the progression of complicated pneumoconiosis.⁸ *Id.* The ALJ credited his diagnosis and, as there are no contrary interpretations, found the March 3, 2020 CT scan weighs in favor of a finding of complicated pneumoconiosis. Decision and Order at 11.

Finally, Dr. Kinner interpreted the May 25, 2023 CT scan, also obtained during Claimant's treatment. Claimant's Exhibit 1. Dr. Kinner noted bilateral nodules and coalescing "mass[-]like" regions suspicious for occupational exposure such as complicated pneumoconiosis or silicosis, which has progressed.⁹ *Id.* He indicated that the largest region of "confluent/mass-like opacification" in the right upper lobe measures up to 4.5

⁶ Employer submitted Dr. Siegler's reading under 20 C.F.R. §718.107, Employer's Evidence Summary Form, but indicated it was obtained in the course of Claimant's treatment. Employer's Closing Brief at 8.

⁷ He provided specific examples of the size and location of multiple opacities in both lungs, the largest being 2.5 centimeters in the left lung. Claimant's Exhibit 2.

⁸ Dr. Ammisetty compared this CT scan with the June 22, 2016 CT scan. Director's Exhibit 139 at 91.

⁹ Dr. Kinner compared this CT scan with the March 3, 2020 CT scan. Claimant's Exhibit 1.

centimeters. *Id.* The ALJ credited his diagnosis and, given there are no contrary readings of record, found the May 25, 2023 CT scan weighs in favor of a finding of complicated pneumoconiosis. Decision and Order at 12.

Weighing the CT scan evidence together, the ALJ found it weighs in favor of a finding of complicated pneumoconiosis. Decision and Order at 12.

Employer argues the ALJ erred in finding Dr. Siegler's interpretation of the June 22, 2016 CT scan does not weigh against a finding of complicated pneumoconiosis. Employer's Brief at 5. Specifically, it contends Dr. Siegler observed "subcentimeter nodules" which are less than one centimeter and thus weigh against a finding of complicated pneumoconiosis. *Id.* We disagree.

While Employer is correct the ALJ did not specify that Dr. Siegler identified "subcentimeter" nodules, the ALJ's analysis is not contingent on this finding. Employer's Brief at 5; Employer's Reply at 1-2; Employer's Exhibit 3. As the ALJ found, and Employer does not contest, Dr. Siegler identified numerous nodules in his interpretation that support a finding of simple pneumoconiosis, i.e., subcentimeter nodules.¹⁰ Decision and Order at 10-11. However, as the ALJ noted, Dr. Siegler also indicated "areas of conglomeration"¹¹ but did not specifically opine if this finding constituted complicated pneumoconiosis. *Id.* at 11. It is within the ALJ's discretion to determine the weight to accord to diagnostic testing that is silent as to pneumoconiosis. *See Marra v. Consolidation Coal Co.*, 7 BLR 1-216, 1-218-19 (1984). Thus, we affirm the ALJ's finding that Dr. Siegler's interpretation of the June 22, 2016 CT scan weighs neither for nor against a finding of complicated pneumoconiosis. Decision and Order at 11.

Employer also argues the ALJ erred in neither requiring the interpreting physicians to provide a statement indicating that the large opacities they identified on the CT scans are equivalent to an opacity measuring greater than one centimeter on x-ray, nor performing an equivalency analysis himself. Employer's Brief at 5-8 (citing *E. Associated*

¹⁰ Dr. Crum also noted subcentimeter pulmonary nodules in his interpretation of the June 22, 2016 CT scan, while also identifying coalescence and other large opacities consistent with complicated pneumoconiosis. Claimant's Exhibit 2.

¹¹ "Conglomerate" means "heaped together." Dorland's Illustrated Medical Dictionary 404 (32d ed. 2012); *see also* The Free Dictionary (Apr. 10, 2026, 11:08 AM), <https://medical-dictionary.thefreedictionary.com/conglomerate> ("conglomerate" means "composed of several parts aggravated into one mass"); *Thorn v. Itmann Coal Co.*, 3 F.3d 713, 716, n.2 (4th Cir. 1993) (using medical dictionary to construe terms not defined in the Act or regulations).

Coal Corp. v. Director, OWCP [Scarbro], 220 F.3d 250 (4th Cir. 2000)).¹² In response, Claimant argues that the law of the United States Court of Appeals of the Sixth Circuit applies to this case and thus no equivalency determination is required and the ALJ appropriately weighed the evidence. Claimant’s Response at 9-10. We agree with Claimant’s argument.

As Employer apparently acknowledges, the Sixth Circuit does not require an equivalency determination when assessing whether CT scan evidence supports a finding of complicated pneumoconiosis. Employer’s Brief at 6. Further, contrary to Employer’s characterization, in Dr. Crum’s interpretation of the June 12, 2016 CT scan, he specifically identified multiple opacities measuring greater than one centimeter which he indicated are “consistent with [C]ategory B complicated pneumoconiosis.” Claimant’s Exhibit 2. As Dr. Crum equated his CT scan reading to a Category B x-ray reading, as described at 20 C.F.R. §718.304(a), his opinion fulfills such an equivalency statement, even if one were required. *See* 20 C.F.R. §718.304(a), (c); Claimant’s Exhibit 2. Thus, we affirm the ALJ’s finding that Dr. Crum’s interpretation of the June 12, 2016 CT scan supports a finding of complicated pneumoconiosis at 20 C.F.R. §718.304(c). *See Gray*, 176 F.3d at 387; Decision and Order at 10-11.

As we have already affirmed the ALJ’s credibility findings regarding Dr. Siegler’s reading of this CT scan, we further affirm the ALJ’s finding that the June 12, 2016 CT scan supports a finding of complicated pneumoconiosis. Decision and Order at 11.

Similarly, Drs. Ammisetty’s and Kinner’s interpretations of the March 3, 2020 and May 25, 2023 CT scans, respectively, are sufficient to support a finding of complicated pneumoconiosis at 20 C.F.R. §718.304(c). A miner may establish complicated pneumoconiosis through x-ray evidence of “large opacities” exceeding one centimeter, pathology evidence of “massive lesions,” or an equivalent diagnostic result reached by other means. 20 C.F.R. §718.304(a)-(c). Both physicians described “masses” or “mass-like regions” and provided measurements well over one centimeter in diameter (the largest exceeding three centimeters at the time of Dr. Ammisetty’s reading and exceeding 4.5 centimeters at the time of Dr. Kinner’s reading). Director’s Exhibit 136 at 91; Claimant’s

¹² In *E. Associated Coal Corp. v. Director, OWCP [Scarbro]*, 220 F.3d 250 (4th Cir. 2000), the court held that “[b]ecause prong (A) sets out an entirely objective scientific standard” for diagnosing complicated pneumoconiosis -- an x-ray opacity greater than one centimeter in diameter -- the ALJ must determine whether a condition diagnosed by biopsy or autopsy under prong (B) or by other means under prong (C) would show as a greater-than-one-centimeter opacity if seen on a chest x-ray. *Scarbro*, 220 F.3d at 255; *see also Double B Mining, Inc. v. Blankenship*, 177 F.3d 240, 243 (4th Cir. 1999).

Exhibit 1. Thus, the ALJ was within his discretion to find these interpretations support a finding of complicated pneumoconiosis as the masses the physicians described are reasonably expected to yield massive lesions on biopsy or autopsy. *See Gray*, 176 F.3d at 387; *see also Perry v. Mynu Coals, Inc.*, 469 F.3d 360, 364-65 (4th Cir. 2006) (diagnosis of a “massive” opacity “becomes a proxy for the tissue mass characteristic of complicated pneumoconiosis” and satisfies the “statutory ground for application of the presumption”).

Moreover, even assuming the equivalency determination pursuant to *Scarbro* applied here and the ALJ’s findings were inadequate regarding the March 3, 2020 and May 25, 2023 CT scans, there are no contrary readings. Thus, Employer has not explained how any alleged error by the ALJ in weighing this evidence would make a difference in the outcome of this case. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009) (appellant must explain how the “error to which [it] points could have made any difference”). Thus, we affirm the ALJ’s finding that the CT scan evidence supports a finding of complicated pneumoconiosis at 20 C.F.R. §718.304(c).

Medical Opinions

The ALJ next considered the medical opinions of Drs. Green, Rosenberg, Rajbhandari, Dahhan, and Selby. Decision and Order at 13-17. He found each doctor well-qualified to provide an opinion on the issue. *Id.* Drs. Green, Rosenberg, and Rajbhandari opined that Claimant has complicated pneumoconiosis while Drs. Dahhan and Selby opined he does not. Director’s Exhibits 136 at 5, 45; 74; Employer’s Exhibits 5, 6. The ALJ credited the opinions of Drs. Green, Rosenberg, and Rajbhandari as consistent with the radiographic evidence they considered. Decision and Order at 13-14. He found Dr. Dahhan’s opinion equivocal and inadequately explained. *Id.* at 15. Similarly, he afforded Dr. Selby’s opinion less weight as inadequately explained. *Id.* at 16-17.

Employer argues the ALJ erred in discrediting the medical opinions of Drs. Dahhan and Selby, as his credibility determinations are dependent on his findings regarding the CT scan evidence. Employer’s Brief at 8-9. As we have rejected Employer’s arguments regarding the CT scan evidence, we reject this argument as well.¹³ Employer has not

¹³ Moreover, the ALJ’s credibility findings do not rely solely on his determinations regarding the CT scan evidence. In addition to noting Dr. Dahhan did not address Dr. Ammisetty’s CT scan reading, the ALJ found his opinion inadequately explained as the doctor did not explain why he apparently gave more weight to Dr. Simone’s x-ray interpretations of no complicated pneumoconiosis over the contrary interpretations of three similarly qualified readers. Decision and Order at 13-15. He also found Dr. Dahhan did not explain why Claimant’s clinical presentation is relevant for assessing complicated pneumoconiosis rather than total disability. *Id.* Similarly, in addition to the ALJ’s finding

challenged the ALJ's crediting of the remaining three medical opinions, which support a finding of complicated pneumoconiosis; thus, we affirm the ALJ's finding that the medical opinion evidence supports a finding of complicated pneumoconiosis at 20 C.F.R. §718.304(c). *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 17.

Because it is supported by substantial evidence, we affirm the ALJ's finding that Claimant has established complicated pneumoconiosis considering the record as a whole. *See Gray*, 176 F.3d at 388-89; *Melnick*, 16 BLR at 1-33-34; Decision and Order at 17. We thus affirm the ALJ's conclusion that Claimant invoked the irrebuttable presumption of total disability due to pneumoconiosis and therefore established a change in an applicable condition of entitlement. 30 U.S.C. §921(c)(3); 20 C.F.R. §§718.304, 725.309(c)(3).

We further affirm, as unchallenged, the ALJ's determination that Claimant's complicated pneumoconiosis arose out of his coal mine employment. 20 C.F.R. §718.203(b); *see Skrack*, 6 BLR at 1-711; Decision and Order at 18. We therefore affirm the award of benefits.

Date for Commencement of Benefits

The date for commencement of benefits is the month in which Claimant became totally disabled due to pneumoconiosis. 20 C.F.R. §725.503; *see Lykins v. Director, OWCP*, 12 BLR 1-181 (1989). If the date is not ascertainable, benefits commence the month the claim was filed, unless evidence the ALJ credits establishes Claimant was not totally disabled due to pneumoconiosis at any subsequent time. 20 C.F.R. §725.503(b); *Edmiston v. F&R Coal Co.*, 14 BLR 1-65 (1990); *Owens v. Jewell Smokeless Coal Corp.*, 14 BLR 1-47 (1990). If the ALJ finds Claimant is entitled to the irrebuttable presumption of total disability due to pneumoconiosis at Section 718.304, he must determine whether the evidence establishes the onset date of complicated pneumoconiosis. *See Williams v. Director, OWCP*, 13 BLR 1-28 (1989); *Truitt v. N. Am. Coal Corp.*, 2 BLR 1-199 (1979). However, in a subsequent claim, no benefits may be paid for any period prior to the date upon which the order denying the prior claim became final. 20 C.F.R. §725.309(c)(6).

that Dr. Selby did not adequately explain why the CT scan interpretations supported his conclusion of no complicated pneumoconiosis, he also found the physician did not explain why he relied on Dr. Simone's x-ray interpretations over the other conflicting x-ray readings. *Id.* at 16-17. Employer has not challenged these credibility interpretations. *See Skrack*, 6 BLR at 1-711; *Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983) (ALJ need only state one valid reason for credibility determination).

The ALJ indicated that the first evidence of complicated pneumoconiosis that he credited is the June 22, 2016 CT scan and found no credible evidence that Claimant did not have the disease after that time. Decision and Order at 19. But he also noted the district director's denial of Claimant's prior claim became final in March 2017. *Id.* As the finding of total disability predated the final decision denying benefits in the prior claim, the ALJ found the date of commencement of benefits is April 2017, the month after the denial of the prior claim became final. *Id.*

Employer's contentions of error regarding the ALJ's finding regarding Claimant's date for commencement of benefits are based solely on its arguments that the ALJ erred in finding that the June 22, 2016 CT scan supports a finding of complicated pneumoconiosis. Employer's Brief at 4-7. As discussed above, we have rejected Employer's arguments and affirmed the ALJ's finding that the June 22, 2016 CT scan supports a finding of complicated pneumoconiosis. Employer raises no other arguments regarding the ALJ's findings regarding the onset date of Claimant's complicated pneumoconiosis; therefore, we affirm his finding that Claimant had complicated pneumoconiosis on March 2017 and that benefits should commence as of April 2017. 20 C.F.R. §§725.309(c)(6), 725.503(b); *see Truitt*, 2 BLR at 1-204.

Accordingly, we affirm the ALJ's Decision and Order Awarding Benefits.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge