



BRB No. 21-0060 BLA

PEGGY S. DUTTON)	
(Widow of HAROLD D. DUTTON))	
)	
Claimant-Respondent)	
)	
v.)	
)	
CLINCHFIELD COAL COMPANY)	
)	DATE ISSUED: 01/24/2022
Employer-Petitioner)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	DECISION and ORDER

Appeal of the Decision and Order on Remand Awarding Benefits of Francine L. Applewhite, Administrative Law Judge, United States Department of Labor.

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

Before: BUZZARD, ROLFE, and JONES, Administrative Appeals Judges.

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Francine L. Applewhite's Decision and Order on Remand Awarding Benefits (2013-BLA-05248) rendered on a claim filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944

(2018) (Act). This case involves a survivor’s claim filed on December 29, 2011,¹ and is before the Benefits Review Board for the second time.

In a January 12, 2017 Decision and Order, ALJ Morris D. Davis credited the Miner with at least thirty-six years of coal mine employment. He found the evidence insufficient to establish complicated pneumoconiosis and thus determined that Claimant could not invoke the irrebuttable presumption of death due to pneumoconiosis at Section 411(c)(3) of the Act. 30 U.S.C. §921(c)(3) (2018). Because he also found the Miner was not totally disabled, Claimant could not invoke the rebuttable presumption of death due to pneumoconiosis at Section 411(c)(4).² 30 U.S.C. §921(c)(4) (2018). Considering Claimant’s entitlement under 20 C.F.R. Part 718, ALJ Davis accepted the parties’ stipulation that the Miner had simple, clinical pneumoconiosis³ but found she did not establish the Miner’s death was due to pneumoconiosis and denied benefits. 20 C.F.R. §718.205.

Claimant appealed, without the assistance of counsel, and the Board affirmed ALJ Davis’s findings that the Miner had simple clinical pneumoconiosis arising out of his coal mine employment but was not totally disabled. The Board vacated his finding that Claimant did not invoke the irrebuttable presumption because he did not adequately explain why the autopsy evidence was insufficient to establish that the Miner had massive lesions.⁴

¹ Claimant is the widow of the miner, who died on November 1, 2011. Director’s Exhibit 8. There is no evidence in the record that the Miner filed a claim for benefits. Therefore, Section 422(l) of the Act, 30 U.S.C. §932(l) (2018), which provides that a 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, is not applicable in this case. 30 U.S.C. §932(l).

² Under Section 411(c)(4) of the Act, Claimant is entitled to a rebuttable presumption that the Miner’s death was 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 at the time of his death. 30 U.S.C. §921(c)(4) (2018); 20 C.F.R. §718.305(b).

³ ALJ Davis did not address whether the Miner had legal pneumoconiosis.

⁴ The Board held ALJ Davis did not adequately explain his finding that “the irregularly shaped lesion Dr. Dennis and Dr. Hudgens believed to be progressive massive fibrosis was not a lesion greater than one centimeter in diameter or large enough to constitute a massive lesion,” pursuant to 20 C.F.R. §718.304(b). *Dutton v. Clinchfield*

Dutton v. Clinchfield Coal Co., BRB No. 17-0231 BLA, slip op. at 8-10 (Feb. 28, 2018) (unpub.). The Board also vacated the ALJ's discrediting of Dr. Dennis's opinion as to the cause of the Miner's death. *Id.* at 13. Thus, the Board remanded the case for further consideration of whether Claimant established complicated pneumoconiosis pursuant to 20 C.F.R. §718.304(b); or in the alternative, whether Claimant established that the Miner's death was due to either clinical or legal pneumoconiosis pursuant to 20 C.F.R. §718.205(b). *Id.* at 14.

On remand, the case was reassigned to ALJ Applewhite (the ALJ). She found Claimant established complicated pneumoconiosis and that it arose from the Miner's coal mine employment. 20 C.F.R. §§718.203, 718.304. Thus, the ALJ found that Claimant invoked the irrebuttable presumption that the Miner's death was due to pneumoconiosis, and awarded benefits. 30 U.S.C. §921(c)(3).

Employer appeals, asserting the ALJ erred in finding the Miner had complicated pneumoconiosis. Neither Claimant nor the Director, Office of Workers' Compensation Programs, has filed a response brief.

The Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order on Remand if it is rational, supported by substantial evidence, and in accordance with applicable law.⁵ 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Assoc., Inc.*, 380 U.S. 359 (1965).

Section 411(c)(3) Presumption – Complicated Pneumoconiosis

Section 411(c)(3) of the Act provides an irrebuttable presumption that the Miner's death was due to pneumoconiosis if he suffered from a chronic dust disease of the lung which: (a) when diagnosed by x-ray, yields one or more large opacities greater than one centimeter in diameter that would be classified as Category A, B, or C; (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung; or (c) when diagnosed by other means, is a condition that would yield results equivalent to (a) or (b). 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304.

Coal Co., BRB No. 17-0231 BLA, slip op. at 10 (Feb. 28, 2018) (unpub.); 2017 Decision and Order at 15-16.

⁵ This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit, as the Miner performed his coal mine employment in Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 4; Hearing Transcript at 22.

The United States Court of Appeals for the Fourth Circuit has held, “[b]ecause prong (A) sets out an entirely objective scientific standard’ - i.e., an opacity on an x-ray greater than one centimeter - x-ray evidence provides the benchmark for determining what under prong (B) is a ‘massive lesion’ and what under prong (C) is an equivalent diagnostic result reached by other means.” *E. Assoc. Coal Corp. v. Director [Scarbro]*, 220 F.3d 250, 256 (4th Cir. 2000), quoting *Double B Mining, Inc. v. Blankenship*, 177 F.3d 240, 243 (4th Cir. 1999). Claimant bears the burden of proof to establish the existence of complicated pneumoconiosis. See *Director, OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267, 281 (1994). In determining whether Claimant has invoked the irrebuttable presumption, the ALJ must weigh all evidence relevant to the presence or absence of complicated pneumoconiosis. See *Westmoreland Coal Co. v. Cox*, 602 F.3d 276, 283 (4th Cir. 2010); *Scarbro*, 220 F.3d at 255-56; *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33-34 (1991) (en banc).

Pursuant to 20 C.F.R. §718.304(b),⁶ the ALJ considered the autopsy reports of Drs. Dennis, Hudgens, Harley, Bush, and Caffrey. Decision and Order on Remand at 2-7. She also considered Dr. Hippensteel’s medical report as other evidence at 20 C.F.R. §718.304(c).

Dr. Dennis, who at the time was Board-certified in anatomical and clinical pathology, performed the autopsy on the miner’s lungs on November 2, 2011, and prepared ten slides labeled A through J. Director’s Exhibit 10. In his January 30, 2012 report, Dr. Dennis noted that gross examination of the Miner’s right lung showed moderate to severe emphysema and “a nodular presentation of macular development” with “prominent” black pigment deposition. *Id.* at 1 (unpaginated). He did not give measurements for any macules identified in the right lung. *Id.* His gross examination findings of the left lung also included emphysema and “macular development measuring greater than 1 cm” with fibrosis and moderate black pigment deposition. *Id.* at 1-2 (unpaginated). On microscopic examination, Dr. Dennis noted: “Sections show emphysema moderate diffuse with panlobular and acinar changes as well. Macular development measuring greater than 1.5 cm x 0.3 cm thickness is appreciated.” *Id.* at 2 (unpaginated). On Slide F, which was taken from tissue in the left lung, he described a large macule measuring greater than 1.5 cm x 0.3 cm thickness.” *Id.* The final diagnoses were “progressive massive fibrosis with emphysema, macular development measuring greater than 1.5 cm, fibrosis and pulmonary congestion.” *Id.* at 3 (unpaginated).

⁶ The parties did not designate any x-ray interpretations. X-ray interpretations in the Miner’s hospitalization and treatment records do not mention the presence or absence of pneumoconiosis. 2017 Decision and Order at 3 n.4; Director’s Exhibits 9, 11.

Dr. Bush who is Board-certified in anatomic and clinical pathology, reviewed the Miner's autopsy slides, death certificate,⁷ and Dr. Dennis's autopsy report. Employer's Exhibit 2 at 1. He identified macules and micronodules measuring up to 0.5 centimeters sparsely scattered in the lung parenchyma. *Id.* He also noted an area of fibrosis extending along the pleura for 1 centimeter on slide F. *Id.* at 2. Dr. Bush opined the Miner had a mild to moderate degree of simple coal workers' pneumoconiosis. *Id.* at 1. Dr. Bush disagreed with Dr. Dennis's diagnosis of progressive massive fibrosis, explaining that "[p]rogressive massive fibrosis refers to coal worker[s'] pneumoconiosis lesions which attain the size of greater than 1.0 cm in diameter, rather than 1.0 cm in greatest dimension as apparently described [by Dr. Dennis]." *Id.* at 2. He further noted "none" of the typical features of progressive massive fibrosis were present in Dr. Dennis's report.⁸ *Id.* at 2-3.

Dr. Caffrey, who is Board-certified in anatomic and clinical pathology, reviewed the Miner's autopsy slides, death certificate, medical records, and the autopsy reports of Drs. Dennis and Hudgens. In his initial July 16, 2012 report, Dr. Caffrey opined that the Miner's lungs showed acute passive congestion and pulmonary edema, moderate centrilobular emphysema, simple coal workers' pneumoconiosis with micronodules and macronodules, and focal acute bronchiolitis. Director's Exhibit 12. In a supplemental report dated December 20, 2012, and during a September 8, 2015 deposition, Dr. Caffrey reiterated the Miner had simple, but not complicated, coal workers' pneumoconiosis. Employer's Exhibits 1, 4. Dr. Caffrey explained that, on slide F, he did not find a lesion measuring 1.0 centimeter or greater as Dr. Dennis reported but saw two lesions – an 8 x 3 millimeter macronodule and a 4 millimeter micronodule that were "in close proximity but . . . not contiguous." Employer's Exhibit 1 at 2. According to Dr. Caffrey, in order "[f]or

⁷ Dr. Kumar signed the death certificate, which lists the immediate cause of death as cardio-respiratory arrest due to prostatic adenocarcinoma and chronic obstructive pulmonary disease. Director's Exhibit 8.

⁸ Dr. Bush stated:

The 1979 *Archives of Pathology and Laboratory Medicine* further describes progressive massive fibrosis as consisting of lesions which are solid, **heavily pigmented**, rubbery to hard and occurring most commonly in the apical posterior sections of the lungs. Progressive massive fibrosis lesions frequently cross and obliterate lobar and lesser fissures. **The remainder of the lungs, in cases of progressive massive fibrosis is almost invariably heavily pigmented.** None of these features of progressive massive fibrosis i[s] described in [Dr. Dennis's] post-mortem lung examination report.

Employer's Exhibit 2 at 2-3 (emphasis added).

a lesion of complicated or progressive massive fibrosis to be identified there must be one discrete individual lesion which measures 1.0 cm or greater on the pathology slides.” *Id.* Noting that “none” of the lesions he observed “approached 1.0 centimeter in size,” Dr. Caffrey concluded the Miner did not have complicated pneumoconiosis or progressive massive fibrosis. *Id.*

Dr. Hudgens, whose credentials the ALJ noted were not of record, reviewed the autopsy slides, death certificate, medical records, and Drs. Dennis’s and Caffrey’s reports. Decision and Order on Remand at 4 n.2; Claimant’s Exhibit 2. Dr. Hudgens identified “numerous anthracotic macules and anthrosilicotic nodules surrounding focal emphysema.” Claimant’s Exhibit 2 at 2. He opined the Miner had coal workers’ pneumoconiosis with progressive massive fibrosis “based on the largest nodule measuring 1.5 cm” at its largest dimension on slide F. *Id.* He also noted the Miner suffered from centrilobular emphysema and moderate congestion. *Id.*

Dr. Harley, who is a Board-certified pathologist and professor emeritus of pathology at the Medical University of South Carolina, reviewed the Miner’s autopsy slides and Dr. Hudgens’s report. Claimant’s Exhibit 1. In his February 10, 2015 report, Dr. Harley noted that “[c]onfluent subpleural nodules of one cm or more are seen in several slides. Such a lesion in slide F is 1.5 by 0.5.” *Id.* at 3. He diagnosed coal workers’ pneumoconiosis “with micro- and macro nodule formation, emphysema, and small airways disease.” *Id.* Dr. Harley stated that “[t]his is not the worst example of [coal workers’ pneumoconiosis] but is nevertheless significant.” *Id.*

Dr. Hippensteel, who is Board certified in Internal Medicine with subspecialties in Pulmonary Disease and Critical Care, reviewed the Miner’s medical records, death certificate, and pathology reports. Employer’s Exhibit 3 at 1-6. He diagnosed simple coal workers’ pneumoconiosis. *Id.* During his subsequent deposition, he reiterated the Miner had simple coal workers’ pneumoconiosis and agreed with Dr. Caffrey that two lesions in close proximity cannot be measured together as a single lesion for establishing complicated pneumoconiosis, unless they have coalesced. Employer’s Exhibit 5 at 6-7.

The ALJ found that the preponderant evidence showed the Miner had progressive massive fibrosis due to multiple lesions in his lungs that measured one centimeter or more. Decision and Order on Remand at 6. She specifically found the opinions of Drs. Dennis and Hudgens well-documented and entitled to controlling weight. *Id.* at 5-6. She found Drs. Harley, Bush, and Caffrey did not sufficiently explain why Claimant does not have progressive massive fibrosis and assigned their opinions little weight. *Id.* at 6. She gave no weight to Dr. Hippensteel’s opinion because he did not personally review the Miner’s autopsy slides. *Id.* Thus, the ALJ found Claimant established complicated pneumoconiosis and invoked the irrebuttable presumption that the Miner’s death was due to pneumoconiosis. *Id.*; see 20 C.F.R. §718.304.

Employer asserts the ALJ erred in finding that Claimant invoked the irrebuttable presumption because there is no equivalency statement in the record from any physician to establish that the macules seen on the autopsy slides would appear as greater than one centimeter *in diameter* on an x-ray. Employer’s Brief at 3-6, *citing Blankenship*, 177 F.3d at 243. Contrary to Employer’s contention, the Fourth Circuit has recognized that a diagnosis of massive lesions, standing alone, can satisfy the “statutory ground” for invocation of the irrebuttable presumption. *Perry v. Mynu Coals, Inc.*, 469 F.3d 360, 365 (4th Cir. 2006) (diagnosis of a “massive” opacity “becomes a proxy for the tissue mass characteristic of complicated pneumoconiosis” and satisfies “another statutory ground for application of the presumption”) (emphasis added). Moreover, a diagnosis of progressive massive fibrosis has been held to be equivalent to a diagnosis of “massive lesions” under 20 C.F.R. §718.304(b). *See Usery v. Turner Elkhorn Mining Co.*, 428 U.S. 1, 7 (1976) (“Complicated pneumoconiosis . . . involves progressive massive fibrosis as a complex reaction to dust and other factors”); *Lisa Lee Mines v. Director, OWCP [Rutter]*, 86 F.3d 1358, 1359 (4th Cir. 1996) (complicated pneumoconiosis is known “by its more dauntingly descriptive name, ‘progressive massive fibrosis.’”). Thus, if credible, Dr. Dennis’s opinion describing progressive massive fibrosis may support a finding of complicated pneumoconiosis on autopsy without a specific equivalency statement.

Employer also contends, however, that Dr. Dennis’s opinion is not adequately reasoned because he did not cite any “scientific standards” for diagnosing progressive fibrosis. Employer’s Exhibit 5. But Employer’s own expert, Dr. Caffrey, specifically explained the applicable scientific standard: a diagnosis of progressive fibrosis is warranted if the Miner had a discrete macule of pneumoconiosis measuring at least one centimeter in diameter. Employer’s Exhibit 1 at 2. Dr. Dennis diagnosed progressive massive fibrosis based on at least one lesion that was “*greater than 1 cm diameter*” on gross examination, and “*greater than 1.5 cm,*” on microscopic examination. Director’s Exhibit 10 (emphasis added). Dr. Hudgens also opined that slide F’s largest nodule is 1.5 centimeters in its largest dimension. Claimant’s Exhibit 2. Similarly, Dr. Harley identified a discrete lesion measuring 1.5 centimeters x 0.5 centimeters, consistent with Dr. Dennis’s opinion. Claimant’s Exhibit 1.

We see no error in the ALJ’s reliance on Dr. Dennis’s opinion as credible to support a finding of progressive massive fibrosis since he conducted the autopsy which included a gross and microscopic examination of the Miner’s lungs, described his findings in detail, and identified a large nodule of pneumoconiosis in the Miner’s lungs that was greater than 1.5 centimeters against a background of simple pneumoconiosis, prominent pigment deposition, congestion, and emphysema.⁹ Decision and Order on Remand at 5; *see Island*

⁹ We reject Employer’s assertion that the ALJ could not give weight to Dr. Hudgens’s opinion because his qualifications are not of record. Employer’s Brief at 5. The

Creek Coal Co. v. Compton, 211 F.3d 203, 211 (4th Cir. 2000); *Gruller v. BethEnergy Mines, Inc.*, 16 BLR 13, 1-5 (1991) (diagnosis of complicated pneumoconiosis with lesion “up to 1.0 cm in diameter” sufficient to establish presence of “massive lesion”) ¹⁰

Employer also generally contends the ALJ failed to explain his rejection of Drs. Bush’s, Caffrey’s, and Hippensteel’s opinions. Employer’s Brief at 6-7. We disagree. The ALJ permissibly discredited Dr. Bush’s opinion because he did not adequately explain why he disagreed with Dr. Dennis’s measurement of the lesion on slide F.¹¹ Decision and Order on Remand at 6. Moreover, Dr. Bush stated that “none of the features of progressive massive fibrosis” appeared in Dr. Dennis’s report, including “heavy pigmentation” of the lungs. Employer’s Exhibit 2 at 2-3. But, as the ALJ correctly noted, Dr. Bush failed to address Dr. Dennis’s description of “prominent” black pigment deposition in the right lung and black pigment deposition in the left lung and explain why those findings were not consistent with progressive massive fibrosis. *Id.* at 5-6. Because the ALJ acted within her discretion in finding Dr. Bush’s opinion unpersuasive, we affirm her determination to accord it little weight. *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).

ALJ permissibly found Dr. Hudgens’s opinion credible as it is corroborated by Dr. Dennis’s reasoned opinion. *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).

¹⁰ Employer also asserts a finding of complicated pneumoconiosis is precluded because the macules on autopsy do not exceed one centimeter *in diameter*. Employer alleges the term diameter “clearly connotes a roughly circular or rounded shape” and none of the physicians described a macule that measures one centimeter in all directions, as opposed to one dimension. Employer’s Brief at 6 n.2. But the Fourth Circuit explained that the “definition [of massive lesions] must be applied so that the term ‘massive lesions’ will describe the same condition that would be disclosed by application of the prong (A) standard based on the size of x-ray opacities.” *E. Assoc. Coal Corp. v. Director [Scarbro]*, 220 F.3d 250, 259 (4th Cir. 2000). The ILO classification form used for the interpretation of x-rays defines Category A opacities as those “[h]aving a greatest diameter exceeding about 10 mm” Form CM-933 (emphasis added). Thus, the ILO form considers a Category A large opacity as one exceeding one centimeter in at least one direction. *Id.*

¹¹ Dr. Bush misstates that Dr. Dennis found a “1.5 x 3.0 cm” lesion when Dr. Dennis described a smaller “1.5 cm x 0.3 cm” lesion. Employer’s Brief 2 at 8; Director’s Exhibit 10 at 1-2. It is unclear whether Dr. Bush disagrees with the 1.5 centimeter measurement or his mistaken view that Dr. Dennis identified a 3.0 centimeter measurement.

Regarding Dr. Caffrey's opinion, the ALJ noted correctly that he was the only doctor to review the autopsy slides and identify two non-contiguous lesions, each measuring less than one centimeter, on slide F. Because Dr. Caffrey's opinion is inconsistent with the preponderance of the other pathologists who saw one discrete lesion on slide F, we see no error in the ALJ's finding that Dr. Caffrey's opinion is not persuasive. *See Snorton v. Zeigler Coal Co.*, 9 BLR 1-106, 1-107 (1986) (an ALJ may reasonably question validity of a physician's opinion that varies significantly from the remaining medical opinions of record); *see Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441; Decision and Order on Remand at 6.

The ALJ correctly noted that despite identifying a 1.5 centimeter nodule, Dr. Harley summarily stated that a diagnosis of progressive massive fibrosis did "not appear justified in this case." Decision and Order on Remand at 6. Because Dr. Harley provided no rationale for this statement, we affirm the ALJ's finding that his opinion is not reasoned. *Id.*; *see Compton*, 211 F.3d at 207-208; *Hicks*, 138 F.3d at 528-33. We also see no error in the ALJ's finding that Dr. Hippensteel's opinion lacks credibility because he did not personally review the Miner's autopsy slides and excluded a diagnosis of progressive massive fibrosis based on Dr. Caffrey's description of two lesions on slide F, which the ALJ rejected. *See Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441.

As the trier-of-fact, the ALJ has discretion to assess the credibility of the medical opinions based on the experts' explanations for their diagnoses and assign those opinions appropriate weight. *See Westmoreland Coal Co. v. Cochran*, 718 F.3d 319, 324 (4th Cir. 2013). Employer's arguments are a request that the Board reweigh the evidence, which we are not empowered to do. *Anderson v. Valley Camp Coal of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989).

The ALJ considered all the evidence and explained her findings as the Administrative Procedure Act (APA) requires.¹² *See* 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a). We therefore affirm her conclusion that Claimant established complicated pneumoconiosis based on the biopsy and pathology opinion evidence, and in consideration of the evidence as a whole. *Harman Mining Co. v. Director, OWCP [Looney]*, 678 F.3d 305, 316-17 (4th Cir. 2012) (if a reviewing court can discern what the ALJ did and why she did it, the duty of explanation under the APA is satisfied); *Piney Mountain Coal Co. v. Mays*, 176 F.3d 753, 762 n.10 (4th Cir. 1999); 20

¹² The APA provides that 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).

C.F.R. §718.304; Decision and Order on Remand at 6-7. Thus, we affirm the ALJ's conclusion that Claimant invoked the irrebuttable presumption that the Miner's death was due to pneumoconiosis at 20 C.F.R. §718.304, and established entitlement to survivor's benefits.¹³

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

SO ORDERED.

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge

¹³ We further affirm, as unchallenged on appeal, the ALJ's conclusion that the Miner's complicated pneumoconiosis arose out of his coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order on Remand at 7-8.