U.S. Department of Labor

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

BRB No. 25-0080 BLA

RAYMOND GREYNOLDS, JR. Claimant-Respondent v. THE MARION COUNTY COAL COMPANY and MURRAY ENERGY CORPORATION TRUST Employer/Carrier-Petitioners DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	**NOT-PUBLISHED** DATE ISSUED: 12/30/2025 DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Drew A. Swank, Administrative Law Judge, United States Department of Labor.

Deanna Lyn Istik (Sinatra & Istik Law Office, PLLC), Cranberry Township, Pennsylvania, for Claimant.

Ashley M. Harman and Lucinda L. Fluharty (Jackson Kelly PLLC), Morgantown, West Virginia, for Employer.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Drew A. Swank's Decision and Order Awarding Benefits (2024-BLA-05204) rendered on a subsequent claim filed on November 2, 2022,[1] 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 thirty-six years in qualifying coal mine employment and found that Claimant established a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). Thus he found Claimant invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act,[2] 30 U.S.C. §921(c)(4) (2018), and established a change in an applicable condition of entitlement.[3] 20 C.F.R. §725.309. He further found Employer did not rebut the presumption and awarded benefits.

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[1] This is Claimant's third claim for benefits. On June 30, 2009, ALJ Daniel L. Leland denied Claimant's first claim, filed April 4, 2007, because Claimant failed to establish pneumoconiosis and total disability. Decision and Order at 2; *see* Director's Exhibits 1; 61 at 5. Claimant filed his second claim on December 3, 2019, but withdrew it. Director's Exhibits 2; 61 at 5. A withdrawn claim is considered "not to have been filed." 20 C.F.R. §725.306(b). Claimant took no further action until filing his current claim. Director's Exhibit 5.

[2] 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.

[3] 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); *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 Claimant failed to establish pneumoconiosis and total disability in his prior claim, he had to submit new evidence establishing one of these elements of entitlement to obtain review of the merits of his current claim. *Id*.

On appeal, Employer argues the ALJ erred in finding Claimant established total disability and thus invoked the Section 411(c)(4) presumption. It also contends the ALJ erred in finding it did not rebut the Section 411(c)(4) presumption.[4] 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 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, 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,[6] 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 medical

[4] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant established thirty-six years of qualifying coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4.

[5] The Board will apply the law of the United States Court of Appeals for the Fourth Circuit because Claimant performed his last coal mine employment in West Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); MC Director's Exhibit 5; Hearing Tr. at 33.

[6] 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).

opinion evidence and the evidence as a whole.[7] 20 C.F.R. §718.204(b)(2)(iv); Decision and Order at 20-28.

The ALJ considered the opinions of Drs. Celko, Sood, Go, Fino, and Spagnolo. Drs. Celko, Sood, and Go each opined Claimant is totally disabled from a pulmonary standpoint based on the moderate reduction in his diffusion capacity tests, which satisfies the criteria for Class III and Class IV impairments according to the *American Medical Association Guides to the Evaluation of Impairment* (6th Ed.). Director's Exhibits 25, 27; Claimant's Exhibits 1 at 17; 3 at 7. Dr. Fino acknowledged Claimant's diffusion capacity testing is reduced but noted his pulmonary function and blood gas studies are normal and thus opined there is no evidence of total disability. Director's Exhibit 34 at 10, 13; Employer's Exhibits 5, 8 at 20-23. Dr. Spagnolo opined Claimant's slightly reduced diffusing capacity results are not indicative of a disabling lung impairment and, given the lack of evidence of restriction or obstruction in this case, Claimant retains the ventilatory capacity to perform his usual coal mine work. Employer's Exhibits 3 at 21; 6; 7 at 18, 25-27.

The ALJ found the opinions of Drs. Celko, Sood, and Go well-documented and reasoned because their disability assessments are predicated on the American Medical Association (AMA) guidelines; thus, he accorded their opinions great weight. Decision and Order at 28. Conversely, he found the opinions of Drs. Fino and Spagnolo contradictory to the AMA guidelines and therefore worthy of diminished weight. *Id*. Thus, he concluded the medical opinion evidence supports a finding of total disability. *Id.*

Employer argues the ALJ did not adequately explain his decision to credit the opinions of Drs. Celko, Sood, and Go to support a finding of total disability. Employer's Brief at 5-14. We agree.

After summarizing the medical opinions of record, the ALJ stated:

> As stated *supra,* the point of 20 C.F.R. §718.204(b)(2)(iv) is to provide a means of establishing a total pulmonary disability in addition to, and independent from, 20 C.F.R. §718.204(b)(2)(i) through (iii). To require the provisions of 20 C.F.R. §718.204(b)(2)(iv) to be contingent on a total disability qualifying under 20 C.F.R. §718.204(b)(2)(ii) would render it superfluous. Such a reading would violate those basic tenants [sic] of

[7] The ALJ found Claimant did not establish total disability based on the pulmonary function studies or arterial blood gas 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 20-28. We affirm these findings as unchallenged. *Skrack*, 6 BLR at 1-711; Claimant's Response Brief at 11.

> statutory and regulatory interpretation. The undersigned therefore finds that for purposes of 20 C.F.R. §718.204(b)(2)(iv), relying on the AMA guidelines *could* provide a well-reasoned opinion to determine whether Claimant could perform 'his usual coal mine work or comparable and gainful employment.'

Decision and Order at 27-28 (emphasis added). Based on the foregoing analysis, he found the opinions of Drs. Celko, Sood, and Go "well-reasoned" and entitled to "great weight." *Id.* This was error.

Although the ALJ found the disability opinions of Drs. Celko, Sood, and Go are reasoned, aside from citing the physicians' reliance on the AMA guidelines, he did not adequately explain the basis for this finding. Decision and Order at 28. While relying on the AMA guidelines "could" provide a well-reasoned opinion, it does not *necessarily* result in one. Thus, he erred by failing to critically analyze the physicians' opinions, render any findings as to whether their opinions are reasoned and documented, or otherwise explain why he found their opinions credible as the Administrative Procedure Act (APA)[8] requires. *See Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 252-53 (4th Cir. 2016) (ALJ must conduct an appropriate analysis of the evidence to support his or her conclusions and render necessary credibility findings); *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998) (ALJ erred by failing to adequately explain why he credited certain evidence and discredited other evidence); *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989); *McCune v. Cent. Appalachian Coal Co.*, 6 BLR 1-996, 1-998 (1984). The ALJ's unexplained finding that the medical opinions of Drs. Celko, Sood, and Go are entitled to "great weight," absent an adequate rationale, is an insufficient basis to find Claimant satisfied his burden. *See Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 281 (1994); Decision and Order at 28.

The ALJ has a duty to resolve any conflicts in the evidence and explain his basis for doing so. *Addison*, 831 F.3d at 256-57; *Lane Hollow Coal Co. v. Director, OWCP* [*Lockhart*], 137 F.3d 799, 803 (4th Cir. 1998); *Gunderson v. U.S. Dep't of Lab.*, 601 F.3d 1013, 1024 (10th Cir. 2010); *Wojtowicz*, 12 BLR at 1-165. Because the ALJ's finding does not satisfy the explanatory requirements of the APA, we vacate his crediting of the medical opinions of Drs. Celko, Sood, and Go. Decision and Order at 27-28.

[8] The Administrative Procedure Act, 5 U.S.C. §§500-591, requires that every adjudicatory decision include a statement of "findings and conclusions and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented . . . ." 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a); *see Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989).

Because the ALJ's weighing of the medical opinions of Drs. Celko, Sood, and Go on remand may affect his credibility determinations with respect to the medical opinions of Drs. Fino and Spagnolo, we must also vacate his weighing of their opinions on the issue of total disability. *See* Decision and Order at 25-28. Thus, we vacate the ALJ's finding that the medical opinion evidence supports a finding of total disability at 20 C.F.R. §718.204(b)(2)(iv) and remand the case for further consideration of all the relevant evidence.

Thus, we vacate the ALJ's findings that Claimant established total disability based on the medical opinion evidence at 20 C.F.R. §718.204(b)(2)(iv) and the evidence as a whole. 20 C.F.R. §718.204(b)(2); *see Rafferty*, 9 BLR at 1-232. We further vacate his findings that Claimant invoked the Section 411(c)(4) presumption and established a change in an applicable condition of entitlement. 20 C.F.R. §725.309(c).

Furthermore, we decline to address, as premature, Employer's argument that the ALJ erred in finding it did not rebut the Section 411(c)(4) presumption. Employer's Brief at 14-26. Consequently, we vacate the ALJ's award of benefits and remand the case for further consideration.

Remand Instructions

On remand, the ALJ must reconsider whether the medical opinion evidence supports a finding of total disability. 20 C.F.R. §718.204(b)(2)(iv). He must resolve the conflict in the medical opinion evidence by addressing the physicians' comparative credentials, the explanations for their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their diagnoses. *See Hicks*, 138 F.3d at 533; *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997). If Claimant establishes total disability based on the medical opinion evidence, considered in isolation, the ALJ must then determine whether he has established total disability based on consideration of the evidence as a whole. *See* 20 C.F.R. §718.204(b)(2); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19, 1-21 (1987); *Shedlock*, 9 BLR at 1-198. In making his determinations, he must set forth his findings in detail and explain his rationale in accordance with the APA's requirements. *Wojtowicz*, 12 BLR at 1-165.

If Claimant satisfies his burden to establish total disability, he will establish a change in an applicable condition of entitlement, 20 C.F.R. §725.309(c), and will invoke the Section 411(c)(4) presumption. Then the ALJ would need to address whether Employer has rebutted it. 20 C.F.R. §718.305. If Claimant fails to establish total disability, an essential element of entitlement, the ALJ must deny benefits. *See Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989).

Accordingly, the ALJ's Decision and Order Awarding Benefits is affirmed in part and vacated in part, and the case is remanded for further proceedings consistent with this opinion.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge