U.S. Department of Labor

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

BRB No. 25-0053 BLA

DANNY S. MOORE Claimant-Respondent v. PARAMONT COAL COMPANY VIRGINIA, LLC Employer-Petitioner DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	**NOT-PUBLISHED** DATE ISSUED: 12/09/2025 DECISION and ORDER

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

Brad A. Austin (Wolfe Williams & Austin), Norton, Virginia, for Claimant.

Kendra Prince (Penn, Stuart & Eskridge), Abingdon, Virginia, for Employer.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Theodore W. Annos's Decision and Order Awarding Benefits (2021-BLA-06058) rendered on a claim filed on November

22, 2016, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ accepted the parties' stipulation that Claimant worked for 32.7 years in qualifying coal mine employment. He found Claimant established a totally disabling respiratory or pulmonary impairment, 20 C.F.R. §718.204(b)(2), and thus invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act,[1] 30 U.S.C. §921(c)(4) (2018). Further, he found Employer did not rebut the presumption and awarded benefits.

On appeal, Employer argues the ALJ erred in finding Claimant established total disability and thus invoked the Section 411(c)(4) presumption. It also argues he erred in finding it did not rebut the presumption.[2] 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.[3] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman and Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

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

To invoke the Section 411(c)(4) presumption, a claimant must establish he has a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.305(b)(1)(iii). A miner is totally disabled if his pulmonary or respiratory impairment, standing alone,

[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) (2018); 20 C.F.R. §718.305.

[2] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant established 32.7 years of qualifying coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 3.

[3] This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit because Claimant performed his coal mine employment in Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 21-22.

prevents him from performing his usual coal mine work or comparable gainful work. *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on qualifying pulmonary function studies or arterial blood gas studies,[4] 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 Defore v. Ala. By-Products Corp.*, 12 BLR 1-27, 1-28-29 (1988); *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 established total disability based on the arterial blood gas study and medical opinion evidence, and the evidence as a whole.[5] 20 C.F.R. §718.204(b)(2)(ii), (iv); Decision and Order at 9-26. Employer contends the ALJ erred in making those determinations. Employer's Brief at 3-20 (unpaginated). We disagree.

Arterial Blood Gas Studies

The ALJ considered six arterial blood gas studies dated February 27, 2017, July 19, 2017, August 26, 2019, March 23, 2022, April 18, 2022, and May 9, 2022. 20 C.F.R. §718.204(b)(2)(ii); Decision and Order at 10-12. The February 27, 2017 and April 18, 2022 arterial blood gas studies, administered only at rest, produced qualifying results. Director's Exhibit 12 at 17-19; Claimant's Exhibit 3 at 18-21. The July 19, 2017 and May 9, 2022 studies yielded qualifying values at rest, while the exercise portions were non-qualifying. Director's Exhibit 18 at 25-27; Employer's Exhibit 6 at 18-21. The March 23, 2022 arterial blood gas study produced non-qualifying values at rest and qualifying values during exercise. Claimant's Exhibit 1 at 16-18. The August 26, 2019 study produced non-qualifying values, but the report does not indicate whether these values were obtained at rest or during exercise. Employer's Exhibit 5. The ALJ found the August 26, 2019 study unreliable and accorded greater weight to the qualifying resting blood gas studies, noting non-qualifying exercise values do not lessen the probative value of resting values since the regulations permit a disability finding based solely on resting studies and as an ALJ is not

[4] A "qualifying" pulmonary function study or blood gas study yields results equal to or less than the applicable table values in Appendices B and C of 20 C.F.R. Part 718, respectively. A "non-qualifying" study yields results exceeding those values. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

[5] The ALJ found Claimant did not establish total disability based on the pulmonary function studies, and there is no evidence of cor pulmonale with right-sided congestive heart failure. 20 C.F.R. §718.204(b)(2)(i), (iii); Decision and Order at 7-9, 12.

required to accord greater weight to blood gas study values yielded during exercise than those yielded at rest. Decision and Order at 12. Thus, he determined the weight of the arterial blood gas evidence supports a finding of total disability. *Id.*

Employer argues the ALJ erred in failing to find the non-qualifying exercise test results entitled to greater weight than the qualifying resting studies. Employer's Brief at 7 (unpaginated). We disagree.

As the fact-finder, the ALJ is granted broad discretion in evaluating the credibility of the evidence of record. *See Mabe v. Bishop Coal Co.*, 9 BLR 1-67, 1-68 (1986); *Kuchawara v. Director, OWCP*, 7 BLR 1-167 (1984). Contrary to Employer's argument, while the ALJ may give an exercise study increased weight, he is not required to do so. *See Sturnick v. Consolidation Coal Co.*, 2 BLR 1-972, 1-977 (1980) (ALJ permissibly credited resting study over exercise study). The ALJ performed a qualitative and quantitative analysis of all the arterial blood gas study values of record, both at rest and during exercise, and correctly found each of the arterial blood gas studies "contained a qualifying value either at rest or during exercise." Decision and Order at 12. He accurately noted all the studies at rest, except for the March 23, 2022 test, produced qualifying results and permissibly accorded the five studies equal weight. *See Mabe*, 9 BLR at 1-68. Further, he observed that even though the March 23, 2022 study produced non-qualifying results at rest, this study produced qualifying values during exercise. Decision and Order at 12; Claimant's Exhibit 1 at 16-18. The ALJ explained the five blood gas studies consist of a total of eight resting and exercise studies and, given that five studies are qualifying while three studies are not, permissibly found the "overall weight" of the blood gas study evidence supports a finding of total disability. *See Westmoreland Coal Co. v. Cochran*, 718 F.3d 319 (4th Cir. 2013); *Piney Mountain Coal Co. v. Mays*, 176 F.3d 753 (4th Cir. 1999) (ALJ has discretion to weigh the evidence, draw appropriate inferences, and determine credibility).

Employer's argument that the ALJ was required to accord greater weight to the non-qualifying exercise values of the May 9, 2022 study because it is the most recent study is also unpersuasive. Employer's Brief at 7 (unpaginated). "A bare appeal to 'recency' is an abdication of rational decisionmaking," and the ALJ did not rely on recency in weighing the May 9, 2022 study. *See Thorn v. Itmann Coal Co.*, 3 F.3d 713, 718 (4th Cir. 1993). Rather, he found this study reliable, alongside the other four studies, as it produced qualifying values at rest, consistent with nearly all the resting studies of record. Decision and Order at 12; Employer's Exhibit 6 at 18-21. Further, as discussed above, the ALJ permissibly declined to accord the May 9, 2022 non-qualifying exercise study greater weight than the qualifying resting studies and rationally determined the weight of the arterial blood gas evidence supports a finding of total disability. *See Mabe*, 9 BLR at 1-

68; *Sturnick*, 2 BLR at 1-977; Decision and Order at 12. Thus, we reject Employer's argument.

Employer argues the ALJ erred in finding the August 26, 2019 blood gas study contained in Claimant's treatment records unreliable. Employer's Brief at 4 (unpaginated). It asserts the ALJ should have acknowledged the August 26, 2019 study produced normal results despite the absence of an indication whether they were obtained at rest or during exercise. *Id.* We disagree.

Dr. Robinette, the physician who administered the August 26, 2019 study, provided the report and the test results. Employer's Exhibit 5. Under the findings section, he documented the values obtained as "a pCO2 of 33, and pO2 of 82." *Id.* Under the impression section, he indicated "Normal resting and exercise saturation 6-minute walk test with normal blood gas analysis." *Id.* As the ALJ correctly found, Dr. Robinette did not specify whether the test results listed were from studies at rest or during exercise. Decision and Order at 11. He therefore permissibly found the August 26, 2019 blood gas study not reliable. *See J.V.S.* [*Stowers*] *v. Arch of W. Va.*, 24 BLR 1-78, 1-92 (2010); 20 C.F.R. §718.204(b)(2)(ii); Decision and Order at 11.

As the ALJ's weighing of the evidence is rational and supported by substantial evidence, we affirm his finding the blood gas study evidence supports a finding of total disability. 20 C.F.R. §718.204(b)(2)(ii); Decision and Order at 11-12.

Medical Opinions

The ALJ determined Claimant's usual coal mine work as an electrician and repairman required "a medium to very heavy level of exertion."[6] Decision and Order at 5; Hearing Tr. at 16-18, 25-26. He then considered the medical opinions of Drs. Green, Othman, Raj, Sargent, and McSharry.

Dr. Green opined Claimant is totally disabled based on the February 27, 2017 arterial blood gas study results. Director's Exhibit 12 at 3. He noted Claimant demonstrated significant hypoxemia at rest. *Id.* Dr. Othman opined Claimant is totally disabled based on the exercise blood gas studies. Claimant's Exhibit 1 at 4. She also reviewed additional blood gas studies demonstrating Claimant is totally disabled. *Id.* Dr. Raj reviewed multiple arterial blood gas studies, including the April 19, 2022 test he administered, and opined Claimant is totally disabled based on the studies showing hypoxemia and low oxygen levels, even at rest. Claimant's Exhibit 3 at 5. Drs. Sargent

[6] As Employer does not challenge this finding, we affirm it. *See Skrack*, 6 BLR at 1-711.

and McSharry each acknowledged Claimant has moderate hypoxemia at rest, but noted the studies improved to normal after exercise and thus opined there is no evidence of total disability. Director's Exhibit 18 at 2-3; Employer's Exhibit 6 at 2.

The ALJ found the opinions of Drs. Sargent and McSharry not credible because the physicians had an inadequate understanding of the exertional requirements of Claimant's usual coal mine work and relied primarily on the non-qualifying exercise blood gas testing. Decision and Order at 25-26. He assigned "minimal weight" to the opinions of Drs. Othman and Raj as they each relied on an arterial blood gas study not contained in the record. *Id.* at 25. Further, he found Dr. Green's opinion well-reasoned and documented as it comprehensively discussed Claimant's resting and exercise blood gas studies; therefore, he gave it controlling weight. *Id.* at 25. Thus he found the medical opinion evidence supports a finding of total disability. 20 C.F.R. §718.204(b)(2)(iv); Decision and Order at 25-26.

Employer argues the ALJ erred in finding Dr. Green's opinion is better reasoned and documented because it asserts he did not review all the evidence of record but instead considered only the examination and objective evidence he administered. Employer's Brief at 9-10 (unpaginated).

An ALJ is not required to discount a physician's opinion on the basis that he did not review all the evidence of record; rather, a physician can render a reasoned and documented opinion regarding total disability based on his own examination of a miner, review of objective test results, or both. 20 C.F.R. §718.204(b)(2)(iv); *see Smith v. Kelly's Creek Res.*, 26 BLR 1-15, 1-28 (2023); *Church v. E. Assoc. Coal Corp.*, 20 BLR 1-8, 1-13 (1996); *Hess v. Clinchfield Coal Co.*, 7 BLR 1-295, 1-296 (1984); *see also Minnich v. Pagnotti Enters., Inc.*, 9 BLR 1-89, 1-90 n.1 (1986) (ALJ properly considered whether the objective data offered as documentation adequately supported the opinion).

Moreover, Dr. Green based his opinion not only on his own examination and objective tests, but also on his later review of Dr. Sargent's July 19, 2017 examination and objective tests. Director's Exhibits 12, 21. Dr. Green initially opined Claimant is totally disabled based on the qualifying February 27, 2017 arterial blood gas study at rest, emphasizing "the results were confirmed with repeat blood gas measurements." Director's Exhibit 12 at 3. He explained Claimant demonstrated significant hypoxemia at rest, and thus concluded Claimant would be unable to perform the exertional demands of his previous coal mine employment. *Id.* Upon reviewing Dr. Sargent's examination report and objective tests, Dr. Green observed the resting portion of the July 19, 2017 blood gas study produced qualifying values for total disability, similar to the results of the resting portion of the February 27, 2017 study he administered. Director's Exhibit 21 at 1. Acknowledging Claimant also performed the study during exercise, he observed the results

were "abnormal" based on Claimant's "significant and severe degree of acute hyperventilation and preservation of oxygenation." *Id.* Thus, he reiterated his opinion that Claimant would be unable to perform the duties of his last coal mine job working "in a [three] to [nine-]foot top" involving moderate to heavy labor because of the demonstrated gas exchange impairment shown on the arterial blood gas studies. *Id.* at 2.

The ALJ permissibly afforded dispositive weight to Dr. Green's opinion that Claimant's demonstrated hypoxemia would prevent him from returning to his usual coal mine employment because he found it was the only opinion to adequately discuss the blood gas studies upon which the physician relied and the only opinion to assess the relationship between Claimant's impairment and his ability to perform his last coal mine job. *See 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) (determination of whether a medical opinion is reasoned and documented requires the fact finder to examine the validity of the physician's reasoning in light of studies conducted and the objective indications upon which the opinion is based); Decision and Order at 14-15, 25. He also reasonably credited Dr. Green's finding that Claimant is totally disabled based on the qualifying resting blood gas studies as consistent with his determination that the overall weight of the blood gas study evidence supports a finding of total disability. *See Furgerson v. Jericol Mining Inc.*, 22 BLR 1-216, 1-226 (2002) (en banc); *Winters v. Director, OWCP*, 6 BLR 1-877, 1-881 n.4 (1984); Decision and Order at 12, 25. Consequently, we affirm the ALJ's determination that Dr. Green's opinion is well-reasoned and documented, and therefore entitled to "significant" weight because it is supported by the underlying objective evidence of record.[7] *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441.

Employer argues the ALJ erred in discrediting the medical opinions of Drs. Sargent and McSharry. Employer's Brief at 10-12 (unpaginated). We disagree.

Dr. Sargent reported Claimant worked in coal mine employment for more than thirty-four years and last worked as "the chief electrician for the mine" before his retirement. Director's Exhibit 18 at 4. He noted that while the position "was a supervisory role," Claimant "was occasionally required to do heavy manual labor." *Id.* Dr. McSharry

[7] Employer also argues the ALJ erred in according "minimal weight," rather than "absolutely no weight," to the opinions of Drs. Othman and Raj. Employer's Brief at 10 (unpaginated). In assigning "minimal weight" to the opinions of Drs. Othman and Raj, the ALJ's finding is tantamount to a conclusion that neither opinion can establish total disability. Decision and Order at 25. Thus, we are unable to discern, nor has Employer explained, how the error, if any, it asserts "could have made any difference." *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009); *see* Employer's Brief at 10 (unpaginated).

reported Claimant "worked his last [twenty-five] years as an electrician," which required him "to change parts on heavy equipment, change cables, repair mechanical equipment that was failing, and change shuttle car tires." Employer's Exhibit 6 at 3. Contrary to Employer's argument, the ALJ permissibly found Dr. Sargent's and Dr. McSharry's opinions are not credible because even though they acknowledged Claimant's job constituted "'heavy' labor," they did not accurately identify the "very heavy exertional requirements" the ALJ determined Claimant engaged in during his usual coal mine work. *See Lane v. Union Carbide Corp.*, 105 F.3d 166, 172 (4th Cir. 1997) (ALJ can reasonably discount a physician's opinion if the ALJ finds that the physician relied upon an inadequate understanding of the exertional requirements of a claimant's usual coal mine employment); *Eagle v. Armco Inc.*, 943 F.2d 409, 512 n.4 (4th Cir. 1991); *see also Gonzales v. Director, OWCP*, 869 F.2d 776, 779 (3d Cir. 1989); Decision and Order at 26. Further, the ALJ rationally discredited the opinions of Drs. Sargent and McSharry as contrary to his findings with respect to the arterial blood gas testing, in particular their reliance on the August 26, 2019 blood gas study he found unreliable. *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order at 25-26.

Consequently, we affirm the ALJ's determination that Claimant established total disability based on the medical opinion evidence and based on a weighing of the evidence as a whole. 20 C.F.R. §718.204(b)(2)(iv); *Rafferty*, 9 BLR at 1-232; *Shedlock*, 9 BLR at 1-198; Decision and Order at 26. Thus, we also affirm his determination that Claimant invoked the Section 411(c)(4) presumption.

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

Because Claimant invoked the Section 411(c)(4) presumption, the burden shifted to Employer to establish he has neither legal nor clinical pneumoconiosis,[8] or that "no part of [his] respiratory or pulmonary total disability was caused by pneumoconiosis as defined in

[8] "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).

[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.[9] Decision and Order at 33-44.

Legal Pneumoconiosis

To disprove legal pneumoconiosis, Employer must establish Claimant does 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).

Employer relies on the medical opinions of Drs. Sargent and McSharry that Claimant does not have legal pneumoconiosis.[10] Decision and Order at 27-30. Both physicians opined Claimant does not have a lung disease or impairment significantly related to, or substantially aggravated by, coal mine dust exposure based in part on their respective opinions that Claimant's pulmonary function testing is normal and his blood gas studies showed a marked improvement during exercise. Director's Exhibit 18 at 3; Employer's Exhibits 3; 6 at 2; 7; 8. The ALJ found Dr. Sargent's opinion internally inconsistent and Dr. McSharry's opinion speculative and equivocal. Decision and Order at 27-30. Therefore, he found their opinions not well-reasoned and inadequate to rebut the presumption of legal pneumoconiosis. *Id.* at 29.

Employer initially argues the ALJ applied an improper standard by requiring Drs. Sargent and McSharry to "rule out" coal mine dust exposure as a causative factor for Claimant's pulmonary disease. Employer's Brief at 14-15, 18 (unpaginated). The ALJ did not, however, apply a "rule out" standard. He correctly stated that when a claimant invokes the Section 411(c)(4) presumption, the burden shifts to the employer to rebut the presumption by establishing that the claimant does not have legal pneumoconiosis, which includes "any chronic pulmonary disease or respiratory or pulmonary impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment." Decision and Order at 27; *see* 20 C.F.R. §§718.201(b), 718.305(d)(1)(i);

[9] The ALJ declined to address whether Employer disproved the existence of clinical pneumoconiosis because he found Employer's failure to disprove legal pneumoconiosis precludes a rebuttal finding that Claimant does not have pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i); Decision and Order at 29-30.

[10] The ALJ correctly observed Drs. Green, Othman, and Raj diagnosed Claimant with legal pneumoconiosis and therefore their opinions do not aid Employer in rebutting the Section 411(c)(4) presumption. Decision and Order at 29; Director's Exhibits 12, 21; Claimant's Exhibits 1, 3.

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). Moreover, he discredited Drs. Sargent's and McSharry's opinions because he found them inadequately reasoned and therefore insufficient to support *their own conclusions* that coal mine dust did not contribute to or aggravate Claimant's pulmonary disease, not because they failed to meet a particular legal standard. *See Minich*, 25 BLR at 1-155 n.8; Decision and Order at 27-30.

Employer further argues the ALJ mischaracterized the opinions of Drs. Sargent and McSharry in finding them speculative and equivocal. Employer's Brief at 16-18 (unpaginated). We disagree.

Drs. Sargent and McSharry excluded coal mine dust exposure as a cause or contributing factor to Claimant's pulmonary disease. Director's Exhibit 18; Employer's Exhibits 3, 6-8. Dr. Sargent stated Claimant is not suffering from legal pneumoconiosis because his pulmonary function testing is normal and, "[e]ven though he had moderate hypoxemia at rest, his arterial PO2 improved to normal after exercise." Director's Exhibit 18 at 3. In his supplemental report, Dr. Sargent opined "[g]enerally, resting hypoxemia that is caused by parenchymal lung disease *does not improve with exercise*." Employer's Exhibit 3 at 2 (emphasis added). He further stated "individuals with asthma, with [chronic obstructive pulmonary disease], and other forms of lung disease . . . can have significant ventilation/perfusion mismatch at rest, but in general that *improves with exertion*." Employer's Exhibit 7 at 15-16 (emphasis added). Additionally, Dr. Sargent opined Claimant has "waxing and waning exercise-induced arterial desaturation" as well as "hypoxemia," but stated that he was unable to diagnose the cause of these ailments. *Id.* at 17, 21.

Similarly, Dr. McSharry opined Claimant does not have legal pneumoconiosis based on Claimant's "normal response to exercise with an increase in the oxygen level and decrease in A-a gradient." Employer's Exhibit 6 at 2. He explained the marked improvement in oxygenation suggests the low oxygen at rest "*is probably* a functional problem rather than an objective disease of the lungs." Employer's Exhibit 8 at 10 (emphasis added). When asked why the March 23, 2022 exercise blood gas study results showed a decrease rather than an increase in oxygen levels, Dr. McSharry stated "[*i*]*f I had to give a guess* for why the oxygen level has decline[d], *it may be* because of that position of the claimant during the exercise test." *Id.* at 18 (emphasis added).

As the trier-of-fact, the ALJ has broad authority to assess the credibility of the medical opinions and assign them appropriate weight. *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441. In this case, the ALJ permissibly found Drs. Sargent's and McSharry's

opinions "internally inconsistent" and equivocal based on their speculative terminology and thus unpersuasive to establish Claimant does not have legal pneumoconiosis. *See Justice v. Island Creek Coal Co.*, 11 BLR 1-91, 1-94 (1988) (ALJ may reject an equivocal medical opinion); Decision and Order at 27-29.

Because the ALJ's findings are rational and supported by substantial evidence, we affirm his discrediting the opinions of Drs. Sargent and McSharry as inadequately explained and insufficient to rebut the presumption of legal pneumoconiosis. Employer's failure to disprove legal pneumoconiosis precludes a rebuttal finding that Claimant does not have pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i).

Disability Causation

The ALJ next considered whether Employer established "no part" of Claimant'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 30-31. He discredited the disability causation opinions of Drs. Sargent and McSharry because they failed to diagnose legal pneumoconiosis, contrary to his finding that Employer failed to disprove Claimant has the disease. *See Hobet Mining, LLC v. Epling*, 783 F.3d 498, 506 (4th Cir. 2015); *Toler v. E. Associated Coal Co.*, 43 F.3d 109, 116 (4th Cir. 1995); *Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1074 (6th Cir. 2013); *Island Creek Ky. Mining v. Ramage*, 737 F.3d 1050, 1062 (6th Cir. 2013); *Soubik v. Director, OWCP*, 366 F.3d 226, 234 (3d Cir. 2004); Decision and Order at 30-31. Employer raises no specific allegations of error regarding the ALJ's findings other than its assertion that the ALJ should have credited the opinions of Drs. Sargent and McSharry as it asserts they are well reasoned.[11] Employer's Brief at 18-20 (unpaginated). We reject Employer's argument as it amounts to a request to reweigh the evidence, which we are not empowered to do, and we therefore affirm the ALJ's finding that Employer did not rebut the presumption that no part of

[11] Employer asserts the ALJ's discrediting of the disability causation opinions of Drs. Sargent and McSharry based on their failure to diagnose legal pneumoconiosis is "contrary to law and irrational." Employer's Brief at p. 19 (unpaginated). Contrary to Employer's argument, the ALJ's determination accords with prevailing legal precedent in this case arising under the Fourth Circuit's jurisdiction. *See Hobet Mining, LLC v. Epling*, 783 F.3d 498, 506 (4th Cir. 2015); *Toler v. E. Associated Coal Co.*, 43 F.3d 109, 116 (4th Cir. 1995); *see also Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1074 (6th Cir. 2013); *Island Creek Ky. Mining v. Ramage*, 737 F.3d 1050, 1062 (6th Cir. 2013); *Soubik v. Director, OWCP*, 366 F.3d 226, 234 (3d Cir. 2004).

Claimant's pulmonary total disability was caused by pneumoconiosis. *Anderson*, 12 BLR at 1-113; 20 C.F.R. §718.305(d)(1)(ii).

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
Acting Administrative Appeals Judge