U.S. Department of Labor

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

BRB Nos. 24-0279 BLA
and 24-0280 BLA

JUDITH SALYERS
(o/b/o and Widow of DONALD E. SALYERS)

Claimant-Respondent

v.

MOUNTAINTOP RESTORATION, INCORPORATED

and

OLD REPUBLIC INSURANCE COMPANY, INCORPORATED

Employer/Carrier-Petitioners

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

Party-in-Interest

NOT-PUBLISHED

DATE ISSUED: 08/11/2025

DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits in Miner's and Survivor's Claims of Willow Eden Fort, Administrative Law Judge, United States Department of Labor.

Wes Addington (Appalachian Citizens' Law Center), Whitesburg, Kentucky, for Claimant.

Paul E. Frampton and Fazal A. Shere (Bowles Rice LLP), Charleston, West Virginia, for Employer and its Carrier.

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

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Willow Eden Fort's Decision and Order Awarding Benefits in Miner's and Survivor's Claims (2022-BLA-05665 and 2023-BLA-05277) rendered on a miner's subsequent claim[1] filed on October 9, 2019, and a survivor's claim filed on July 25, 2022,[2] pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ found the Miner established 19.44 years of qualifying coal mine employment and a totally disabling respiratory or pulmonary impairment. Thus, she determined Claimant invoked 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). She further found Employer did not rebut the presumption and awarded benefits. Based on the award of benefits in the

[1] The Miner filed a prior claim for benefits. Miner's Director's Exhibit 1. Because the records for his prior claims were destroyed in accordance with the Department of Labor's records retention policy, the ALJ treated the Miner's prior claim as having been denied for failure to establish any element of entitlement. Decision and Order at 8.

[2] Claimant is the widow of the Miner, who died on January 25, 2021. Miner's Director's Exhibits 10-12; Survivor's Director's Exhibits 11, 18. She is pursuing the miner's claim on his behalf as well as her own survivor's claim. Miner's Director's Exhibit 37; Survivor's Director's Exhibit 6. Employer's appeal in the miner's claim was assigned BRB No. 24-0279 BLA, and its appeal in the survivor's claim was assigned BRB No. 24-0210 BLA. The Board has consolidated these appeals for purposes of decision only.

[3] Section 411(c)(4) of the Act provides a rebuttable presumption 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); 20 C.F.R. §718.305.

miner's claim, she found Claimant derivatively entitled to survivor's benefits pursuant to Section 422(*l*) of the Act.[4] 30 U.S.C. §932(*l*) (2018).

On appeal, Employer argues the ALJ erred in finding Claimant invoked the Section 411(c)(4) presumption, by establishing 19.44 years of qualifying coal mine employment and total disability, and in further finding Employer failed to rebut the presumption. Claimant responds in support of the award of benefits. The Acting 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 accordance with applicable law.[5] 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 (1965).

Invocation of the Section 411(c)(4) Presumption

Qualifying Coal Mine Employment

To invoke the Section 411(c)(4) presumption, Claimant must establish the Miner worked at least fifteen years in underground coal mines or surface coal mines in conditions "substantially similar" to those in an underground mine. 20 C.F.R. §718.305(b)(1)(i); *see Muncy v. Elkay Mining Co.*, 25 BLR 1-21, 1-29 (2011). The conditions in a surface mine are "substantially similar" to those underground if "the miner was regularly exposed to coal-mine dust while working there." 20 C.F.R. §718.305(b)(2).

The ALJ found the Miner established sixteen years of coal mine employment in 1975, 1978 to 1985, and from 1989 to 1995. Decision and Order at 6. The ALJ further found the Miner had partial years of coal mine employment in 1974, 1976, 1977, 1986, and 1988 for a total of 3.44 years of coal mine employment during those years. *Id.* In total, the ALJ found the Miner established 19.44 years of coal mine employment. *Id.* at 6-7.

[4] Section 422(*l*) of the Act provides that the survivor of a miner who was determined to be 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).

[5] This case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit, as the Miner performed his coal mine employment in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Miner's Director's Exhibit 4; Hearing Transcript at 17.

The ALJ then determined that all 19.44 years of the Miner's coal mine employment were working as a surface miner.[6] Decision and Order at 7. The ALJ found the Miner was regularly exposed to coal mine dust during his coal mine employment based on Claimant's testimony, the Miner's History of Employment Form, and Dr. Shah's description of the Miner's working conditions. Decision and Order at 16-17; Miner's Director's Exhibits 4, 18; Hearing Transcript at 22-23, 30-33. She thus found all of the Miner's 19.44 years of coal mine employment to be qualifying for purposes of invoking the Section 411(c)(4) presumption. Decision and Order at 17.

Employer argues the ALJ erred in finding the Miner's work driving trucks and dozers with enclosed cabs to have comparable coal mine dust exposure to that of working in an underground mine. Employer's Brief at 2-5. Specifically, Employer contends the ALJ erred in "relying on unsubstantiated and incomplete reporting by a physician and generic testimony from [Claimant,] who was never at the mine." *Id.* at 3. We disagree.

The ALJ considered Claimant's testimony on this issue, the Miner's report to Dr. Shah, and the Miner's notation on his Miner's History of Employment Form. Decision and Order at 16-17. Claimant testified "most" of Miner's mining career was at surface mining sites, "[e]ver[y] bit except a road job he had with Bizzack," which was not a coal mine employer. Hearing Transcript at 21. She testified the Miner was exposed to "a lot" of coal mining dust during his work with Mountaintop Restoration (1990 to 1995), Rebel Coal (1974 to 1977), and Laurel Creek Coal Company (1988 to 1990), and that the Miner would always come home "[r]eal dirty" and "[d]usty." *Id.* at 22-23, 30-31. Dr. Shah noted in his report that the Miner "started working as a surface miner in 1973 and continued through 1995." Director's Exhibit 18 at 4. The Miner reported to Dr. Shah that while he wore a mask in the mines, they were not always available, the dust conditions were "bad," and "you could write your name in the dust. [The Miner's] dozer had a cab but that didn't keep dust out." *Id.* at 5. Dr. Shah determined the Miner had "a significant history of exposure to coal mine dust for [an] alleged 22 years." *Id.* at 8. On the Miner's History of Employment Form, the Miner noted all his coal mine employment was at surface mines and checked the box indicating he was exposed to dust during his surface mine work from 1973 to 1995 at Rebel Coal Co., B.W. McDonald, and Mountaintop Restoration. *Id.* at 4.

Contrary to Employer's contentions, the ALJ permissibly found Claimant's uncontested testimony, the Miner's employment history form detailing his working conditions, and his accounts to Dr. Shah credible and established he was regularly exposed

[6] Employer does not challenge that the Miner worked for 19.44 years as a surface miner. Therefore, we affirm it. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

to coal mine dust during his entire surface coal mine employment. Decision and Order at 17; *see Zurich v. Am. Ins. Grp. v. Duncan*, 889 F.3d 293, 304 (6th Cir. 2018) (rejecting argument that a miner must provide evidence of "the actual dust conditions" and citing with approval the Department of Labor's position that "dust exposure evidence will be inherently anecdotal"); *Brandywine Explosives & Supply v. Director, OWCP* [*Kennard*], 790 F.3d 657, 664 (6th Cir. 2015) (claimant's "uncontested lay testimony" regarding his dust conditions "easily supports a finding" of regular dust exposure); *Cent. Ohio Coal Co. v. Director, OWCP* [*Sterling*], 762 F.3d 483, 487-88 (6th Cir. 2014) (testimony that a surface miner's clothes were covered in dust at the end of his shift supports a finding of regular dust exposure, as it is "typical" of testimony from underground miners who "similarly complain about being exposed to dust while in the mines and having significant dust on their clothes when they return home from work"); *Bonner v. Apex Coal Corp.,* 25 BLR 1-279, 1-282-84 (2022) (credible testimony regarding a miner's appearance and the dust on his clothes when he returned home from work may be sufficient to establish the miner was regularly exposed to coal mine dust); 78 Fed. Reg. 59,102, 59,105 (Sept. 25, 2013).

Consequently, we affirm, as rational and supported by substantial evidence, the ALJ's finding that the Miner had 19.44 years of qualifying coal mine employment for the purpose of invoking the Section 411(c)(4) presumption.

Invocation of the Section 411(c)(4) Presumption - Total Disability

A miner is considered totally disabled if his pulmonary or respiratory impairment, standing alone, prevents him from performing his usual coal mine work and comparable gainful work.[7] *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on pulmonary function studies, arterial blood gas studies, evidence of pneumoconiosis and cor pulmonale with right-sided congestive heart failure, or medical opinions. 20 C.F.R. §718.204(b)(2)(i)-(iv). The ALJ must weigh all relevant supporting evidence against all relevant contrary evidence. *See Rafferty v. Jones & Laughlin Steel Corp.*, 9 BLR 1-231, 1-232 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195, 1-198 (1986), *aff'd on recon.*, 9 BLR 1-236 (1987) (en banc). The ALJ found Claimant

[7] The ALJ found the Miner's last coal mine employment job was working as a heavy equipment operator, which most often involved running a dozer. Decision and Order at 9-10. Because the Miner's job involved lifting less than twenty pounds per day and fifty to a hundred pounds occasionally, as well as climbing into his equipment multiple times per day and constantly moving to operate his equipment, the ALJ found that the Miner's job involved at least moderate manual labor. *Id.* at 10. As no party challenges this finding, we affirm it. *See Skrack*, 6 BLR at 1-711.

established total disability on the Miner's behalf based on his treatment record evidence.[8] Decision and Order at 9-16.

In determining the Miner's treatment records support a finding of total disability, the ALJ found that, while no physician specifically opined the Miner was totally disabled from a pulmonary or respiratory impairment, the records contain sufficient information from which they could reasonably infer the Miner was totally disabled from a pulmonary or respiratory impairment because there is sufficient information from which she can reasonably infer that the Miner would have been unable to do their last coal mine job, which required at least moderate manual labor. Decision and Order at 16. The ALJ further explained what she relied on in the Miner's treatment notes to arrive at her conclusion:

> Although the Miner reported they could climb two flights of stairs with ease in early 2019, during the last year of their life they complained of breathing difficulties and they were intubated because of respiratory failure. *See* EX 3 at 16; EX 5 at 85, 92, 93. The Miner's shortness of breath, wheezing, cough, acute and chronic hypoxic respiratory failure, chronic obstructive lung disease, and use of inhalers and nonstop supplemental oxygen would have prevented them from lifting less than twenty pounds regularly and fifty to a hundred pounds occasionally. Their condition would have also prevented them from climbing into their equipment and moving continuously to operate it, as required for the moderate level of exertion required of a heavy equipment operator. On these bases, I find that the treatment records weigh in favor of establishing total disability.

Id.

In weighing all the evidence together, the ALJ found the treatment records weigh in favor of establishing that the Miner was totally disabled, the PFS evidence did not, and neither the ABG evidence nor medical opinion evidence were probative. Decision and Order at 16. Weighing all the evidence together, considering the exertional requirements of the Miner's usual coal mine work as a heavy equipment operator, the ALJ found Claimant established that the Miner was totally disabled from a respiratory or pulmonary impairment prior to his death. *Id.*

[8] The ALJ accurately determined that the pulmonary function studies, arterial blood gas studies, and medical opinion evidence do not support a finding of total disability, and there is no evidence of cor pulmonale with right-sided congestive heart failure. 20 C.F.R. §718.204(b)(2)(i)-(iv); Decision and Order at 9-14.

Employer argues the ALJ applied an improper legal standard by inferring total disability from the Miner's treatment records rather than requiring Claimant to meet the burden of establishing total disability and by "cherry picking" a few annotations within the treatment records. Employer's Brief at 4-12. We disagree.

The record includes treatment records from Dr. Rice from January 2013 to December 2020, UK Healthcare from January 3, 2019 to December 5, 2019, and from King's Daughter Medical from March 30, 2015 to September 30, 2020. Employer's Exhibits 3-5. The ALJ found that the treatment records showed the Miner had shortness of breath, wheezing, cough, acute and chronic hypoxic respiratory failure, and chronic obstructive lung disease and used inhalers and nonstop supplemental oxygen that would have prevented him from performing his usual coal mine work. Decision and Order at 16.

Treatment records may support a finding of total disability if they provide sufficient information from which the ALJ can reasonably infer a miner was unable to do his last coal mine job. *See Cornett v. Benham Coal, Inc.*, 227 F.3d 569, 578 (6th Cir. 2000); *Poole v. Freeman United Coal Mining Co.*, 897 F.2d 888, 894 (7th Cir. 1990); *Scott v. Mason Coal Co.*, 60 F.3d 1138, 1142 (4th Cir. 1995). Further, the ALJ reasonably inferred that the Miner's need for continuous supplemental oxygen, which is undisputed, precludes him from performing his usual coal mine employment. *See Cornett*, 227 F.3d at 578; *see also Good Coal Co. v. Haynes*, No. 19-3142, slip op. at 3 (6th Cir., Dec. 6, 2019) (unpub.) (reasonable to conclude that physicians' reports that the miner was on oxygen and unable to leave his house implied inability to perform his usual coal mine employment).

Employer's argument amounts to a request to reweigh the evidence, which the Board is not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989). It is the ALJ's responsibility to weigh the evidence, draw inferences, and determine credibility. *Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 713-14 (6th Cir. 2002); *Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185 (6th Cir. 1989). The Board is not empowered to engage in a de novo review but rather is limited to reviewing the ALJ's decision for errors of law and determining whether the factual findings are supported by substantial evidence. *Director, OWCP v. Rowe*, 710 F.2d 251, 254-55 (6th Cir. 1983). Because it is supported by substantial evidence, we affirm the ALJ's determination that the Miner's treatment records support a finding of total disability. *Martin v. Ligon Preparation Co*., 400 F.3d 302, 305 (6th Cir. 2005) (substantial evidence is defined as relevant evidence that a reasonable mind might accept as adequate to support a conclusion). Further, we affirm the ALJ's conclusion that the evidence, when weighed together, establishes total disability. 20 C.F.R. §718.204(b)(2); *see Rafferty*, 9 BLR at 1-232; Decision and Order at 16.

Because we affirm the ALJ's findings that the Miner had more than fifteen years of qualifying coal mine employment and a totally disabling respiratory or pulmonary impairment, we also affirm her conclusions that Claimant invoked the Section 411(c)(4) presumption of disability due to pneumoconiosis and established a change in an applicable condition of entitlement. 20 C.F.R. §§718.305(b)(1), 725.309(c); Decision and Order at 16.

Rebuttal of the Section 411(c)(4) Presumption

Because Claimant invoked the Section 411(c)(4) presumption, the burden shifted to Employer to establish that the Miner had neither legal nor clinical pneumoconiosis,[9] or "no part of [his] respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] §718.201." 20 C.F.R. §718.305(d)(1)(i), (ii). The ALJ found Employer failed to establish rebuttal by either method.[10] Decision and Order at 24.

Legal Pneumoconiosis

To disprove legal pneumoconiosis, Employer must establish the Miner did not have 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), 718.305(d)(1)(i)(A); *see Minich v. Keystone Coal Mining Corp.*, 25 BLR 1-149, 1-155 n.8 (2015). The United States Court of Appeals for the Sixth Circuit, within whose jurisdiction this case arises, requires Employer to establish the Miner's "coal mine employment did not contribute, in part, to his alleged pneumoconiosis." *Island Creek Coal Co. v. Young*, 947 F.3d 399, 405 (6th Cir. 2020). "An employer may prevail under the not 'in part' standard by showing that coal dust exposure had no more than a *de minimis* impact on the

[9] "Clinical pneumoconiosis" consists of "those diseases recognized by the medical community as pneumoconiosis, *i.e*., the condition 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). "Legal pneumoconiosis" refers to "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).

[10] The ALJ found Employer disproved the existence of clinical pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i)(B); Decision and Order at 21.

miner's lung impairment." *Id.* at 407 (citing *Arch on the Green, Inc. v. Groves*, 761 F.3d 594, 600 (6th Cir. 2014)).

The ALJ considered the medical opinions of Drs. Rosenberg and Zaldivar. Decision and Order at 22-23. Dr. Rosenberg opined the Miner did not have legal pneumoconiosis but instead had a respiratory impairment related to obesity hypoventilation syndrome. Employer's Exhibit 1 at 5. He also noted the Miner had respiratory symptoms including shortness of breath, cough, and wheezing, although he did not provide an opinion regarding the cause of these symptoms. *Id.* The ALJ found Dr. Rosenberg's opinion poorly reasoned because he failed to consider whether the Miner's respiratory symptoms could be related to his coal mine employment and failed to explain how he excluded coal mine dust exposure as a contributory factor to the Miner's respiratory impairment. Decision and Order at 22.

Dr. Zaldivar opined the Miner had emphysema and hypoxemia related to smoking and chemotherapeutic drug treatment. Employer's Exhibit 2 at 9. He noted the Miner's respiratory symptoms including shortness of breath, cough, productive sputum, and wheezing, but did not discuss the cause of these symptoms nor make a diagnosis based on them. *Id.* at 2. The ALJ found Dr. Zaldivar's opinion poorly reasoned because he failed to discuss whether the Miner's respiratory symptoms could be related to his coal mine employment and failed to explain how he excluded coal mine dust exposure as a contributory factor to the Miner's emphysema and hypoxemia. Decision and Order at 23.

Employer asserts the ALJ erred in discrediting Drs. Rosenberg's and Zaldivar's opinions as inadequately explained. Employer's Brief at 12-17. It argues the Miner's generic respiratory symptoms did not constitute legal pneumoconiosis and, therefore, the ALJ erred in faulting the physicians for failing to explain why they were not related to his coal mine employment. *Id.* at 12-15. We disagree.

Contrary to Employer's contention, the Miner's disabling respiratory impairment was not based on occasional, generic, self-reported symptoms. The ALJ noted the Miner's treatment records showed acute symptoms of shortness of air, wheezing, and cough but also diagnoses of chronic respiratory failure with hypoxemia and chronic obstructive lung disease. Decision and Order at 15-16. As mentioned above, because Claimant invoked the Section 411(c)(4) presumption that the Miner's totally disabling respiratory or pulmonary impairment was due to pneumoconiosis, the burden shifted to Employer to establish he had neither legal nor clinical pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i)(A). In this context, any chronic pulmonary disease or impairment that the Miner had is presumed to have been significantly related to, and substantially aggravated by, coal mine dust exposure. Thus, the relevant question at rebuttal is whether Employer has affirmatively disproven coal mine dust exposure as a contributing or

substantially aggravating factor in the Miner's chronic pulmonary disease or impairment. *See Young*, 947 F.3d at 405, 407; *W. Va. CWP Fund v. Director, OWCP* [*Smith*], 880 F.3d 691, 699 (4th Cir. 2018); *Mingo Logan Coal Co. v. Owens*, 724 F.3d 550, 558 (4th Cir. 2013); *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 313-14 (4th Cir. 2012).

We see no error in the ALJ's consideration of Drs. Rosenberg's and Zaldivar's opinions in this regard. The ALJ acted within her discretion in discounting their opinions because they failed to consider or address whether the Miner's coal mine dust exposure contributed to his chronic pulmonary disease or impairment. *See Young*, 947 F.3d at 408. The ALJ thus rationally found their reasoning inadequate and not sufficient to rebut the presumed existence of legal pneumoconiosis. 20 C.F.R. §718.201(a)(2), (b); *see Westmoreland Coal Co. v. Stallard*, 876 F.3d 663, 671-72 n.4 (4th Cir. 2017); *Looney*, 678 F.3d at 313-14 (ALJ may accord less weight to a physician who fails to adequately explain why a miner's obstructive disease "was not due at least in part to his coal dust exposure"); Decision and Order at 23.[11]

Disability Causation

The ALJ next considered whether Employer established "no part of the [M]iner's respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] § 718.201." 20 C.F.R. §718.305(d)(1)(ii); Decision and Order at 24. He permissibly discredited the opinions of Drs. Rosenberg and Zaldivar on the issue of disability causation because they did not diagnose legal pneumoconiosis, contrary to her finding that Employer failed to disprove the disease. *See Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1074 (6th Cir. 2013); *Hobet Mining, LLC v. Epling*, 783 F.3d 498, 506 (4th Cir. 2015) (where a physician erroneously fails to diagnose pneumoconiosis, his opinion as to disability causation "is not worthy of much, if any, weight"); Decision and Order at 24. Because Employer raises no specific arguments on disability causation apart from its assertion that the ALJ erred in finding it failed to disprove the existence of legal pneumoconiosis, we affirm the ALJ's finding that Employer failed to establish no part of the Miner's total disability was caused by legal pneumoconiosis. *See Ogle*, 737 F.3d at 1074; *Skrack*, 6 BLR at 1-711; Decision and Order at 24.

[11] Because the ALJ provided a valid reason to discredit the opinions of Drs. Rosenberg and Zaldivar, we need not address Employer's remaining arguments regarding the additional reasons she gave for rejecting their opinions. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983); Employer's Brief at 12-17.

We therefore affirm the ALJ's finding that Employer failed to establish rebuttal at 20 C.F.R. §718.305(d)(1)(ii). Thus, we affirm the award of benefits in the miner's claim.

The Survivor's Claim

Because we have affirmed the award of benefits in the miner's claim and Employer raises no specific challenge to the survivor's claim, we affirm the ALJ's determination that Claimant is derivatively entitled to survivor's benefits. 30 U.S.C. §932(*l*); *see Thorne v. Eastover Mining Co.*, 25 BLR 1-121, 1-126 (2013); *Skrack*, 6 BLR at 1-711.

Accordingly, we affirm the ALJ's Decision and Order Awarding Benefits in Miner's and Survivor's Claims.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Acting Administrative Appeals Judge