U.S. Department of Labor

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

BRB No. 23-0216 BLA

LESLIE C. STURGILL	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
PARAMONT COAL COMPANY, VIRGINIA, LLC c/o ALPHA NATURAL RESOURCES	)	
	)	
and	)	DATE ISSUED: 02/22/2024
	)	
BRICKSTREET MUTUAL INSURANCE COMPANY	)	
	)	
Employer/Carrier-Petitioners	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

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

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

Kendra R. Prince (Penn, Stuart & Eskridge), Abingdon, Virginia, for Employer and its Carrier.

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

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Steven D. Bell's Amended Decision and Order Awarding Benefits on Remand (2018-BLA-06007)[1] rendered on a claim filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).[2] This case involves a subsequent claim filed on April 5, 2016, and is before the Benefits Review Board for the second time.[3]

In his initial Decision and Order Awarding Benefits dated July 23, 2020, the ALJ found Claimant established 28.7 years of coal mine employment, with at least fifteen years underground, and 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,[4] 20 C.F.R. §718.305, and established a change in an applicable condition of entitlement.[5] 20 C.F.R. §725.309(c). He further found Employer did not rebut the presumption and awarded benefits.

[1] The ALJ originally issued a Decision and Order Awarding Benefits on Remand on November 16, 2022, but subsequently issued an Amended Decision and Order Awarding Benefits on Remand on December 12, 2022, correcting the caption of the original Decision and Order. *See* Dec. 12, 2022 Decision and Order at 1 n.1. In all other respects, the Decision and Orders are the same.

[2] This is Claimant's third claim. The district director denied Claimant's prior claim, filed on February 15, 2005, because he failed to establish any element of entitlement. Director's Exhibit 2.

[3] We incorporate the procedural history of this case as set forth in *Sturgill v. Paramont Coal Co.*, BRB No. 20-0480 BLA (Sept. 28, 2021) (unpub.).

[4] Section 411(c)(4) of the Act 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); *see* 20 C.F.R. §718.305.

[5] 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 "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*

In response to Employer's appeal, the Board affirmed the ALJ's finding that Claimant established 28.7 years of coal mine employment with at least fifteen years underground. *Sturgill v. Paramont Coal Co.*, BRB No. 20-0480 BLA, slip op. at 2-3 n.4 (Sept. 28, 2021) (unpub.). However, the Board vacated his finding that Claimant established total disability at 20 C.F.R. §718.204(b)(2)(i) and, therefore, vacated his findings that Claimant invoked the Section 411(c)(4) presumption and established a change in an applicable condition of entitlement. *Id*. at 6-7. Thus, the Board vacated the award of benefits and remanded the case for further consideration. *Id*. at 8.

On remand, the ALJ found that Claimant established total disability. 20 C.F.R. §718.204(b)(2)(i). Thus, he found Claimant invoked the Section 411(c)(4) presumption, 20 C.F.R. §718.305, and established a change in an applicable condition of entitlement. 20 C.F.R. §725.309(c). He further 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 the ALJ erred in finding it did not rebut the presumption. Claimant responds in support of the award of benefits. The Director, Office of Workers' Compensation Programs, has not filed a response brief.

The 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.[6] 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 – 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,

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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 did not establish any element of entitlement in his prior claim, he had to submit evidence establishing at least one element to obtain review of the merits of his current claim. *Id*.

[6] 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 Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Tr. at 10.

prevents him from performing his usual coal mine work and 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,[7] 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 pulmonary function studies and the evidence as a whole. 20 C.F.R. §718.204(b)(2)(i); Decision and Order on Remand at 6-7.

Pulmonary Function Studies

In the ALJ's initial decision, he considered four pulmonary function studies dated August 30, 2016, January 18, 2017, November 6, 2018, and December 21, 2018. Decision and Order at 16. The August 30, 2016, and January 18, 2017 studies produced non-qualifying values before and after the administration of a bronchodilator, while the November 6, 2018 study produced qualifying values before and after the administration of a bronchodilator. Director's Exhibits 14 at 21-26; 16 at 11-22; Employer's Exhibits 1; 4 at 5-9. The December 21, 2018 study, contained in Claimant's treatment records, produced qualifying values without the administration of a bronchodilator. Claimant's Exhibit 1 at 6-7. The ALJ found the non-qualifying August 30, 2016 study valid and entitled to probative weight. Decision and Order at 16. He also found both the non-qualifying January 18, 2017 study and the qualifying November 6, 2018 study invalid and entitled to "little" weight. *Id.* at 16-17. Further, he found the qualifying December 21, 2018 study valid and entitled to "more weight than the previous testing" based on its recency. *Id.* at 17.

The Board affirmed the ALJ's findings that the August 30, 2016 study is valid and the January 18, 2017 and November 6, 2018 studies are invalid. *Sturgill*, BRB No. 20-0480 BLA, slip op. at 4. However, the Board vacated the ALJ's finding that the December 21, 2018 study is valid. *Id.* at 5-6. The Board instructed the ALJ to explain the weight he

[7] A "qualifying" pulmonary function study or arterial blood gas study yields results that are equal to or less than the applicable table values listed 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).

accords the opinions of Drs. Broudy and Sargent as to whether the December 21, 2018 qualifying study is sufficiently reliable to support a finding of total disability. *Id.* at 8.

On remand, the ALJ considered the technician's comment that Claimant's effort was good on the December 21, 2018 pulmonary function study, Dr. Schuldheisz's opinion on the reliability of the study, and Drs. Broudy's and Sargent's opinions on the validity of the study. Decision and Order on Remand at 5-6. He again found the qualifying December 21, 2018 pulmonary function study valid. *Id.* at 6. Further, he found the December 21, 2018 study entitled to more weight than the other studies because it is the most recent valid study.[8] *Id.* Thus, he concluded the preponderance of the pulmonary function study evidence establishes total disability at 20 C.F.R. §718.204(b)(2)(i). *Id.*

We reject Employer's argument that the ALJ erred in discrediting Dr. Broudy's opinion that the December 21, 2018 study is invalid because it is not "accompanied by three tracings." Employer's Brief at 5-8.

It is within the ALJ's discretion, as the trier of fact, to determine the weight and credibility to accord the medical evidence. *See Mabe v. Bishop Coal Co.*, 9 BLR 1-67, 1-68 (1986). When weighing the pulmonary function studies, an ALJ must determine whether they are in substantial compliance with the regulatory quality standards.[9] 20 C.F.R. §§718.101(b), 718.103(c); 20 C.F.R. Part 718, Appendix B; *see Keener v. Peerless Eagle Coal Co.*, 23 BLR 1-229, 1-237 (2007) (en banc). In the absence of evidence to the contrary, compliance with the quality standards is presumed. 20 C.F.R. §718.103(c); *see Vivian v. Director, OWCP*, 7 BLR 1-360, 1-361 (1984) (party challenging the validity of a study has the burden to establish the results are unreliable); 20 C.F.R. Part 718, Appendix B. If a study does not precisely conform to the quality standards, but is in substantial compliance, it "constitute[s] evidence of the fact for which it is proffered." 20 C.F.R. §718.101(b).

[8] The ALJ noted the December 21, 2018 pulmonary function study "was taken nearly two years after the next most recent valid [study]." Decision and Order on Remand at 6.

[9] An ALJ must consider a reviewing physician's opinion regarding a miner's effort in performing a pulmonary function study and whether the study is valid and reliable. *See Revnack v. Director, OWCP*, 7 BLR 1-771, 1-773 (1985). A physician's opinion regarding the reliability of a pulmonary function study may constitute substantial evidence for an ALJ's decision to credit or reject the results of the study. *Siegel v. Director, OWCP*, 8 BLR 1-156, 1-157 (1985).

The quality standards, however, do not apply to pulmonary function studies conducted as part of a miner's treatment and not in anticipation of litigation. 20 C.F.R. §§718.101, 718.103; *see J.V.S.* [*Stowers*] *v. Arch of West Virginia/Apogee Coal Co.*, 24 BLR 1-78, 1-92 (2008) (quality standards "apply only to evidence developed in connection with a claim for benefits" and not to testing included as part of a miner's treatment). An ALJ must still determine, however, if treatment record pulmonary function studies are sufficiently reliable to support a finding of total disability, despite the inapplicability of the specific quality standards. 65 Fed. Reg. 79,920, 79,928 (Dec. 20, 2000).

Dr. Broudy opined the December 21, 2018 pulmonary function study is "totally invalid." Employer's Exhibit 5 at 10. He noted Claimant "did only one [trial], because comments say that the test was terminated due to the patient struggling to breathe and trying to pass out."[10] *Id*. Further, he stated "one wants to get repeatability between the trials, so you need to do at least two, and . . . *the federal regulations require* at least three, with the top two being within 5% of each other." *Id*. at 11 (emphasis added).

The ALJ correctly stated, as the Board previously held, that the quality standards are not applicable to the December 21, 2018 pulmonary function study because Dr. Schuldheisz conducted the study as part of Claimant's medical treatment. *See Stowers*, 24 BLR at 1-92; *Sturgill*, BRB No. 20-0480 BLA, slip op. at 6; Decision and Order on Remand at 5; Claimant's Exhibit 1. He thus permissibly did not credit Dr. Broudy's invalidation of the December 21, 2018 study due to an insufficient number of efforts in compliance with the "federal regulations" requirements. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 528 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); Decision and Order on Remand at 6; Employer's Exhibit 5 at 10-11.

We also reject Employer's argument that the ALJ erred in failing to provide an "adequate explanation" for discrediting Dr. Sargent's validity opinion. Employer's Brief at 8-11.

Dr. Sargent opined the December 21, 2018 pulmonary function study is invalid due to poor effort. Employer's Exhibit 6. In his deposition, Dr. Sargent testified "the flow-volume loop is just flat and kind of saw-toothed," and Claimant is "just not giving a good effort." Employer's Exhibit 6 at 18-19. The ALJ noted Dr. Sargent testified that a valid pulmonary function study has the following:

[10] The technician who administered the December 21, 2018 pulmonary function study noted that while the patient had good efforts, the study was "terminated" because he was "struggling to breathe" and was "trying" to pass out. Claimant's Exhibit 1 at 6.

> [A] very high flow at the start of expiration and it tapers off in a very smooth way. And so, you look at the shape of the flow-volume loops first of all and you look for those to be pretty much the same shape with every effort or you're getting inconsistent effort.

Id. at 12. He found Dr. Sargent did not explain whether the December 21, 2018 study showed "inconsistent shapes" or "less than a very high flow at the start of expiration." Decision and Order at 5. Thus, he permissibly found Dr. Sargent "failed to adequately connect his statements about the validity of the December 21, 2018 [study] with his earlier statements about validity." *Id.*; *see Hicks*, 138 F.3d at 528; *Akers*, 131 F.3d at 441.

Further, we reject Employer's argument that the ALJ erred in substituting his opinion for that of a medical expert in crediting Dr. Schuldheisz's opinion that the December 21, 2018 pulmonary function study is valid. Employer's Brief at 11. It is the ALJ's function to weigh the evidence, draw appropriate inferences, and determine credibility. *See Underwood v. Elkay Mining, Inc.*, 105 F.3d 946, 949 (4th Cir. 1997); *Newport News Shipbuilding & Dry Dock Co. v. Tann*, 841 F.2d 540, 543 (4th Cir. 1988). Dr. Schuldheisz opined the December 21, 2018 study is sufficiently reliable to show "moderate obstruction"; however, due to the reduced FVC, she could not "rule out some component of restriction without [a] full [pulmonary function study]." Claimant's Exhibit 1 at 6. Dr. Sargent indicated Dr. Schuldheisz's opinion was referring to the absence of lung volumes.[11] Employer's Exhibit 6 at 19. The ALJ found Dr. Schuldheisz was referring to Claimant being "unable to complete the lung volume and diffusion capacity testing, as was noted by Dr. Sargent," and so found the December 21, 2018 study was "sufficiently reliable to make a finding of total disability" based on Dr. Schuldheisz's opinion. Decision and Order on Remand at 6. As the ALJ acted within his discretion in crediting Dr. Schuldheisz's opinion, we affirm the ALJ's finding that the December 21, 2018 pulmonary function study is reliable. *See Mabe*, 9 BLR at 1-68.

Because the ALJ performed the requisite "quantitative and qualitative" analysis of the pulmonary function study evidence, substantial evidence supports his decision to accord greater weight to the December 21, 2018 pulmonary function study based on its recency.[12] *See Thorn v. Itmann Coal Co.*, 3 F.3d 713, 718 (4th Cir. 1993) ("[a] bare appeal

[11] Dr. Sargent testified that "if a person has obstruction on spirometry and a decreased forced vital capacity, you still can't call that restriction without lung volumes." Employer's Exhibit 6 at 19.

[12] Because the ALJ permissibly discredited the validity opinions of Drs. Broudy and Sargent, we need not address Employer's argument that the ALJ failed to "provide an

to 'recency' is an abdication of rational decisionmaking"); *see also Mingo Logan Coal Co. v. Owens*, 724 F.3d 550, 557 (4th Cir. 2013) (explaining that substantial evidence is such relevant evidence as a reasonable mind might accept as adequate to support a conclusion). We therefore affirm the ALJ's finding that the weight of the pulmonary function study evidence supports a finding of total disability. 20 C.F.R. §718.204(b)(2)(i); Decision and Order on Remand at 6.

Medical Opinions

The ALJ considered Dr. Alam's opinion that Claimant has a totally disabling pulmonary impairment and Drs. Broudy's and Sargent's opinions that he does not. Decision and Order on Remand at 6-7; Director's Exhibits 14 at 5; 16 at 3; Employer's Exhibits 5 at 14; 6 at 21-22. He again found Dr. Alam's opinion "speculative" and thus insufficient to establish total disability. Decision and Order on Remand at 6. In addition, he again found, as the Board previously affirmed, that Dr. Broudy's opinion is inconclusive as to total disability. *Id.* He further found Dr. Sargent's opinion not well-reasoned and documented. *Id.*

We reject Employer's argument that the ALJ erred in failing to provide "adequate reasons for rejecting Dr. Sargent's opinion."[13] Employer's Brief at 14. Dr. Sargent opined Claimant does not have a disabling respiratory impairment based on his normal pulmonary function and arterial blood gas studies. Employer's Exhibit 6. He found the qualifying December 21, 2018 pulmonary function study invalid. The ALJ noted that while "Dr. Sargent based his opinion on a finding that [the December 21, 2018 pulmonary function study] established nothing," the ALJ found the study reliable. Decision and Order on Remand at 7. He also noted that while Dr. Sargent considered the requirements of Claimant's manual labor job, the doctor "failed to address the fact that Dr. Broudy noted that Claimant was unable to take a deep breath" and "was struggling to breathe." *Id.* Thus, the ALJ rationally found that Dr. Sargent's opinion does not constitute evidence contrary to the qualifying December 21, 2018 pulmonary function study. 20 C.F.R. §718.204(b)(2) (qualifying pulmonary function studies "shall establish" total disability "[i]n the absence of contrary probative evidence"); *see Shedlock*, 9 BLR at 1-198; Decision and Order on Remand at 7.

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explanation for crediting the technicians [sic] interpretation of the [pulmonary function study] evidence over Dr. Sargent's and Broudy's opinions." Employer's Brief at 11.

[13] Employer also argues the ALJ erred in relying on "Dr. Gallup's" opinion; however, there is no medical report from this doctor, and the ALJ did not reference such an opinion in his Decision and Order on Remand. Employer's Brief at 12.

Because Employer makes no further assertions of error, we therefore affirm the ALJ's conclusion that Claimant established total disability and a change in an applicable condition of entitlement, and invoked the Section 411(c)(4) presumption. 20 C.F.R. §§718.204(b)(2), 718.305(b), (c), 725.309; *Rafferty*, 9 BLR at 1-232; *White v. New White Coal Co.*, 23 BLR 1-1, 1-3 (2004); Decision and Order on Remand at 7.

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,[14] or that "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 did not establish rebuttal by either method.[15] Decision and Order at 8-12.

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).

The ALJ considered the opinions of Drs. Broudy and Sargent that Claimant does not have legal pneumoconiosis.[16] Decision and Order on Remand at 10-12; Director's

[14] "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 that is 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).

[15] The ALJ found Employer disproved the existence of clinical pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i)(B); Decision and Order on Remand at 9-10.

[16] The ALJ also considered Dr. Alam's opinion that Claimant has legal pneumoconiosis. Decision and Order on Remand at 12; Director's Exhibit 14 at 5, 29-30, 33. Because Dr. Alam's opinion does not aid Employer in rebutting the Section 411(c)(4) presumption, we decline to address Employer's arguments regarding the ALJ's weighing

Exhibit 16 at 3; Employer's Exhibits 3 at 1; 5 at 13; 6 at 21. The ALJ found their opinions not well-reasoned and documented, and thus insufficient to rebut the presumption of legal pneumoconiosis. Decision and Order on Remand at 11-12.

We initially reject Employer's argument that the ALJ applied the wrong standard when addressing rebuttal of legal pneumoconiosis. Employer's Brief at 15-21. Contrary to Employer's argument, the ALJ applied the correct standard by requiring Employer to affirmatively disprove the existence of legal pneumoconiosis by a preponderance of the evidence. 20 C.F.R. §§718.201(a)(2), (b), 718.305(d)(1)(i); *see Minich*, 25 BLR at 1-155 n.8; Decision and Order on Remand at 7-8, 12. Moreover, as discussed below, he discredited Drs. Broudy's and Sargent's opinions because they failed to adequately explain their conclusions that any lung disease or impairment Claimant has is unrelated to coal mine dust exposure -- not because they failed to meet a particular legal standard. Decision and Order on Remand at 11-12.

We also reject Employer's argument that the ALJ provided invalid reasons for finding the opinions of Drs. Broudy and Sargent not credible. Employer's Brief at 17-20.

Dr. Broudy opined Claimant does not have a chronic lung disease related to coal mine dust exposure. Employer's Exhibit 5 at 13. He stated it is "unusual" for coal mine dust exposure to cause a disabling "obstructive" or "restrictive" pulmonary impairment in the absence of positive chest x-rays. Employer's Exhibit 5 at 14. The ALJ permissibly found Dr. Broudy's opinion inconsistent with the regulations that recognize legal pneumoconiosis can exist in the absence of a positive x-ray for clinical pneumoconiosis. 20 C.F.R. §§718.201, 718.202(a)(4), 718.202(b); *see Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 313 (4th Cir. 2012) (the regulations "separate clinical and legal pneumoconiosis into two different diagnoses" and "provide that no claim for benefits shall be denied solely on the basis of a negative chest x-ray") (internal quotations omitted); Decision and Order on Remand at 11-12.

Further, Dr. Sargent initially opined Claimant does not have legal pneumoconiosis because his pulmonary function and arterial blood gas studies were normal. Director's Exhibit 16 at 3. In his supplemental report, Dr. Sargent opined Claimant has a history of chronic bronchitis that "may or may not be associated with any pulmonary impairment." Employer's Exhibit 3 at 1. At his deposition, Dr. Sargent testified Claimant does not have any lung diseases and concluded Claimant does not have legal pneumoconiosis. Employer's Exhibit 6 at 21. The ALJ permissibly found Dr. Sargent "failed to adequately

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of the doctor's opinion. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Employer's Brief at 21-22.

explain why Claimant's chronic bronchitis could not have been contributed to or aggravated by coal mine dust exposure regardless of whether he was totally disabled." Decision and Order on Remand at 11; *see Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-155 (1989). Further, the ALJ noted Dr. Sargent opined "the [pulmonary function studies] overall were inconsistent with a disease caused by coal dust exposure based on a finding that they were normal despite poor effort." Decision and Order on Remand at 11. He permissibly found Dr. Sargent's opinion not well-reasoned because it is contrary to his finding that Claimant is totally disabled based on the valid and qualifying December 21, 2018 pulmonary function study.

Employer's arguments on legal pneumoconiosis are a request to reweigh the evidence, which we are not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989). Because the ALJ acted within his discretion in rejecting the opinions of Drs. Broudy and Sargent,[17] the only medical opinions supportive of Employer's burden on rebuttal, we affirm his finding that Employer did not disprove the existence of legal pneumoconiosis. 20 C.F.R. §§718.201(a)(2), (b), 718.305(d)(1)(i)(A); Decision and Order on Remand at 11-12. 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." *See* 20 C.F.R. §718.305(d)(1)(ii); Decision and Order at 12. He discredited Drs. Broudy's and Sargent's disability causation opinions because they did not diagnose legal pneumoconiosis, contrary to his finding that Employer did not disprove the existence of the disease. *See Hobet Mining, LLC v. Epling*, 783 F.3d 498, 504-05 (4th Cir. 2015); Decision and Order on Remand at 13. As Employer does not specifically identify any error in the ALJ's credibility finding, we affirm it. *See Cox v. Benefits Review Board*, 791 F.2d 445, 446-47 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Skrack*, 6 BLR at 1-711; *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983). Consequently, we affirm the ALJ's finding that Employer failed to establish no part of

[17] Because the ALJ provided valid reasons for discrediting the opinions of Drs. Broudy and Sargent, we need not address Employer's additional arguments regarding the weight he assigned to their opinions. *Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983); Employer's Brief at 17-21.

Claimant's total respiratory disability is due to legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(ii); *see Minich*, 25 BLR at 154-56; Decision and Order on Remand at 13.

We therefore affirm the ALJ's finding that Employer did not rebut the Section 411(c)(4) presumption and the award of benefits.

Accordingly, the ALJ's Decision and Order Awarding Benefits on Remand is affirmed.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge