

U.S. Department of Labor

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



BRB No. 25-0194 BLA

GLEN HAROLD DOTSON

Claimant-Respondent

v.

ISLAND CREEK KENTUCKY MINING,
c/o CONSOL ENERGY

and

Self-Insured through ISLAND CREEK
COAL COMPANY c/o SMART
CASUALTY CLAIMS

Employer/Carrier-
Petitioners

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

Party-in-Interest

NOT-PUBLISHED

DATE ISSUED: 07/09/2026

DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits in an Initial Claim of Joseph E. Kane, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe and Donna E. Sonner (Wolfe Williams & Austin), Norton, Virginia, for Claimant.

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

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Joseph E. Kane's Decision and Order Awarding Benefits in an Initial Claim (2021-BLA-05451) rendered on a claim filed on September 23, 2019,¹ pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Act).

The ALJ found Claimant established 29.13 years of underground or substantially similar coal mine employment and a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). Thus, he determined Claimant invoked the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4).² He further found Employer failed to rebut the presumption and awarded benefits.

On appeal, Employer challenges the ALJ's findings of total disability and invocation of the Section 411(c)(4) presumption, as well as the ALJ's determination that it failed to rebut the presumption. Claimant responds in support of the award of benefits. The Director, Office of Workers' Compensation Programs, did not file a substantive response. Employer replied, reiterating its contentions.³

The Benefits Review Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in

¹ Claimant filed a previous claim, which he subsequently withdrew. Director's Exhibit 1. A withdrawn claim is considered not to have been filed. *See* 20 C.F.R. §725.306(b).

² 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); 20 C.F.R. §718.305.

³ We affirm, as unchallenged on appeal, the ALJ's determination that Claimant had 29.13 years of qualifying coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 9-10.

accordance with applicable law.⁴ 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, Claimant must establish he has a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.305(b)(1)(iii). A miner is totally disabled if his pulmonary or respiratory impairment, standing alone, prevents him from performing his usual coal mine work and comparable gainful work.⁵ 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on qualifying pulmonary function studies or arterial blood gas studies,⁶ evidence of pneumoconiosis and cor pulmonale with right-sided congestive heart failure, or medical opinions. 20 C.F.R. §718.204(b)(2)(i)-(iv). The ALJ must weigh all relevant supporting evidence against all relevant contrary evidence. *See Defore v. Ala. By-Products Corp.*, 12 BLR 1-27, 1-28-29 (1988); *Rafferty v. Jones & Laughlin Steel Corp.*, 9 BLR 1-231, 1-232 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195, 1-198 (1986), *aff’d on recon.*, 9 BLR 1-236 (1987) (en banc).

The ALJ found Claimant established total disability based on the pulmonary function study, arterial blood gas study, and medical opinion evidence, and the evidence as a whole.⁷ 20 C.F.R. §718.204(b)(2)(i), (ii), (iv); Decision and Order at 26.

⁴ The Board will apply the law of the United States Court of Appeals for the Sixth Circuit because Claimant performed his last coal mine employment in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director’s Exhibit 4; Hearing Tr. at 25.

⁵ We affirm, as unchallenged on appeal, the ALJ’s finding that Claimant’s usual coal mine work as a plant operator required “heavy to very heavy labor.” Decision and Order at 12; *see Skrack*, 6 BLR at 1-711.

⁶ A “qualifying” pulmonary function study or blood gas study yields results equal to or less than the applicable table values in Appendices B and C of 20 C.F.R. Part 718, respectively. A “non-qualifying” study yields results exceeding those values. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

⁷ The ALJ found there is no evidence of cor pulmonale with right-sided congestive heart failure. 20 C.F.R. §718.204(b)(2)(iii); Decision and Order at 11.

Pulmonary Function Studies

The ALJ considered five pulmonary function studies dated October 15, 2019, November 19, 2020, May 20, 2022, July 13, 2022, and July 19, 2022. Decision and Order at 13-16. The October 15, 2019, November 19, 2020, and July 19, 2022 studies are non-qualifying before and after the administration of bronchodilators.⁸ Director's Exhibit 17 at 8; Employer's Exhibits 1 at 22; 2 at 28. The May 20, 2022 study has qualifying values and bronchodilators were not administered. Claimant's Exhibit 1 at 6. The July 13, 2022 study is qualifying before and after the administration of bronchodilators. Claimant's Exhibit 3 at 12. The ALJ rejected Employer's assertion that the July 13, 2022 study is invalid and found the preponderance of the pulmonary function evidence supports a finding of total disability at 20 C.F.R. §718.204(b)(2)(i). Decision and Order at 15-16.

Employer challenges the validity of the July 13, 2022 study and the ALJ's finding that the pulmonary function study evidence supports a finding of total disability. Employer's Brief at 5-8; Employer's Reply Brief at 1-2.

Validity of July 13, 2022 Study

When weighing the pulmonary function studies, an ALJ must determine whether they are in substantial compliance with the regulatory quality standards. 20 C.F.R. §§718.101(b), 718.103(c); 20 C.F.R. Part 718, App. 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 [regulatory quality standards] shall be presumed." 20 C.F.R. §718.103(c). Thus, the party challenging the validity of a study has the burden to establish the results are suspect or unreliable. *Vivian v. Director, OWCP*, 7 BLR 1-360, 1-361 (1984); 65 Fed. Reg. 79,920, 79,927 (Dec. 20, 2000) ("A party may challenge another party's [pulmonary function] study by submitting expert opinion evidence demonstrating the study is unreliable or invalid.").

⁸ The ALJ determined that the average of Claimant's recorded heights is 69.6 inches and rounded up to the closest table value of 69.7 inches to determine whether the pulmonary function tests are qualifying. Decision and Order at 13 n.48 (citing *Carpenter v. GMS Mine & Repair Maint. Inc.*, 26 BLR 1-33, 1-38-39 (2023); *Protopappas v. Director, OWCP*, 6 BLR 1-221, 1-223 (1983); *Toler v. E. Associated Coal Corp.*, 43 F.3d 109, 116 n.6 (4th Cir. 1995)). "For a male age 70 or older, qualifying values at 69.7 inches in height are as follows: FEV1 1.85; FVC 2.39; and MVV 74." Decision and Order at 13 n.48.

The respiratory therapist who administered the July 13, 2022 study indicated Claimant exhibited good effort, cooperation, and understanding.⁹ Claimant's Exhibit 3 at 13. Dr. Shady, who ordered the study as part of her evaluation, stated Claimant's effort and cooperation were good and the curves had very similar patterns. Employer's Exhibit 8 at 13. She acknowledged Claimant "was unable to successfully perform a [diffusing capacity of the lungs for carbon monoxide (DLCO)] maneuver" and indicated that while Claimant did not achieve the expected maximum voluntary ventilation (MVV) results, the MVV was not "a meaningful result" because Claimant met the criteria in several other ways and the MVV test is difficult to correctly complete. Claimant's Exhibit 3 at 7; Employer's Exhibit 8 at 13. Dr. Shady concluded the "[s]pirometry is technically well-performed and meets [American Thoracic Society (ATS)] standards for reproducibility." Claimant's Exhibit 3 at 7. Dr. Fino reviewed the study and opined that the MVV tracings are invalid and that the spirometry and MVV underestimate Claimant's true pulmonary capacity because the "forced vital capacity tracings show[] a premature termination to exhalation and a lack of reproducibility in the expiratory tracings." Employer's Exhibit 3 at 3. He concluded that the spirometry values "represent at least [Claimant's] minimal lung function . . . and certainly not his maximum," and should not "be used as medical evidence of respiratory impairment." *Id.*

The ALJ determined Dr. Fino did not sufficiently explain how he found Claimant's MVV and spirometry values are invalid. Decision and Order at 15. In addition, the ALJ found the respiratory therapist's first-hand observations, in conjunction with Dr. Shady's opinion, supports the test's validity and that Claimant put forth sufficient effort in performing the July 13, 2022 pulmonary function study. *Id.* at 15-16. Thus, the ALJ determined the study is valid and probative for assessing the degree of Claimant's respiratory or pulmonary impairment. *Id.* at 16.

Employer asserts the ALJ erred in discrediting Dr. Fino's opinion and did not consider all relevant evidence regarding the validity of the qualifying July 13, 2022 study. Employer's Brief at 5-8. We disagree.

⁹ The respiratory therapist noted that the diffusing capacity of the lungs for carbon monoxide (DLCO) was attempted three times without success and the lung volumes were not performed because Claimant was on oxygen. Claimant's Exhibit 3 at 12.

As the ALJ found, Dr. Fino did not explain how he concluded that Claimant's FVC tracings show a lack of reproducibility and premature termination to exhalation.¹⁰ Decision and Order at 15; Employer's Exhibit 3 at 3. In addition, contrary to Employer's argument, the ALJ considered Dr. Shady's opinion regarding the MVV portion of the study. Employer's Brief at 6; *see* Decision and Order at 15. Dr. Shady opined that the MVV test "is a very hard test to interpret" and that "for anybody who has lung disease, it's actually very hard to meet those ATS standards."¹¹ Employer's Exhibit 8 at 13. She indicated that Claimant's MVV values did not "ma[k]e a big difference" because his efforts are "symmetric" and not erratic. *Id.* Thus, she determined it is "not a meaningful result" because the pulmonary function study "meets criteria in so many other ways."¹² *Id.*; *see* Decision and Order at 23. Consequently, we reject Employer's assertion that remand is required for the ALJ to specifically consider that Dr. Shady agreed the MVV value should not be used to assess Claimant's pulmonary capacity. *See* Employer's Brief at 6.

The ALJ also permissibly determined that Dr. Fino's opinion that Claimant did not put forth sufficient effort¹³ to produce valid spirometry values is undermined by the

¹⁰ In asserting that Dr. Fino's opinion is fully explained, Employer merely reiterates Dr. Fino's conclusions and indicates this shows "Dr. Fino analyzed the tracings from the testing and observed these deficiencies in its performance." Employer's Brief at 7.

¹¹ The record reflects that Dr. Basheda, one of Employer's experts, similarly testified that he "no longer look[s] at MVV measurements" because "[t]hey are not accepted through the [American Medical Association] guidelines for disability or impairment because it is a difficult maneuver to perform," generally "due to motivation." Employer's Exhibit 9 at 17. Instead, he stated that the FEV1/FVC ratio and diffusion measurement are more reliable and can be assessed on the study to determine whether an individual gave good effort. *Id.* at 18.

¹² Dr. Shady testified that she uses the MVV "as a collaborative study, not as a diagnostic study to say whether or not somebody's capable, because it is a very difficult test to do correctly even for people who don't have lung disease." Employer's Exhibit 8 at 14.

¹³ Employer cites to 20 C.F.R. Part 718, Appendix B (2)(ii)(B) to undermine the ALJ's statement that the quality standards do not require maximum effort for a pulmonary function study to be valid. Decision and Order at 15; Employer's Brief at 7-8. However, the provision Employer cites states that "effort shall be judged unacceptable when the patient: . . . Has not used maximal effort during the entire forced expiration." Employer's Brief at 7 (quoting 20 C.F.R. Part 718, App. B (2)(ii)(B)). Dr. Fino's comment was not specific concerning the entire forced expiration but rather generally stated that the values

technician's firsthand observations that Claimant exhibited good effort and cooperation and Dr. Shady's opinion that the study is technically well-performed and met ATS standards for reproducibility. See *Cumberland River Coal Co. v. Banks*, 690 F.3d 477, 489 (6th Cir. 2012); *Morrison v. Tenn. Consol. Coal Co.*, 644 F.3d 473, 478 (6th Cir. 2011); Decision and Order at 15-16; Claimant's Exhibit 3 at 3; Employer's Exhibit 8 at 12-13. Consequently, we affirm the ALJ's permissible finding that Employer did not meet its burden to show that the July 13, 2022 pulmonary function study is invalid.¹⁴ *Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 713-14 (6th Cir. 2002); *Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185 (6th Cir. 1989); Decision and Order at 15-16.

Weighing of the Pulmonary Function Study Evidence

Employer asserts the ALJ failed to explain how a preponderance of the pulmonary function studies supports a finding of total disability when three of the five tests are non-qualifying. Employer's Brief at 8; Employer's Reply Brief at 1-2. We disagree.

The ALJ concluded that the non-qualifying October 15, 2019 and July 19, 2022 studies do not support a finding of total disability, while the qualifying May 20, 2022 and July 13, 2022 tests support a finding of total disability. Decision and Order at 16; Director's Exhibit 17 at 8; Claimant's Exhibits 1 at 6; 3 at 12; Employer's Exhibit 2 at 28. While the ALJ indicated the November 19, 2020 study is non-qualifying based on Claimant's average height, it is qualifying when Claimant's recorded height is used.¹⁵ Decision and Order at

recorded for the July 13, 2022 study represented "at least the minimal lung function . . . and certainly not [Claimant's] maximum." Employer's Exhibit 3 at 3. Consequently, we reject Employer's contention that remand is required on this basis. Employer's Brief at 8.

¹⁴ We also reject Employer's argument that the ALJ should have considered that the later pulmonary function study testing was non-qualifying when evaluating the validity of the July 13, 2022 study. Employer's Brief at 5-6. The United States Court of Appeals for the Sixth Circuit, whose law applies in this case, has held it is irrational to credit evidence solely because of recency if the evidence indicates the miner's condition has improved. See *Woodward v. Director, OWCP*, 991 F.2d 314, 319-20 (6th Cir. 1993) (citing *Adkins v. Director, OWCP*, 958 F.2d 49, 51-52 (4th Cir. 1992)); see also *Thorn v. Itmann Coal Co.*, 3 F.3d 713, 719 (4th Cir. 1993); *Kincaid v. Island Creek Coal Co.*, 26 BLR 1-43, 1-52-53 n.14 (2023). Further, Employer has not adequately explained how the fact that a later study is non-qualifying affects the validity of the July 13, 2022 study.

¹⁵ As indicated above, the ALJ calculated Claimant's height to be 69.6 inches while Claimant's recorded height was seventy inches. Decision and Order at 16; Employer's Exhibit 1.

16; Employer's Exhibit 1 at 22. He specifically noted that although the November 19, 2020 study does not support a finding of total disability by itself, the values bolster the more recent, qualifying tests, where the FEV1 values are qualifying and "the FVC value of 2.40 is .01 more than the qualifying value of 2.39." Decision and Order at 16; Employer's Exhibit 1 at 22. Because we can discern the ALJ's basis for finding the preponderance of pulmonary function studies support a finding of total disability, his credibility findings satisfy the Administrative Procedure Act (APA).¹⁶ See *Harman Mining Co. v. Director, OWCP [Looney]*, 678 F.3d 305, 316 (4th Cir. 2012) (The APA does not "impose a duty of long-windedness on an ALJ"; to the contrary, "if a reviewing court can discern what the ALJ did and why [she] did it, the duty of explanation under the APA is satisfied.") (citations omitted); *Mingo Logan Coal Co v. Owens*, 724 F.3d 550, 557 (4th Cir. 2013) (duty of explanation under the APA is satisfied as long as the reviewing court can discern what the ALJ did and why she did it).

Employer's arguments regarding the pulmonary function studies amount to a request to reweigh the evidence, which the Board may not do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989). We therefore affirm, as supported by substantial evidence, the ALJ's conclusion that the preponderance of the pulmonary function tests support a finding of total disability. 20 C.F.R. §718.204(b)(2)(i); see *Martin v. Ligon Preparation Co.*, 400 F.3d 302, 305 (6th Cir. 2005).

Arterial Blood Gas Studies

The ALJ considered the results of five blood gas studies dated October 15, 2019, November 19, 2020, May 20, 2022, July 13, 2022, and July 19, 2022. Decision and Order at 17. All the resting blood gas results are qualifying. Director's Exhibit 17 at 23; Employer's Exhibits 1 at 19; 2 at 46; Claimant's Exhibits 1 at 15; 3 at 9. Two studies included results with exercise. The October 15, 2019 exercise results are non-qualifying, while the November 19, 2020 exercise results are qualifying.¹⁷ Director's Exhibit 17 at 23;

¹⁶ The Administrative Procedure Act 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).

¹⁷ Dr. Nader did not administer an exercise test during the May 20, 2022 blood gas study due to Claimant's "significant hypoxemia" and use of oxygen, as he could arrest if his oxygen drops further. Employer's Exhibit 7 at 13-14. Dr. Shady did not administer an exercise study during the July 13, 2022 blood gas test because of Claimant's hypoxemia

Employer's Exhibit 1 at 19. The ALJ concluded that the preponderance of blood gas evidence supports a finding of total disability. Decision and Order at 17.

Employer contends the ALJ erred in not according greater weight to the exercise blood gas test results.¹⁸ Employer's Brief at 9; *see* Decision and Order at 17. We disagree.

As the fact-finder, the ALJ is granted broad discretion in evaluating the credibility of the evidence of record. *See Mabe v. Bishop Coal Co.*, 9 BLR 1-67, 1-68 (1986); *Kuchwara v. Director, OWCP*, 7 BLR 1-167, 1-170 (1984). Contrary to Employer's argument, the ALJ may give an exercise study increased weight but he is not required to do so. 20 C.F.R. §718.105(a) (gas exchange impairment may manifest "either at rest or during exercise"); *see Coen v. Director, OWCP*, 7 BLR 1-30, 1-31-32 (1984) (it is within the ALJ's discretion to find a particular blood gas study more probative than another study); *Sturnick v. Consolidation Coal Co.*, 2 BLR 1-972, 1-977 (1980) (ALJ permissibly credited resting blood gas study over exercise study). The ALJ performed a qualitative and quantitative analysis of the arterial blood gas study values of record, both at rest and during exercise. Decision and Order at 17. He accurately noted all the resting studies are qualifying and Drs. Nader and Shady did not perform an exercise study in conjunction with their respective May 20, 2022 and July 13, 2022 examinations due to Claimant's hypoxemia. Decision and Order at 17; Claimant's Exhibits 1 at 4; 3 at 6. We therefore affirm, as supported by substantial evidence, the ALJ's conclusion that the preponderance of the blood gas studies supports a finding of total disability. 20 C.F.R. §718.204(b)(2)(ii); Decision and Order at 17; *see Martin*, 400 F.3d at 305; *Napier*, 301 F.3d at 713-14; *Crisp*, 866 F.2d at 185.

Medical Opinion Evidence

Next, the ALJ considered the opinions of Drs. Gaziano, Shady, Ranavaya, Nader, and Basheda. Decision and Order at 18-26. Dr. Gaziano conducted the Department of

and hypercapnia on resting room air and because of Claimant's "primary care recommendations to avoid this activity." Claimant's Exhibit 3 at 6.

¹⁸ Employer states that although the ALJ found neither of the exercise blood gas studies are qualifying, the October 15, 2019 exercise study is non-qualifying and the November 19, 2020 exercise study has qualifying values. Employer's Brief at 9; *see* Decision and Order at 17; Director's Exhibit 17; Employer's Exhibit 1. It then states "[t]his error should be corrected on remand for reconsideration." Employer's Brief at 9. But as explained below, we have affirmed the ALJ's reliance on the resting blood gas studies. Thus, Employer has not explained how the error it points to would have made a difference. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009).

Labor (DOL)-sponsored complete pulmonary evaluation of Claimant and concluded he “could not do coal mine work” based on the pulmonary function and blood gas study results. Director’s Exhibit 17 at 5. Dr. Shady concluded Claimant is totally disabled based on his progressive dyspnea on exertion, physical symptoms, use of oxygen, arterial blood gas study values, and pulmonary function study evidence. Claimant’s Exhibit 3 at 7-8; Employer’s Exhibit 8 at 23-25. Dr. Nader diagnosed mixed obstructive and restrictive airway disease and opined that Claimant is totally disabled based on his pulmonary function studies and blood gas studies that demonstrate significant hypoxemia and hypercapnia. Claimant’s Exhibit 1 at 4. Dr. Ranavaya opined Claimant “does not have any pulmonary or respiratory impairment”¹⁹ but his morbid obesity is a “totally and permanently disabling condition in and of itself.” Employer’s Exhibit 1 at 15. Dr. Basheda diagnosed resting hypercarbia and opined that Claimant’s blood gas studies indicate he would be unable to perform his coal mining duties,²⁰ but from a functional standpoint he could go back to his usual coal mine work. Employer’s Exhibits 2 at 20-21, 23; 9 at 12, 25.

Based on his assessment of the physicians’ reasoning, the ALJ accorded less weight to the opinions of Drs. Gaziano, Ranavaya, and Basheda, and full probative weight to the opinions of Drs. Shady and Nader. Decision and Order at 19-20, 22, 24, 26. He thus concluded that the preponderance of the medical opinion evidence supports a finding of total disability. *Id.* at 26.

Employer contends the ALJ erred in not considering Drs. Ranavaya’s and Basheda’s explanation that Claimant’s blood gas study results do not indicate pulmonary disease but rather resting hypercarbia (i.e., elevated carbon dioxide) related to obesity-hypoventilation syndrome. Employer’s Brief at 9-12; Employer’s Reply Brief at 3. It also argues Dr. Shady was “disadvantaged” because she considered only her own evaluation and did not review the other medical evidence of record. Employer’s Brief at 11. We disagree.

¹⁹ However, in response to a question concerning whether Claimant is “totally and permanently disabled by a pulmonary or respiratory impairment to such an extent that he would be unable to perform” his usual coal mine work, Dr. Ranavaya responded “Yes.” Employer’s Exhibit 1 at 15.

²⁰ Dr. Basheda opined that Claimant is “unable to perform his coal mining work due to his significant orthopedic issues and sleep disorder resulting in hypoxemic hypercarbic respiratory failure.” Employer’s Exhibit 2 at 23. He further testified that Claimant “could not perform his coal mining job due to the sequela of obesity hypoventilation, and that includes abnormal blood gases.” Employer’s Exhibit 9 at 33-34.

Contrary to Employer's assertion, the existence of a totally disabling respiratory or pulmonary impairment, and its cause, are separate inquiries. 20 C.F.R. §718.204(b), (c). The regulations specifically state that "[i]f . . . a nonpulmonary or nonrespiratory condition or disease causes a chronic respiratory or pulmonary impairment, that condition or disease shall be considered in determining whether the miner is totally disabled due to pneumoconiosis." 20 C.F.R. §718.204(a). Thus, the cause of the impairment is addressed at 20 C.F.R. §718.204(c), or in consideration of rebuttal of the Section 411(c)(4) presumption at 20 C.F.R. §718.305. *See Bosco v. Twin Pines Coal Co.*, 892 F.2d 1473, 1480-81 (10th Cir. 1989). Therefore, to the extent Drs. Ranavaya and Basheda focused on the cause of Claimant's hypoxemia rather than on whether it totally disables him, we reject Employer's argument that the ALJ needed to consider this aspect of their opinions before he could find total disability established at 20 C.F.R. §718.204(b)(2)(iv). For the same reason, we reject Employer's argument that the ALJ erred in failing to address that Drs. Shady and Nader do not discuss why morbid obesity cannot be a potential cause of Claimant's hypercarbia. Employer's Brief at 10-11.

In addition, contrary to Employer's argument regarding Dr. Shady, an ALJ may credit a physician who did not review all the medical evidence when the opinion is otherwise well-reasoned, documented, and based on the physician's own examination of the miner and objective testing results. 20 C.F.R. §718.202(a)(4); *see Island Creek Coal Co. v. Compton*, 211 F.3d 203, 212 (4th Cir. 2000); *Church v. E. Associated Coal Corp.*, 20 BLR 1-8, 1-13 (1996); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19, 1-21-22 (1987) (reasoned opinion is one in which the ALJ finds the underlying documentation adequate to support the physician's conclusion). Here, the ALJ considered the entirety of Dr. Shady's opinion that Claimant is totally disabled due to his hypoxemia, requiring oxygen, and his hypercapnia and found it well-reasoned and supported by the objective studies, Claimant's physical symptoms, and an adequate understanding of the exertional requirements of Claimant's usual coal mine work. Decision and Order at 22-24. Thus, we affirm the ALJ's finding that her opinion is entitled to "full probative weight" and supports a finding of total disability. Decision and Order at 24; *see Banks*, 690 F.3d at 489; *Director, OWCP v. Rowe*, 710 F.2d 251, 255 (6th Cir. 1983); *Fields*, 10 BLR at 1-21-22.

As we have rejected Employer's challenges to the ALJ's determinations concerning the medical opinions, we affirm his finding that the weight of the medical opinions supports a finding of total disability at 20 C.F.R. §718.204(b)(2)(iv). Decision and Order at 26. As Employer raises no other arguments regarding the ALJ's weighing of the evidence together to find total disability established, we further affirm the ALJ's finding that Claimant established total disability based on the evidence as a whole and thus invoked the Section 411(c)(4) presumption of total disability due to pneumoconiosis. *Id.*; 20 C.F.R. §718.305(b); *Rafferty*, 9 BLR at 1-232.

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,²¹ 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 failed to establish rebuttal by either method.²² Decision and Order at 35.

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 United States Court of Appeals for the Sixth Circuit requires Employer to establish the Miner’s “coal mine employment did not contribute, in part, to his alleged pneumoconiosis.” *Island Creek Coal Co. v. Young*, 947 F.3d 399, 405 (6th Cir. 2020). “An employer may prevail under the not ‘in part’ standard by showing that coal dust exposure had no more than a de minimis impact on the miner’s lung impairment.” *Id.* at 407 (citing *Arch on the Green, Inc. v. Groves*, 761 F.3d 594, 600 (6th Cir. 2014)).

Employer relies on Drs. Ranavaya’s and Basheda’s opinions to rebut the presumption. Dr. Ranavaya disagreed with Dr. Gaziano’s diagnosis of chronic bronchitis and instead diagnosed Claimant with “airway hyperresponsiveness due to underlying adult onset asthma.” Employer’s Exhibit 1 at 11. He attributed Claimant’s hypoxemia at rest to obesity hypoventilation syndrome as a direct result of his morbid obesity and to his advanced age. *Id.* at 13-14. Dr. Basheda opined there is no evidence of chronic obstructive or restrictive pulmonary disease and indicated that Claimant’s resting hypercarbia “is

²¹ “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 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).

²² The ALJ found Employer disproved the existence of clinical pneumoconiosis. Decision and Order at 29-30; *see* 20 C.F.R. §718.305(d)(1)(i)(B).

related to the obesity-hypoventilation syndrome in the setting of obstructive sleep apnea syndrome.” Employer’s Exhibit 2 at 20; *see also* Employer’s Exhibit 9 at 25. He acknowledged that Claimant is being treated for asthma but concluded Claimant “would not be having asthma symptoms decades after leaving the coal mines, if this was related to coal dust exposure.” Employer’s Exhibit 2 at 22. The ALJ found their opinions inadequately reasoned and thus insufficient to rebut the presumption of legal pneumoconiosis. Decision and Order at 31-34.

Employer asserts the ALJ improperly discredited their opinions as inadequately explained because they indicated there is no chronic obstructive or restrictive impairment and explained why Claimant’s morbid obesity accounted for his resting hypoxemia. Employer’s Brief at 12-23. We reject these arguments as they reflect a misunderstanding of the applicable burden and amount to a request to reweigh the evidence, which we cannot do. *Anderson*, 12 BLR at 1-113.

As the ALJ accurately observed, because Claimant invoked the Section 411(c)(4) rebuttable presumption, the burden shifted to Employer to establish Claimant does not have a pulmonary disease or impairment that is “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 Owens*, 724 F.3d at 555; *Minich*, 25 BLR at 1-155 n.8; Decision and Order at 26-27. As Employer’s assertions fail to identify error in the ALJ’s findings that Drs. Ranavaya and Basheda failed to adequately address Claimant’s twenty-nine years of coal mine dust exposure as a contributing or aggravating cause of Claimant’s pulmonary disease or impairment, we affirm the ALJ’s finding that Employer did not rebut the presumed existence of legal pneumoconiosis.²³ 20 C.F.R. §718.305(d)(1)(i)(A). Because the ALJ provided valid reasons for discrediting Drs. Ranavaya’s and Basheda’s opinions, the only medical opinions supportive of Employer’s burden on rebuttal,²⁴ we affirm his

²³ Because the ALJ provided a valid reason for discrediting Drs. Ranavaya’s and Basheda’s opinions on rebuttal of legal pneumoconiosis, we need not address Employer’s remaining arguments regarding the weight accorded to their opinions. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983); Employer’s Brief at 12-23.

²⁴ The ALJ accurately stated Drs. Gaziano’s, Shady’s, and Nader’s opinions do not assist Employer in satisfying its burden to rebut the presumption of legal pneumoconiosis because they diagnosed Claimant with legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i); Decision and Order at 31. Thus, we need not address Employer’s contention that the ALJ erred in weighing Drs. Shady’s and Nader’s opinions. *See* Employer’s Brief at 10-11.

determination that Employer did not disprove legal pneumoconiosis. *See* 20 C.F.R. §718.305(d)(1)(i)(A); Decision and Order at 34.

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.” 20 C.F.R. §718.305(d)(1)(ii); Decision and Order at 35. He permissibly discredited the disability causation opinions of Drs. Ranavaya and Basheda because they failed to diagnose legal pneumoconiosis, contrary to his finding that Employer failed to disprove Claimant has the disease. *See Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1074 (6th Cir. 2013); Decision and Order at 35. As it is supported by substantial evidence, we affirm the ALJ’s finding that Employer failed to establish no part of Claimant’s total disability was caused by pneumoconiosis. 20 C.F.R. §718.305(d)(1)(ii); Decision and Order at 35.

Accordingly, we affirm the ALJ's Decision and Order Awarding Benefits in an Initial Claim.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge