

U.S. Department of Labor

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



BRB No. 25-0263 BTD

DERWOOD RATLIFF (o/b/o
BUTCHIE RATLIFF)

Claimant-Respondent

v.

CAM MINING, LLC

and

ROCKWOOD CASUALTY INSURANCE
COMPANY

Employer/Carrier-
Petitioners

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

Party-in-Interest

NOT-PUBLISHED

DATE ISSUED: 08/28/2026

DECISION and ORDER

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

Joseph E. Wolfe and Donna E. Sonner (Wolfe Williams & Austin), Norton, Virginia, for Claimant.

Denise Hall Scarberry (Baird & Baird, PSC), Pikeville, Kentucky, for Employer.

Victoria Yee (Jonathan Berry, Solicitor of Labor; Jennifer Feldman Jones, Acting Associate Solicitor; Olgamaris Fernandez, Acting Deputy Associate Solicitor; William M. Bush, Counsel for Administrative Appeals),

Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Theodore W. Annos's Decision and Order Awarding Medical Benefits (2023-BTD-00001), ordering Employer to reimburse the Black Lung Disability Trust Fund (the Trust Fund) for medical bills paid on behalf of the Miner in connection with a claim filed on June 5, 2012, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Act).

ALJ Joseph E. Kane awarded the Miner benefits in a May 29, 2019 Decision and Order Awarding Benefits, in which he found Claimant¹ invoked the Section 411(c)(4) presumption² of total disability due to pneumoconiosis and Employer failed to rebut the presumption. Director's Exhibit 3 at 12-21. Employer did not appeal the award.

On September 23, 2020, the district director requested reimbursement from Employer of \$90,752.45 in medical benefits that the Trust Fund had paid for the Miner's medical treatment expenses. Director's Exhibit 7. Employer objected to these expenses. Director's Exhibits 10-11. In response, the district director requested Dr. Petra J. Thomas review the Miner's medical treatment charges to determine if they were reasonable and necessary for the treatment of pneumoconiosis. Director's Exhibit 12.

On September 16, 2022, based on Dr. Thomas's response concerning each medical treatment charge, the district director issued a revised request for reimbursement of medical benefits, reducing the amount requested to \$90,386.50. Director's Exhibit 13. Employer

¹ The Miner died on April 16, 2016, and Derwood Ratliff, the co-administrator of the Miner's estate, pursued the miner's claim on behalf of his estate. Decision and Order at 2; Director's Exhibits 3 at 1, 4 at 6.

² Section 411(c)(4) of the Act provides a rebuttable presumption that a miner's disability is due to pneumoconiosis if he had at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory impairment. 30 U.S.C. §921(c)(4); *see* 20 C.F.R. §718.305.

again objected and requested the case be forwarded to the Office of Administrative Law Judges for a hearing. Director's Exhibit 14.

Following the hearing, ALJ Annos (the ALJ) issued his Decision and Order Awarding Medical Benefits that is the subject of this appeal. The ALJ found Claimant demonstrated the Miner's medical treatment with Pikeville Medical Center, Hometown Family Care, Marshall Emergency Services, Southeastern Emergency Services and Southeastern Emergency Physicians between May 16, 2013 to April 6, 2016, totaling \$90,386.50 in charges,³ was for respiratory ailments and symptoms, and therefore invoked the rebuttable presumption at 20 C.F.R. §725.701(e) that his pulmonary disorders were caused by, or aggravated by, his pneumoconiosis.⁴ Further, the ALJ found Employer failed to rebut the presumption with the opinions of its experts Drs. Dahhan and Broudy. The ALJ therefore found Employer responsible for reimbursing the Trust Fund for the medical expenses.

On appeal, Employer argues the ALJ erred in weighing the opinions of its experts in determining whether the medical expenses were reasonable and necessary for the treatment of pneumoconiosis. Employer additionally argues that the ALJ failed to sufficiently scrutinize the charges for the Miner's final hospitalization just prior to his death. Claimant responds, urging affirmance of the ALJ's decision. The Director, Office of Workers' Compensation Programs (the Director), also responds, urging rejection of Employer's arguments.

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'Keefe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

³ The medical treatment with these facilities consisted of four x-rays, four computed tomography scans, twenty primary care office visits, three emergency department visits, and three hospital visits and stays. Director's Exhibit 6. The office, emergency, and hospital visit and stay records consist of treatment notes and plans, including the administration of medication, therapy, and diagnostic tests. *Id.*

⁴ If a miner receives a medical service or treatment for any pulmonary disorder, "there will be a rebuttable presumption that the disorder is caused or aggravated by the miner's pneumoconiosis." 20 C.F.R. §725.701(e)(1).

⁵ The Board will apply the law of the United States Court of Appeals for the Sixth Circuit because the Miner performed his last coal mine employment in Kentucky. *See*

Because Claimant invoked the Section 725.701(e) presumption that the Miner's medical treatment was for a pulmonary disorder caused or aggravated by pneumoconiosis, the burden shifted to employer to rebut the presumption by producing "credible evidence" that the treatment provided was "for a pulmonary disorder apart from those previously associated with the miner's disability,⁶ or was beyond that necessary to effectively treat a covered disorder, or was not for a pulmonary disorder at all." 20 C.F.R. §725.701(e)(2); see 65 Fed. Reg. 79,920, 80,022 (Dec. 20, 2000). Notably, "[e]vidence that the miner does not have pneumoconiosis or is not totally disabled by pneumoconiosis . . . [is insufficient] to defeat a request for coverage of any medical service or supply under this subpart." 20 C.F.R. §725.701(e)(3). The ALJ found that Employer failed to establish rebuttal by any method.

In evaluating whether Employer established rebuttal, the ALJ considered the medical opinions of Drs. Dahhan and Broudy. Dr. Dahhan acknowledged that the Miner had chronic obstructive pulmonary disease (COPD) and opined that certain treatment was compensable, including office visits for bronchitis and COPD and treatment with prednisone. Director's Exhibit 11. He nevertheless opined that numerous other treatments were unrelated to pneumoconiosis, including hospitalizations and emergency visits for COPD exacerbations, treatment for acute bronchitis and respiratory illness, antibiotics, bronchodilators, and certain diagnostic testing. *Id.*; Employer's Exhibit 1. In doing so, he repeatedly reasoned that pneumoconiosis is a stable, nonreversible pulmonary condition that does not cause acute exacerbations or require emergency treatment and that bronchodilators used to treat reversible obstructive disease are not indicated for coal dust-induced obstructive disease. Employer's Exhibit 1 at 1-3. With respect to the Miner's final hospitalization just prior to his death at Pikeville Medical Center, Dr. Dahhan opined that the hospitalization was not caused or brought on by pneumoconiosis because the Miner had biventricular failure, pulmonary emboli, emphysema, renal failure, and thrombocytopenia. Director's Exhibit 11 at 4.

Dr. Broudy similarly opined that there is no specific treatment for coal workers' pneumoconiosis, absent advanced complicated pneumoconiosis, and that the Miner's inpatient and outpatient treatment for COPD and its exacerbations was not reasonable or

Shupe v. Director, OWCP, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 3 at 4.

⁶ With respect to this first rebuttal method, the presumption may be rebutted by establishing that "the service provided treated a condition which became manifest after the underlying adjudication of entitlement, or that it treated a preexisting pulmonary condition adjudged not to have contributed to disability." 65 Fed. Reg. 79,920, 80,022 (Dec. 20, 2000).

necessary treatment for pneumoconiosis or silicosis. Director's Exhibit 10 at 3; Employer's Exhibit 2 at 3. He specifically noted that the Miner's final hospitalization just prior to his death was for ten days in the spring of 2016 for an acute exacerbation of COPD, but nevertheless concluded that none of the treatment received was reasonable or necessary for coal workers' pneumoconiosis or silicosis. Director's Exhibit 10 at 3.

The ALJ found the opinions of Drs. Dahhan and Broudy insufficient to rebut the Section 725.701(e) presumption because both physicians repeatedly distinguished the Miner's COPD and emphysema from pneumoconiosis, notwithstanding the final determination in the Miner's underlying entitlement claim that Employer failed to disprove the Miner's COPD constituted legal pneumoconiosis.⁷ Decision and Order at 12. He specifically acknowledged that Dr. Dahhan characterized a hospital admission for emphysema and COPD exacerbation as unrelated to pneumoconiosis, while Dr. Broudy noted the Miner received treatment for COPD and its exacerbations but nevertheless opined that none of the treatment was for pneumoconiosis. *Id.* But the ALJ found the physicians' failure to recognize the Miner's COPD as constituting legal pneumoconiosis undermined the credibility of their opinions and therefore accorded them no probative weight. Because Employer submitted no other evidence sufficient to satisfy its burden, the ALJ found Employer failed to rebut the Section 725.701(e) presumption.

Employer contends the ALJ impermissibly rejected Drs. Dahhan's and Broudy's opinions in their entirety based on whether they recognized that the Miner's COPD constitutes legal pneumoconiosis rather than separately considering their opinions as to each disputed treatment. Employer's Brief at 5-9. It also argues the ALJ improperly relied on medical opinions from the Miner's underlying entitlement claim, which it asserts are irrelevant to whether the Miner's disputed medical treatment was compensable. *Id.* at 6. Further, it asserts the ALJ failed to consider that the Miner's final hospitalization at Pikeville Medical Center just prior to this death, from March 27, 2016 through April 6, 2016, was precipitated by non-pulmonary conditions, including systemic inflammatory response syndrome, congestive heart failure, and thromboembolic disease. *Id.* at 6-8.

We reject, as a mischaracterization of the ALJ's findings, Employer's assertion that the ALJ improperly relied on medical opinions from the Miner's underlying entitlement claim. Employer's Brief at 6. Contrary to Employer's assertion, the ALJ evaluated the opinions of Drs. Dahhan and Broudy rendered in this medical treatment dispute and

⁷ "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).

permissibly found them inadequately reasoned because they repeatedly considered the Miner's COPD and emphysema as being distinct from pneumoconiosis, notwithstanding ALJ Kane's final determination that Employer failed to disprove the Miner's COPD constituted legal pneumoconiosis. Decision and Order at 12; Director's Exhibits 10, 11; Employer's Exhibits 1, 2. That determination was directly relevant under Section 725.701(e)(2), which requires consideration of whether a miner's treatment was for a pulmonary disorder "apart from those previously associated with the miner's disability." Thus, the flaw the ALJ identified was not collateral to the physicians' opinions on the Miner's treatment, but went directly to the premise on which they assessed that the disputed pulmonary treatment was not for pneumoconiosis.

We additionally reject Employer's argument concerning the Miner's final hospitalization at Pikeville Medical Center from March 27, 2016 through April 6, 2016, just prior to this death. Although the Miner was admitted with several non-pulmonary diagnoses, his chief complaint was shortness of breath, and his admission diagnoses included an acute COPD exacerbation, cor pulmonale, and end-stage lung disease. His discharge diagnoses likewise included COPD exacerbation, hypoxic and hypercapnic respiratory failure, and pulmonary hypertension, and the discharge summary noted his end-stage pulmonary disease. Director's Exhibit 6 at 251-52. Thus, the presence of concurrent non-pulmonary conditions does not establish that the Miner's final hospitalization was not also for treatment of a covered pulmonary disorder. 20 C.F.R. §725.701(e)(2). Nor do the opinions of Drs. Dahhan and Broudy establish otherwise. As the ALJ found, Dr. Dahhan relied on several non-pulmonary conditions and the Miner's emphysema in concluding the Miner's final hospitalization was unrelated to pneumoconiosis, while Dr. Broudy acknowledged that the Miner was hospitalized for an acute COPD exacerbation but nevertheless opined the treatment was not for pneumoconiosis. Decision and Order at 12. The ALJ therefore permissibly found their opinions insufficient to rebut the presumption as to the Miner's final hospitalization. *See 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).

Nor does Employer identify any specific remaining disputed charge from the Miner's final hospitalization that its physicians attributed solely to a non-pulmonary condition. *See* 20 C.F.R. §725.701(e)(2); Employer's Brief at 6-8. Consequently, Employer has not demonstrated that the ALJ's failure to separately discuss each service or charge constitutes reversible error. *See Dixie Fuel Co. v. Director, OWCP [Hensley]*, 820 F.3d 833, 843 (6th Cir. 2016); *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

As Employer raises no other arguments with respect to the ALJ's decision, we affirm his determination that Employer failed to rebut the Section 725.701(e) presumption that the Miner's disputed medical treatment was for pulmonary disorders caused or aggravated by the Miner's pneumoconiosis. Decision and Order at 12. We therefore affirm

the ALJ's determination that Employer is liable to reimburse the Trust Fund for the disputed medical expenses in the amount of \$90,386.50.

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

SO ORDERED.

JONATHAN ROLFE, Acting Chief
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge