



BRB No. 23-0029 BLA

DARLENE H. HUGHES (o/b/o BILLY RAY )  
HUGHES) )

Claimant-Respondent )

v. )

ISLAND CREEK COAL COMPANY )

and )

Self-insured through CONSOL ENERGY, c/o )  
HEALTHSMART CCS )

Employer/Carrier- )  
Petitioners )

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

Party-in-Interest )

DATE ISSUED: 01/24/2024

DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits on Modification of  
John P. Sellers, III, Administrative Law Judge, United States Department of  
Labor.

Evan B. Smith (AppalReD Legal Aid), Prestonsburg, Kentucky, for  
Claimant.

William S. Mattingly (Jackson Kelly PLLC), Lexington, Kentucky, for  
Employer.

Eirik Cheverud (Seema Nanda, Solicitor of Labor; Barry H. Joyner, Associate Solicitor; Andrea J. Appel, Counsel for Administrative Appeals), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) John P. Sellers, III's Decision and Order Awarding Benefits on Modification (2020-BLA-05556) 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 request for modification of a denied claim filed on March 16, 2012.<sup>1</sup>

In a November 17, 2016 Decision and Order Denying Benefits, ALJ Paul C. Johnson, Jr. credited the Miner with 10.21 years of coal mine employment and thus found he 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).<sup>2</sup> He further concluded the Miner did not establish he had complicated pneumoconiosis, and thus could not invoke the irrebuttable presumption that his total disability was due to pneumoconiosis at Section 411(c)(3) of the Act. 30 U.S.C. §921(c)(3). Considering entitlement under 20 C.F.R. Part 718, ALJ Johnson found the Miner did not establish pneumoconiosis or a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §§718.202(a), 718.204(b). Thus he denied benefits.

The Miner timely requested modification. Director's Exhibit 11. In his September 23, 2022 Decision and Order Awarding Benefits on Modification that is the subject of this appeal, ALJ Sellers (the ALJ) found the Miner established a mistake in a determination of fact by establishing complicated pneumoconiosis. 20 C.F.R. §§718.304, 725.310.

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<sup>1</sup> Claimant is the widow of the Miner, who died on March 13, 2023, while this appeal was pending before the Benefits Review Board. Claimant's Notice of Death and Motion to Substitute and Add Party April 4, 2023. She is pursuing his claim on his behalf. *Id.*

<sup>2</sup> 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); 20 C.F.R. §718.305.

Therefore, he determined the Miner invoked the irrebuttable presumption of total disability due to pneumoconiosis pursuant to Section 411(c)(3). Further, the ALJ found the Miner's complicated pneumoconiosis arose out of his coal mine employment. 20 C.F.R. §718.203(b). Concluding that granting modification would render justice under the Act, the ALJ awarded benefits commencing in April 2014.

On appeal, Employer asserts the ALJ erred in finding complicated pneumoconiosis. It further contends he erred in finding that granting modification would render justice under the Act. Finally it argues the ALJ erred in determining the commencement date for benefits.<sup>3</sup> Claimant responds in support of the award. The Director, Office of Workers' Compensation Programs (the Director), filed a limited response and urges the Board to reject Employer's "oblique" argument that Island Creek Coal Co. is not the responsible operator.

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.<sup>4</sup> 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

### **Complicated Pneumoconiosis**

Section 411(c)(3) of the Act provides an irrebuttable presumption that a miner was totally disabled due to pneumoconiosis if he suffered from a chronic dust disease of the lungs which: (a) when diagnosed by x-ray, yields one or more 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, would be a condition that could reasonably be expected to yield a result equivalent to (a) or (b). 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. In determining whether a claimant has invoked the irrebuttable presumption, the ALJ must weigh all evidence relevant to the presence or absence of complicated pneumoconiosis. *See Gray v. SLC Coal Co.*, 176 F.3d

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<sup>3</sup> We affirm, as unchallenged on appeal, the finding that Claimant established 10.21 years of coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 9.

<sup>4</sup> The Board will apply the law of the United States Court of Appeals for the Sixth Circuit because the Miner performed his last coal mine employment in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 39; Director's Exhibit 1 at 627 (internally Director's Exhibit 3).

382, 388-89 (6th Cir. 1999); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33 (1991) (en banc).

The ALJ found the x-rays are negative for complicated pneumoconiosis. 20 C.F.R. §718.304(a); Decision and Order at 13-14. He found the computed tomography (CT) scans, however, support a finding of complicated pneumoconiosis. 20 C.F.R. §718.304(c); Decision and Order at 14-19. He further found Dr. Zaldivar's medical opinion excluding complicated pneumoconiosis, the only medical opinion addressing this issue, is neither reasoned nor documented and therefore is entitled to no weight. 20 C.F.R. §718.304(c); Decision and Order at 19. Weighing all the evidence together, he found the CT scan evidence outweighs the contrary evidence. 20 C.F.R. §718.304; Decision and Order at 20.

Employer contends the ALJ erred in weighing conflicting CT scan readings from Drs. Crum and Seaman. Employer's Brief at 11-12. We disagree.

### **Dr. Crum**

Dr. Crum read an April 9, 2014 CT scan as revealing a 1.1 centimeter large opacity which he stated "raises the question of complicated black lung disease" in light of the background of smaller nodules consistent with pneumoconiosis and the Miner's work history. Director's Exhibit 12. He stated the opacity should be compared to prior examinations and further evaluated. *Id.* Dr. Crum then read an October 13, 2015 CT scan and again identified the 1.1 centimeter nodule in the left upper lung; he again stated the nodule "raise[s] the question" of complicated pneumoconiosis because it has been "stable in size" since prior CT scans. Director's Exhibit 13. He also opined the mass does not appear to be granuloma. *Id.* On February 7, 2017, Dr. Crum issued a report stating that, given the "stability" of the left lung mass from the April 9, 2014 CT scan to the October 13, 2015 CT scan, it is "felt [the mass is] most representative of complicated black lung disease within a reasonable degree of medical certainty." Director's Exhibit 14.

Next, interpreting an August 27, 2017 CT scan, Dr. Crum again identified a 1.1 centimeter mass in the left lung and stated it is "felt [to be] consistent with a large opacity seen with complicated black lung category A." Claimant's Exhibit 2. He explained the mass has been stable in size since 2014 and 2015 and there has been "no significant calcification." *Id.* He further cited the background of small opacities and the Miner's work history. *Id.*

Thereafter, Dr. Crum read a January 10, 2020 CT scan and explained his basis for diagnosing the 1.1 centimeter mass in the left lung as consistent with complicated pneumoconiosis. Claimant's Exhibit 1. He stated the "absence of calcifications argue[s] strongly against any granulomatous disease especially the absence of calcifications through

many years.”<sup>5</sup> *Id.* In addition, he stated the “stability of the abnormality also strongly argues against pulmonary abnormalities such as cancer or an infectious process or autoimmune abnormalities such as sarcoidosis.” *Id.* He again cited the Miner’s work history and background of small opacities of pneumoconiosis as a basis for diagnosing “a large opacity associated with complicated black lung disease or progressive massive fibrosis category A.” *Id.*

Finally, Dr. Crum read Dr. Seaman’s CT scan readings along with November 2, 2020 and December 3, 2021 CT scans.<sup>6</sup> Claimant’s Exhibit 4. He questioned the quality of these CT scans but nonetheless reiterated that the Miner has a greater than one centimeter mass in the left lung “consistent with complicated pneumoconiosis category A.” *Id.*

### **Dr. Seaman**

Dr. Seaman read December 8, 2014, April 9, 2014, and October 13, 2015 CT scans as revealing “no large opacities of coal workers’ pneumoconiosis.” Employer’s Exhibits 1-3. She identified a “discrete [eight-millimeter] nodule in the left upper lobe.” *Id.* She reiterated her conclusion after reading January 10, 2020, November 2, 2020, and December 3, 2021 CT scans. Employer’s Exhibit 5. She stated each CT scan revealed “no centrilobular or perilymphatic nodules to suggest coal workers’ pneumoconiosis.” *Id.*

In resolving the conflicting CT scan evidence, the ALJ found Dr. Crum’s readings are reasoned and documented, whereas Dr. Seaman’s readings are inadequately explained. Decision and Order at 18-19. He also found Dr. Crum’s readings are better supported by

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<sup>5</sup> Dr. Crum specifically stated there “is no evidence of a large or significant central calcification to suggest granulomatous disease.” Claimant’s Exhibit 1. He explained there “is no definitive evidence of calcifications noted within the spleen or the adrenal glands” and “no [evidence of] calcifications identified within the small opacities noted throughout the lung fields.” *Id.*

<sup>6</sup> Dr. Crum explained the November 2, 2020 CT scan is “suboptimal in quality,” as “the large opacity is not as well demonstrated especially the margins.” Claimant’s Exhibit 4 at 1. He stated, however, that “even given poor quality the large opacity is noted and measures just over [one centimeter] in size on image 26 and is also faintly identified on image 25 and measures just over [one centimeter] in size.” *Id.* In addition, he stated the December 3, 2021 CT scan “has significant motion artifact which degrades image quality and should not be evaluated for black lung disease or should be interpreted for accurate measurements on either small or large opacities.” *Id.*

the Miner's treatment records. *Id.* Finally, based on his review of their respective curriculum vitae, he found Dr. Crum is more qualified than Dr. Seaman. *Id.*

Employer argues the ALJ erred in finding the Miner's treatment records better support Dr. Crum's readings. Employer's Brief at 11-12. We disagree.

The ALJ has discretion to weigh the medical evidence and draw his own inferences therefrom. *Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1072-77 (6th Cir. 2013); *Cumberland River Coal Co. v. Banks*, 690 F.3d 477, 482-83 (6th Cir. 2012); *Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 712 (6th Cir. 2002). The Board is not empowered to reweigh the evidence or substitute its inferences for those of the ALJ. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989).

The ALJ recognized the Miner underwent several CT scans in the course of his treatment at various medical facilities. Decision and Order at 16. Dr. Hall of Highlands Regional Medical Center read the April 9, 2014 CT scan as revealing a non-calcified "nodule in the apical posterior segment of the left lung measuring" eleven by seven by six millimeters. Director's Exhibit 1 at 310-11. Dr. Van Wyk of King's Daughters Medical Center read the December 8, 2014 CT scan as evidencing an irregular pulmonary nodule in the left lung measuring 1.1 x 0.9 centimeters. *Id.* at 305-06. Dr. Wells of Pikeville Medical Center read a January 5, 2015 CT scan as consistent with a left lung non-calcified nodule measuring ten millimeters in greatest diameter with no "hypermetabolism . . . association with the nodule." *Id.* at 301-02. Finally, Dr. Sexton of St. Joseph Martin Hospital read the October 13, 2015 CT scan as evidencing a one centimeter left upper lobe non-calcified pulmonary nodule. *Id.* at 297-98.

The ALJ found the treatment records establish the mass in the Miner's left lung measures at least one centimeter and up to 1.3 centimeters in its greatest dimension. Decision and Order at 18. He permissibly concluded these measurements buttress Dr. Crum's readings because the doctor measured the mass as 1.1 centimeters on the CT scans he read, and they undermine Dr. Seaman's readings because she only measured the mass as being no more than eight millimeters in diameter on the scans she read.<sup>7</sup> *Napier*, 301 F.3d at 712; *Tennessee Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185 (6th Cir. 1989); Decision and Order at 18-19. The ALJ also permissibly found the treatment records

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<sup>7</sup> Employer argues the treatment records include CT scan readings "showing changes less than a centimeter in size," thus buttressing Dr. Seaman's readings. Employer's Brief at 11. It does not identify any treatment record CT scan in which the radiologist identified the left lung mass as less than one centimeter. Therefore we reject this argument.

support Dr. Crum's opinion that the mass is non-calcified, as Drs. Hall, Wells, and Sexton indicated the same, thus strengthening Dr. Crum's opinion that the mass is unrelated to granulomatous disease based on the absence of calcifications. *Id.* Finally, the ALJ permissibly found the absence of any diagnosis of "cancer, infection, or autoimmune disease" in the treatment records supports Dr. Crum's opinion that the mass is not related to those conditions. Decision and Order at 19; *see Napier*, 301 F.3d at 712; *Crisp*, 866 F.2d at 185. Thus we affirm, as supported by substantial evidence, the ALJ's finding that the treatment records support Dr. Crum's CT scan readings and undermine Dr. Seaman's readings.<sup>8</sup> Decision and Order at 18-19.

Employer also argues the ALJ should have found Dr. Crum's CT scan readings equivocal because he initially expressed uncertainty as to whether the Miner had complicated pneumoconiosis on the 2014 and 2015 scans. Employer's Brief at 11-12. We disagree.

As discussed above, Dr. Crum initially read the 2014 and 2015 CT scans, indicated the mass in the Miner's left lung "raises the question" that he could have complicated pneumoconiosis, and recommended the Miner undergo further evaluation. Director's Exhibits 12, 13. On February 7, 2017, he clarified that the "stability" of the left lung mass from 2014 to 2015 indicates the mass is "most representative of complicated black lung disease within a reasonable degree of medical certainty." Director's Exhibit 14. Thereafter, the Miner underwent additional CT scan testing in 2017 and 2020; Dr. Crum stated these CT scans revealed the mass was stable in size and non-calcified. Claimant's Exhibits 1, 2. He ultimately concluded the mass is consistent with complicated pneumoconiosis, as Employer concedes. *Id.*; Employer's Brief at 11 (noting Dr. Crum "seemed more certain in the interpretation of the 2017 and 2020 CT scans").

Thus, substantial evidence supports the ALJ's finding that Dr. Crum's CT scan readings support a finding of complicated pneumoconiosis. *Island Creek Coal Co. v. Holdman*, 202 F.3d 873, 882 (6th Cir. 2000); *Piney Mountain Coal Co. v. Mays*, 176 F.3d 753, 763 (4th Cir. 1999) (opinion that pneumoconiosis "could be" a complicating factor in

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<sup>8</sup> Employer argues the ALJ should have found the treatment records undermine a finding of complicated pneumoconiosis because no doctor read them as consistent with the disease. Employer's Brief at 11-12. We disagree. An ALJ has discretion to determine the weight to accord diagnostic testing that is silent on the existence of pneumoconiosis. *Marra v. Consolidation Coal Co.*, 7 BLR 1-216, 1-218-19 (1984). The ALJ permissibly found the treatment records do not undermine a finding of complicated pneumoconiosis because they contain no discussion of whether the Miner had the disease. *Id.*; Decision and Order at 20.

miner's death was not equivocal); *Perry v. Mynu Coals, Inc.*, 469 F.3d 360, 366 (4th Cir. 2006) (“refusal to express a diagnosis in categorical terms is candor, not equivocation”); Decision and Order at 18-19. The ALJ permissibly found Dr. Crum's CT scan readings are reasoned and documented based on the doctor's explanation that the stability in size of the mass, the absence of calcifications, the background of small opacities of pneumoconiosis, and the Miner's work history all support a diagnosis of complicated pneumoconiosis. See *Napier*, 301 F.3d at 712; *Crisp*, 866 F.2d at 185; Decision and Order at 18-19. Thus we affirm his finding that Dr. Crum's readings are credible.

In addition, Employer does not specifically challenge the ALJ's finding that Dr. Seaman's CT scan readings are not credible because she set forth “no explanation for how [she] reached [her] conclusion[s] and provided no alternate etiology for the nodule” in the Miner's left lung. Decision and Order at 19. Thus we affirm this finding. 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); *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983).

As substantial evidence supports it, we affirm the ALJ's finding that Dr. Crum's positive CT scan readings outweigh Dr. Seaman's negative readings, and the CT scan evidence supports complicated pneumoconiosis.<sup>9</sup> 20 C.F.R. §718.304(c); Decision and Order at 18-19.

Further, Employer does not challenge the ALJ's finding that the CT scan evidence outweighs the contrary x-ray and medical opinion evidence. Decision and Order at 20. Thus we affirm this finding. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983). We therefore affirm his conclusion that Claimant invoked the irrebuttable presumption of total disability due to pneumoconiosis and thereby established a mistake in a determination of fact. 20 C.F.R. §§718.304, 725.310. We also affirm the ALJ's unchallenged finding that the Miner's complicated pneumoconiosis arose out of his coal mine employment. 20 C.F.R. §718.203(b); see *Skrack*, 6 BLR at 1-711; Decision and Order at 20.

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<sup>9</sup> We have affirmed the ALJ's findings that Dr. Crum's CT scan readings are reasoned and documented and better supported by the Miner's treatment records and that Dr. Seaman's CT scan readings are not credible. Decision and Order at 18-19. Thus we need not address Employer's argument that the ALJ erred in finding Dr. Crum is more qualified than Dr. Seaman as any error in reaching that finding is harmless. *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Employer's Brief at 6-11.



## Justice Under the Act

Employer argues the ALJ erred in finding that granting modification would render justice under the Act. Employer's Brief at 13-15.

In considering a request for modification, the ALJ must determine whether granting it will render justice under the Act. *Westmoreland Coal Co. v. Sharpe [Sharpe II]*, 692 F.3d 317, 327-28 (4th Cir. 2012). In making that determination, the ALJ must consider several factors, including the need for accuracy, the quality of the new evidence, the moving party's diligence and motive, and whether a favorable ruling would still be futile. *Sharpe v. Dir., OWCP [Sharpe I]*, 495 F.3d 125, 132-33 (4th Cir. 2007). Because the ALJ has broad discretion in deciding whether modification is warranted, *Sharpe II*, 692 F.3d at 335, his determination will be upheld unless the party challenging it establishes the ALJ abused his discretion. See *Branham v. BethEnergy Mines*, 20 BLR 1-27, 1-34 (1996).

The ALJ properly considered the relevant factors in this case. *Sharpe I*, 495 F.3d at 132-33. He found the need for accuracy weighs in favor of granting modification as the evidence reflects the Miner had complicated pneumoconiosis and was entitled to benefits under the Act. Decision and Order at 21. Thus the ALJ found the modification request is not futile. *Id.* at 22. The ALJ also found the quality of the new evidence further weighs in favor of granting modification because the "newly submitted evidence in addition to the previously submitted evidence persuasively establishes complicated pneumoconiosis." *Id.* at 22. With respect to the Miner's diligence and motive, the ALJ found the Miner "timely followed the procedures set forth in the regulation," and thus "was diligent in pursuing his modification request." *Id.* The ALJ also found there is no basis in the record to conclude the Miner acted with an improper motive or in bad faith when he sought modification. *Id.*

Employer argues the Miner acted with an improper motive in seeking modification because he provided conflicting testimony concerning his most recent employment with Bill and Sam's Mining and Welding Repair.<sup>10</sup> Employer's Brief at 13-14. It contends that, at the May 12, 2016 hearing before ALJ Johnson, the Miner stated he visited the mine site for this operator once a month, but at the January 7, 2022 hearing before the current ALJ, he stated he visited the mine site three days a week. *Id.*

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<sup>10</sup> The Director interprets Employer's argument as an "oblique challenge" to the ALJ's responsible operator finding. Director's Brief at 14-16. We conclude Employer's argument is unrelated to the ALJ's responsible operator finding. Rather, Employer only contends the Miner's motive in changing his testimony is relevant to whether the ALJ should have granted the modification request. Employer's Brief at 13-15.

Although Employer questions the Miner's motive in providing conflicting testimony to ALJ Johnson and the ALJ at the respective hearings, it has not set forth how the ALJ abused his discretion in finding the Miner acted in good faith when he filed his request for modification.<sup>11</sup> See *Branham*, 20 BLR at 1-34; Decision and Order at 22.

Because Employer has not established an abuse of discretion, we affirm the ALJ's determination that granting modification renders justice under the Act. See *Worrell*, 27 F.3d at 230; *Branham v. BethEnergy Mines*, 20 BLR 1-27, 1-34 (1996); Decision and Order at 23. Consequently, we affirm the award of benefits.

### **Commencement Date for Benefits**

The date for the commencement of benefits is the month in which the Miner became totally disabled due to pneumoconiosis. 20 C.F.R. §725.503(b); see *Lykins v. Director, OWCP*, 12 BLR 1-181, 1-182 (1989). If the date is not ascertainable, benefits commence the month the claim was filed, unless evidence the ALJ credits establishes the Miner was not totally disabled due to pneumoconiosis at any subsequent time. 20 C.F.R. §725.503(b); *Edmiston v. F&R Coal Co.*, 14 BLR 1-65, 1-68-69 (1990); *Owens v. Jewell Smokeless Coal Corp.*, 14 BLR 1-47, 1-51 (1990). If the ALJ finds Claimant established complicated pneumoconiosis and is entitled to the irrebuttable presumption of total disability due to pneumoconiosis pursuant to Section 411(c)(3), the ALJ must determine whether the

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<sup>11</sup> Employer speculates that the Miner changed his testimony about his employment history in an effort to invoke the Section 411(c)(4) presumption. Employer's Brief at 13-14. It argues the Miner sought to get credit for additional days of coal mine employment in light of the decision of the United States Court of Appeals for the Sixth Circuit in *Shepherd v. Incoal, Inc.*, 915 F.3d 392, 402 (6th Cir. 2019) that a miner is entitled to credit for a full year of coal mine employment if he establishes 125 working days in a calendar year, "regardless of how long the miner actually was employed by the mining company in any one calendar year or partial periods totaling one year." 915 F.3d at 401-02; see Employer's Brief at 13-14. Initially, we note that *Shepherd* was decided on February 6, 2019, but the Miner requested modification of the denial of his claim two years earlier on February 7, 2017. Director's Exhibit 11. Further, the ALJ found benefits established in this case based on a finding of complicated pneumoconiosis and invocation of the irrebuttable presumption of total disability due to pneumoconiosis pursuant to Section 411(c)(3); Claimant's award of benefits is not dependent on the Section 411(c)(4) presumption. Finally, as the Director notes, Employer had the opportunity to cross-examine the Miner about his motive for changing his testimony and failed to do so. Director's Brief at 14. Thus Employer's theory does not support the conclusion that the Miner acted with improper motive when he filed his request for modification.

evidence establishes the onset date of the disease. *See Williams v. Director, OWCP*, 13 BLR 1-28, 1-30 (1989); *Truitt v. North American Coal Corp.*, 2 BLR 1-199, 1-204 (1979); 20 C.F.R. §718.304.

The ALJ found the earliest credible evidence establishing the onset of the Miner's complicated pneumoconiosis is Dr. Crum's interpretation of the April 9, 2014 CT scan that the doctor read as revealing the 1.1 centimeter mass he ultimately determined is complicated pneumoconiosis. Decision and Order at 22-23; Director's Exhibit 12. Employer's only argument is the ALJ erred in crediting Dr. Crum's CT scan readings in finding the 1.1 centimeter mass is complicated pneumoconiosis. Employer's Brief at 11-12. As discussed above, we have rejected this argument and affirmed the ALJ's finding that Dr. Crum's CT scan readings support a finding of complicated pneumoconiosis. As Employer raises no specific argument with respect to the disease's onset date, we affirm the ALJ's finding that the Miner had complicated pneumoconiosis on April 9, 2014 based on the CT scan taken on that date that is positive for the disease. *See Truitt*, 2 BLR at 1-204. We therefore affirm the ALJ's determination that benefits commence in April 2014. 20 C.F.R. §725.503(b); *see Truitt*, 2 BLR at 1-204.

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

SO ORDERED.

JUDITH S. BOGGS  
Administrative Appeals Judge

GREG J. BUZZARD  
Administrative Appeals Judge

MELISSA LIN JONES  
Administrative Appeals Judge