

U.S. Department of Labor

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



BRB Nos. 25-0104 BLA
and 25-0106 BLA

BARBARA YOUNCE)
(Widow of and o/b/o RALPH YOUNCE))

Claimant-Petitioner)

v.)

CLINCHFIELD COAL COMPANY)

Employer-Respondent)

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

Party-in-Interest)

NOT-PUBLISHED

DATE ISSUED: 02/26/2026

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits on Remand of Jodeen
M. Hobbs, Administrative Law Judge, United States Department of Labor.

Barbara Younce, Coeburn, Virginia.

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

PER CURIAM:

Claimant¹ appeals, without representation,² Administrative Law Judge (ALJ) Jodeen M. Hobbs's Decision and Order Denying Benefits on Remand (2020-BLA-05101 and 2021-BLA-05386) rendered on claims filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §901-944 (2018) (Act). The case involves a miner's claim filed on June 14, 2018, and a survivor's claim filed on December 7, 2020,³ and is before the Board for the second time.

In her initial Decision and Order Denying Benefits in Miner's Claim and Denying Benefits in Survivor's Claim, the ALJ accepted the parties' stipulation that the Miner had 14.27 years of underground coal mine employment and found the evidence insufficient to establish the Miner had a totally disabling respiratory or pulmonary impairment at the time of his death. 20 C.F.R. §718.204(b)(2). She therefore found Claimant could not invoke the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4) (2018).⁴ Further, because Claimant did not establish the Miner had a total respiratory or pulmonary disability, the ALJ found she could not establish entitlement to benefits under 20 C.F.R. Part 718 and denied benefits in the miner's claim.

¹ Claimant is the widow of the Miner, who died on November 13, 2020. Hearing Transcript at 25. She is pursuing both the miner's claim on his behalf along with her own survivor's claim. Survivor's Claim (SC) Director's Exhibits 4, 5. The Benefits Review Board consolidated the appeals of the miner's and survivor's claims for purposes of decision only. *Younce v. Clinchfield Coal Co.*, BRB Nos. 25-0104 BLA and 25-0106 BLA (Dec. 31, 2024) (Order) (unpub.).

² On Claimant's behalf, Robin Napier, a benefits counselor with Stone Mountain Health Services of St. Charles, Virginia, requested that the Board review the ALJ's decision, but she does not represent Claimant on appeal. *See Shelton v. Claude V. Keene Trucking Co.*, 19 BLR 1-88 (1995) (Order).

³ The record indicates that the Miner had filed one prior claim that is not a part of the record because the Federal Records Center destroyed it pursuant to a retention schedule. Director's Exhibit 1. Thus, the ALJ treated the Miner's current claim as his initial claim. Decision and Order at 2 n.1. We incorporate the remainder of the procedural history of this case as set forth in *Younce v. Clinchfield Coal Co.*, BRB Nos. 23-0159 BLA and 23-0222 BLA (Apr. 5, 2024) (unpub.).

⁴ Section 411(c)(4) of the Act provides a rebuttable presumption that 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); *see* 20 C.F.R. §718.305.

With respect to the survivor's claim, the ALJ found Claimant did not establish that the Miner had pneumoconiosis and thus could not establish the Miner's death was due to the disease. 20 C.F.R. §§718.202, 718.205(b). Thus, the ALJ also denied benefits in the survivor's claim.⁵

Pursuant to Claimant's appeal, the Board affirmed the ALJ's finding that the Miner had 14.27 years of coal mine employment and that Claimant therefore could not invoke the Section 411(c)(4) presumption. *Younce v. Clinchfield Coal Co.*, BRB Nos. 23-0159 BLA and 23-0222 BLA, slip op. at 3 n.4 (Apr. 5, 2024) (unpub.). However, the Board held the ALJ erred in finding the medical opinion evidence does not support a finding of total disability, holding she erred in weighing the opinions of Drs. Ajjarapu and McSharry. *Id.* at 5-7. Consequently, the Board vacated the denial of benefits and remanded the case for further consideration of the evidence.⁶ *Id.* at 7.

On remand, the ALJ again found Claimant did not establish the Miner had a totally disabling respiratory or pulmonary impairment at the time of his death. 20 C.F.R. §718.204(b)(2). Consequently, she denied benefits in the miner's claim. Because the Miner was not entitled to benefits at the time of his death, Claimant was not automatically entitled to survivor's benefits under Section 422(l) of the Act. 30 U.S.C. §932(l) (2018).⁷ The ALJ therefore denied benefits in the survivor's claim.

On appeal, Claimant generally challenges the denial of benefits. Neither Employer nor the Director, Office of Workers' Compensation Programs, filed a substantive response.

In an appeal filed without representation, the Board considers whether substantial evidence supports the Decision and Order below. *Hodges v. BethEnergy Mines, Inc.*,

⁵ Section 422(l) of the Act provides 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).

⁶ The Board further affirmed the ALJ's finding that Claimant is unable to invoke the irrebuttable presumption of total disability due to complicated pneumoconiosis at Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3), and declined to address, as premature, the ALJ's finding that Claimant did not establish the Miner's death was due to pneumoconiosis. *Younce*, BRB Nos. 23-0159 BLA and 23-0222 BLA, slip op. at 3 n.6, 8; *see* 20 C.F.R. §§718.205(b), 718.304.

⁷ The ALJ did not revisit her findings from her initial Decision and Order that Claimant did not establish that the Miner's death was due to pneumoconiosis.

18 BLR 1-84, 1-86 (1994). We must affirm the ALJ's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with applicable law.⁸ 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359, 361-62 (1965).

Miner's Claim: Entitlement to Benefits under 20 C.F.R. Part 718

To be entitled to benefits under the Act, Claimant must establish disease (pneumoconiosis); disease causation (it arose out of coal mine employment); disability (a totally disabling respiratory or pulmonary impairment); and disability causation (pneumoconiosis substantially contributed to the disability). 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes an award of benefits. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1, 1-2 (1986) (en banc).

Total Disability

A miner was totally disabled if his pulmonary or respiratory impairment, standing alone, prevented him from performing his usual coal mine work and comparable gainful work.⁹ 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,¹⁰ 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*

⁸ The Board will apply the law of the United States Court of Appeals for the Fourth Circuit because the Miner performed his last coal mine employment in Virginia. See *Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 29; Miner's Claim (MC) Director's Exhibit 4.

⁹ We affirm, as supported by substantial evidence, the ALJ's determination that the Miner's usual coal mine work as a general inside laborer required moderate to heavy exertion. Decision and Order at 4; Decision and Order on Remand at 3; MC Director's Exhibits 12 at 7; 18 at 6; see *Compton v. Island Creek Coal Co.*, 211 F.3d 203, 207-08 (4th Cir. 2000); *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 528 (4th Cir. 1998).

¹⁰ A "qualifying" pulmonary function study or arterial blood gas study yields results 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).

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 that Claimant failed to establish the Miner was totally disabled by any method.¹¹ Decision and Order on Remand at 2 n.1, 7.

The ALJ considered the medical opinions of Drs. Ajjarapu and McSharry. Decision and Order on Remand at 3-7. Dr. Ajjarapu opined the Miner had a totally disabling pulmonary impairment and could not perform his usual coal mine work based on the results of the pulse oximetry test and resting blood gas study she conducted. Director's Exhibit 12 at 7. Dr. McSharry conceded the Miner was totally disabled but attributed his disability to a cardiac impairment and opined there was no evidence to support the existence of any respiratory or pulmonary impairment. Director's Exhibit 18 at 4-5; Employer's Exhibit 6 at 28-29.

The ALJ found Drs. Ajjarapu and McSharry equally qualified and determined their opinions were reasoned and documented. Decision and Order on Remand at 3, 6. While she indicated both physicians' opinions contain "some inconsistencies," she did not find those inconsistencies sufficient to reduce the weight given to either. *Id.* at 4-6. She determined there was no reason to prefer one opinion over the other and concluded they are equally balanced. *Id.* at 7. Thus, because Claimant bears the burden to establish a totally disabling respiratory or pulmonary impairment, the ALJ found the preponderance of the opinion evidence did not support a finding of total disability at 20 C.F.R. §718.204(b)(2)(iv). *Id.* We cannot affirm the ALJ's findings.

Drs. Ajjarapu's and McSharry's opinions are fundamentally incompatible, as Dr. Ajjarapu diagnosed a totally disabling pulmonary impairment while Dr. McSharry opined the Miner had no respiratory or pulmonary impairment at all. Director's Exhibits 12 at 7; 18 at 4-5; Employer's Exhibit 6 at 28-29. The ALJ's finding that Drs. Ajjarapu's and McSharry's discordant opinions are entitled to equal weight and her apparent reliance on a head count of opinions are an insufficient basis to find Claimant failed to meet her burden to establish total disability. Decision and Order on Remand at 6-7. The ALJ has a duty to analyze and resolve any conflicts in the evidence, render necessary credibility findings, and explain her basis for doing so. *Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 252-53, 255-57 (4th Cir. 2016); *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989). While

¹¹ The ALJ accurately determined the record contains no pulmonary function studies or evidence of cor pulmonale with right-sided congestive heart failure, and that none of the arterial blood gas studies produced qualifying values. Decision and Order at 6-7; Decision and Order on Remand at 2 n.1. Thus, we affirm her finding that Claimant failed to establish total disability at 20 C.F.R. §718.204(b)(2)(i)-(iii).

a claimant fails to meet her burden of proof when the evidence is equally balanced, *see Director, OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267, 279-81 (1994), the ALJ must nevertheless explain her rationale for reaching that conclusion. *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) (“Merely stating that the evidence is ‘evenly balanced, and should receive equal weight,’ without further explanation, is not sufficient.”) (citations omitted); *Wojtowicz*, 12 BLR at 1-165.

The ALJ further failed to adequately address the inconsistencies in Dr. McSharry’s opinion. Dr. McSharry conceded the Miner was totally disabled but opined he had no respiratory or pulmonary impairment. MC Director’s Exhibit 18 at 4-5; Employer’s Exhibit 6 at 28-29. Dr. McSharry acknowledged the Miner had hypoxemia, however, which he attributed to atelectasis, a pulmonary condition. MC Director’s Exhibit 18 at 2; *see Dorland’s Illustrated Medical Dictionary* 171-72 (32d ed. 2012). He likewise opined the Miner’s mitral valve disease could have caused an increase in fluid in the lungs with exertion that could have lowered the Miner’s oxygen levels. Employer’s Exhibit 6 at 19-20. While Dr. McSharry may attribute the etiology of these impairments to nonpulmonary causes, the existence of a totally disabling impairment is a separate inquiry from the cause of that impairment. *Johnson v. Apogee Coal Co.*, 26 BLR 1-1, 1-11 (2023), *appeal docketed*, No. 23-3612 (6th Cir. July 25, 2023). The ALJ thus did not adequately explain her conclusion that Dr. McSharry’s opinion is “sufficiently clear” that he was not conflating the two inquiries and “believed that despite the hypoxemia and wheezing that [the] Miner did not suffer from a totally disabling respiratory impairment.” *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1997); Decision and Order on Remand at 6-7. She likewise did not adequately explain why Dr. McSharry’s opinion, that the Miner’s pulmonary condition would not have prevented him from performing the heavy exertional requirements of his last coal mining job, was reasoned when he noted the Miner could not perform an adequate exercise test and was “extremely short of breath” after ambulating for two minutes.¹² Decision and Order on Remand at 5-6; Director’s Exhibit

¹² On July 2, 2019, Dr. McSharry indicated that he did not conduct exercise testing because of the Miner’s aortic aneurysm. Director’s Exhibit 18 at 8. However, on January 5, 2022, he explained that:

based on looking at [the Miner], I felt that he was not going to be able to provide an adequate formal exercise test on a treadmill. If a test isn’t going to last even a minute or two, it’s hard to obtain an arterial blood gas study that has any meaning in that case. So rather than put him through that testing,

18 at 6-7, 10; Employer's Exhibit 6 at 17-18, 26, 28; *see McMath v. Director, OWCP*, 12 BLR 1-6, 1-10 (1988) (ALJ may infer disability by considering together the doctor's description of the miner's condition and the exertional requirements of the miner's usual coal mine employment).

Because the ALJ's evaluation of the medical opinion evidence does not satisfy the explanatory requirements of the Administrative Procedure Act (APA),¹³ 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a), we vacate her weighing of Drs. Ajjarapu's and McSharry's opinions. Thus, we vacate the ALJ's determination that Claimant did not establish total disability at 20 C.F.R. §718.204(b)(2)(iv) or in consideration of the evidence as a whole. 20 C.F.R. §718.204(b). Decision and Order on Remand at 7. We therefore vacate the denial of benefits in the miner's claim. 20 C.F.R. §718.204(b)(2).

Remand Instructions for the Miner's Claim

On remand, the ALJ must reconsider whether the medical opinion evidence establishes total disability. 20 C.F.R. §718.204(b)(2)(iv). In rendering her credibility findings, she must analyze the inconsistencies in the opinions, the explanations for each physician's conclusions, and the documentation underlying their medical judgments. *Hicks*, 138 F.3d at 533; *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997). In doing so, she should also consider whether the Miner was totally disabled by comparing any physical limitations credibly diagnosed in the physicians' opinions or treatment records to the exertional requirements of the Miner's last coal mine work. *See Cornett v. Benham Coal, Inc.*, 227 F.3d 569, 578 (6th Cir. 2000) (even a mild impairment can be disabling depending on the exertional requirements of the Miner's usual coal mine employment); *McMath*, 12 BLR at 1-10. The ALJ must critically analyze the medical opinions, explain her credibility determinations, set forth her findings, and detail her underlying rationale in accordance with the APA. 5 U.S.C. §557(c)(3)(A); *see Wojtowicz*, 12 BLR at 1-165.

I opted to have him ambulate in the office, or in the pulmonary function lab, for as long as he could, which was about two minutes.

Employer's Exhibit 6 at 17-18.

¹³ The Administrative Procedure Act provides every adjudicatory decision must include "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).

If Claimant establishes total disability based on the medical opinion evidence at 20 C.F.R. §718.204(b)(2)(iv), the ALJ must further determine whether the Miner was totally disabled based upon consideration of the evidence as a whole. 20 C.F.R. §718.204(b)(2); *Shedlock*, 9 BLR at 1-198. If Claimant establishes total disability, the ALJ must then address the remaining elements of entitlement. However, if Claimant is unable to establish total disability, benefits are precluded in the miner's claim. 20 C.F.R. Part 718; *Anderson*, 12 BLR at 1-112; *Trent*, 11 BLR at 1-27.

Survivor's Claim

Having vacated the ALJ's denial of benefits in the miner's claim, we also vacate her denial of benefits in the survivor's claim as Claimant's entitlement to derivative survivor's benefits under Section 422(l) of the Act remains to be determined. 30 U.S.C. §932(l); 20 C.F.R. §725.212(a). We likewise continue to decline to address, as premature, the ALJ's finding that Claimant did not establish the Miner's death was due to pneumoconiosis at 20 C.F.R. §718.205(b).

Accordingly, we affirm in part and vacate in part the ALJ's Decision and Order Denying Benefits on Remand, and we remand this case to the ALJ for further consideration consistent with this opinion.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

GLENN E. ULMER
Acting Administrative Appeals Judge