

U.S. Department of Labor

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



BRB No. 24-0407 BLA

GERALD F. REED )  
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 Claimant-Respondent )  
 )  
 v. )  
 )  
 CONSOL MINING COMPANY, LLC )  
 )  
 Employer-Petitioner )  
 )  
 DIRECTOR, OFFICE OF WORKERS' )  
 COMPENSATION PROGRAMS, UNITED )  
 STATES DEPARTMENT OF LABOR )  
 )  
 Party-in-Interest )

**NOT-PUBLISHED**

DATE ISSUED: 06/11/2025

DECISION and ORDER

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

Joseph E. Wolfe and Brad A. Austin (Wolfe Williams & Austin), Norton, Virginia, for Claimant.

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

Marcus W. Andrews (Jonathan Snare, Deputy Solicitor of Labor; Jennifer Feldman Jones, Acting Associate Solicitor; William M. Bush, Acting Counsel for Administrative Appeals), Washington, D.C., for the Acting Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Jodeen M. Hobbs's Decision and Order Awarding Benefits (2022-BLA-05621) rendered on a subsequent claim filed on December 18, 2019, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).<sup>1</sup>

The ALJ accepted the parties' stipulation that Claimant has twenty-six years of underground coal mine employment. She also found Claimant has a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). Thus, she found he established a change in an applicable condition of entitlement, 20 C.F.R. §725.309(c),<sup>2</sup> and invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act,<sup>3</sup> 30 U.S.C. §921(c)(4) (2018). Further, she found Employer failed to rebut the presumption and awarded benefits.

On appeal, Employer argues the ALJ erred in finding Claimant established total disability and invoked the Section 411(c)(4) presumption. It also argues the ALJ erred in finding it did not rebut the presumption. Claimant responds in support of the award of benefits. The Acting Director, Office of Workers' Compensation Programs (the Director),

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<sup>1</sup> Claimant filed four prior claims. He filed his third claim on September 8, 2016, which the district director denied on October 17, 2017, because Claimant failed to establish total disability. Director's Exhibit 3. Claimant filed his fourth claim on November 18, 2018, but withdrew it. Director's Exhibit 4. A withdrawn claim is considered "not to have been filed." 20 C.F.R. §725.306(b).

<sup>2</sup> When a miner files a claim for benefits more than one year after the denial of a previous claim becomes final, the ALJ must also deny the subsequent claim unless he finds "one of the applicable conditions of entitlement . . . has changed since the date upon which the order denying the prior claim became final." 20 C.F.R. §725.309(c); *White v. New White Coal Co.*, 23 BLR 1-1, 1-3 (2004). The "applicable conditions of entitlement" are "those conditions upon which the prior denial was based." 20 C.F.R. §725.309(c)(3). Because Claimant failed to establish total disability in his prior claim, he had to submit new evidence establishing this element to obtain review of the merits of his current claim. *See White*, 23 BLR at 1-3; 20 C.F.R. §725.309(c).

<sup>3</sup> Section 411(c)(4) of the Act provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis if he has at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305.

filed a response, urging rejection of Employer's arguments on total disability. Employer filed a reply, reiterating its contentions.<sup>4</sup>

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 accordance with applicable law.<sup>5</sup> 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, 361-62 (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 employment. *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on qualifying pulmonary function and arterial blood gas studies,<sup>6</sup> 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).

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<sup>4</sup> We affirm, as unchallenged on appeal, the ALJ's finding Claimant established twenty-six years of underground coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4.

<sup>5</sup> This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit because Claimant performed his coal mine employment in Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 34.

<sup>6</sup> A "qualifying" pulmonary function study or arterial blood gas study yields results that are equal to or less than the applicable table values listed in Appendices B and C of 20 C.F.R. Part 718. A "non-qualifying" study yields results exceeding those values. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

The ALJ found Claimant established total disability based on the pulmonary function studies, the medical opinions, and the evidence considered as a whole.<sup>7</sup> 20 C.F.R. §718.204(b)(2)(i), (iv); Decision and Order at 21. Employer does not challenge the ALJ's finding the pulmonary function study evidence supports total disability. Thus, we affirm this finding. See 20 C.F.R. §718.204(b)(2)(i); Decision and Order at 11. See *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

Employer, however, challenges the ALJ's findings on the medical opinions and the evidence as a whole. The ALJ considered the medical opinions of Drs. Raj, Basheda, Davidson, Sarodia, and Zaldivar. Decision and Order at 13-21. She found the opinions of Drs. Raj, Basheda, Davidson, and Sarodia support total disability because they diagnosed a totally disabling respiratory or pulmonary impairment but determined Dr. Zaldivar excluded total disability. *Id.* The ALJ credited the opinions of Drs. Raj, Basheda, Davidson, and Sarodia because they are reasoned and documented, and she discredited Dr. Zaldivar's opinion because she found it unpersuasive. *Id.* at 21. Thus, she found a preponderance of the medical opinions support total disability. *Id.*

Employer argues the ALJ erred in considering the medical opinions of Drs. Basheda, Davidson, Sarodia, and Zaldivar. Employer's Brief at 6-9. We affirm the ALJ's finding Dr. Raj's opinion is reasoned and documented as it is unchallenged. See *Skrack*, 6 BLR at 1-711; Decision and Order at 15.

Employer first argues the ALJ erred in finding Dr. Basheda's opinion supportive of total disability and in discrediting Dr. Zaldivar's opinion because both doctors opined Claimant suffers from an acute respiratory impairment and not a chronic impairment. Employer's Brief at 6.

Initially, we reject Employer's argument that the ALJ erred in not requiring Claimant to establish his impairment is due to a chronic rather than an acute disease. Employer's Brief at 6-9. As the Director correctly asserts, nothing in the Act or regulations requires a showing that the Miner's total disability is chronic in order to invoke the Section 411(c)(4) presumption. *Tanner v. Freeman United Coal Co.*, 10 BLR 1-85 (1987); Director's Brief at 2-3. In *Tanner*, the Board squarely addressed this issue, holding that "[u]nder the plain language of Section 411(c)(4) of the Act and the implementing regulation, . . . [a miner] is not required to establish that his totally disabling respiratory or pulmonary impairment is chronic." 10 BLR at 1-86. Thus, the relevant inquiry for

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<sup>7</sup> The ALJ found Claimant did not establish total disability based on the arterial blood gas studies and there is no evidence of cor pulmonale with right-sided congestive heart failure. 20 C.F.R. §718.204(b)(2)(ii), (iii); Decision and Order at 6, 13.

invocation of the Section 411(c)(4) presumption is whether Claimant has a totally disabling respiratory impairment, not whether Claimant had a disability for some undefined time period to be considered “chronic.” 20 C.F.R. §718.305(b)(1)(iii); *Consolidation Coal Co. v. Director, OWCP [Staten]*, 129 F.4th 409, 414-16 (7th Cir. 2025) (holding nothing in the text of the Act or the regulatory definition of total disability required proof that the miner was suffering from a chronic pulmonary condition to establish total disability and invoke the 15-year presumption).

Further, we discern no error in the ALJ’s consideration of Dr. Basheda’s opinion. Dr. Basheda opined the September 9, 2021 pulmonary function study he administered revealed a mild obstructive impairment with an acute post-bronchodilator response. Employer’s Exhibit 9 at 12. He stated this is consistent with uncontrolled asthma and concluded Claimant was not totally disabled based on this impairment. *Id.* at 12-13.

After reviewing Dr. Raj’s pulmonary function testing, Dr. Basheda opined Claimant has progressive obstructive lung disease characteristic of someone with untreated asthma. Employer’s Exhibit 9 at 15. He explained that if an individual’s asthma is aggressively treated, lung function is preserved, and chronic airway obstruction does not develop. *Id.* at 16. As Claimant has no history of a prescription for inhaled corticosteroids, Dr. Basheda opined he did not receive adequate treatment. *Id.* He stated recurrent asthma exacerbation results in a loss of airway function because of airway remodeling and that any obstruction that develops is not related to smoking or coal mine dust exposure. *Id.*

Dr. Basheda also reviewed Dr. Davidson’s September 15, 2022 pulmonary function study and stated Claimant’s pulmonary function declined significantly at that time. Employer’s Exhibit 9 at 17. He noted this study still reveals an acute bronchodilator response. *Id.* Further, Dr. Basheda stated Dr. Zaldivar’s October 5, 2022 pulmonary function study also revealed severe airway obstruction with significant bronchodilator response. *Id.* He reiterated that Claimant has a rapid decline in airflow with significant bronchodilator response characteristic of untreated asthma. *Id.* at 17-18. Based on the most recent pulmonary function testing, Dr. Basheda opined Claimant is totally disabled based on Department of Labor and American Medical Association guidelines. *Id.* at 20-21. He reiterated that the loss of lung function was caused by untreated asthma. *Id.* Further, he testified that if Claimant underwent appropriate treatment for his asthma, his disability could disappear. *Id.* at 23. On that basis, Dr. Basheda opined he could not diagnose Claimant with a chronic condition. *Id.* During cross-examination, Dr. Basheda

opined that based on the most recent objective testing, Claimant would be totally disabled from his usual coal mine employment.<sup>8</sup> *Id.* at 36.

As the ALJ accurately recognized, the relevant inquiry is whether Claimant is able to perform his usual coal mine employment, not whether he is able to perform his job after he takes medication. Decision and Order at 16; *see* 45 Fed. Reg. 13,678, 13,682 (Feb. 29, 1980) (The Department of Labor has cautioned against reliance on post-bronchodilator pulmonary function test results in determining total disability, stating that “the use of a bronchodilator does not provide an adequate assessment of the miner’s disability, [although] it may aid in determining the presence or absence of pneumoconiosis.”). Because Dr. Basheda opined that Claimant is totally disabled based on his most recent objective testing, substantial evidence supports the ALJ’s finding that Dr. Basheda’s opinion is supportive of Claimant’s burden of proof. *See Martin v. Ligon Preparation Coal Co.*, 400 F.3d 302, 305 (6th Cir. 2005) (substantial evidence is relevant evidence a reasonable mind might accept as adequate to support a conclusion). Because Employer does not challenge the ALJ’s finding that Dr. Basheda’s opinion is reasoned and documented, we affirm it.<sup>9</sup> *See Skrack*, 6 BLR at 1-711; Decision and Order at 16-17.

With respect to Dr. Zaldivar, the ALJ discredited his opinion, in part, because he rendered contradictory findings and because he did not understand Claimant’s work history in opining Claimant is not totally disabled. Decision and Order at 19-20. Employer does not specifically challenge the ALJ’s finding that Dr. Zaldivar did not demonstrate an understanding of Claimant’s work history. Thus we affirm it. *See Skrack*, 6 BLR at 1-711; Decision and Order at 19-20.

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<sup>8</sup> Dr. Basheda also noted Claimant’s 2022 arterial blood gas testing showed a significant drop in oxygenation within a short period of time that is characteristic of asthma and not coal mine dust exposure. Employer’s Exhibit 9 at 19. He further indicated the blood gas testing either qualified for total disability or was borderline qualifying. *Id.*

<sup>9</sup> To the extent Employer argues Dr. Basheda’s opinion does not support total disability because he attributed Claimant’s impairment to untreated asthma, we disagree. The relevant inquiry at 20 C.F.R. §718.204(b)(2) is whether Claimant has a totally disabling respiratory or pulmonary impairment; the cause of that impairment is addressed at 20 C.F.R. §§718.202(a)(4), 718.204(c), or in consideration of rebuttal of the Section 411(c)(4) presumption pursuant to 20 C.F.R. §718.305. *See Bosco v. Twin Pines Coal Co.*, 892 F.2d 1473, 1480-81 (10th Cir. 1989).

We also reject Employer's argument that the ALJ erred in crediting Dr. Sarodia's opinion that Claimant is totally disabled because the doctor explained "pneumoconiosis was not causing any of the abnormalities." Employer's Brief at 8. Contrary to Employer's characterization, Dr. Sarodia testified Claimant is totally disabled based on the pulmonary function studies and Claimant's symptoms of cough, phlegm, wheezing, and shortness of breath. Employer's Exhibit 13 at 27-28. The ALJ permissibly found Dr. Sarodia's opinion reasoned and documented because it is supported by the evidence that the doctor reviewed, his knowledge of Claimant's usual coal mine employment, and his identification of Claimant's physical limitations caused by his respiratory symptoms. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); Decision and Order at 20-21.

Finally, we reject Employer's argument that the ALJ erred in crediting Dr. Davidson's opinion because he did not review the results of the most recent pulmonary function study. Employer's Brief at 8. Contrary to Employer's argument, an ALJ is not required to discredit a physician's opinion on the basis he did not review the most recent objective testing; rather, a physician can render a reasoned and documented opinion regarding total disability based on his own examination of the miner, review of objective test results, or both. 20 C.F.R. §718.204(b)(2)(iv); *see Church v. E. Assoc. Coal Corp.*, 20 BLR 1-8, 1-13 (1996).

Employer's arguments amount to a request to reweigh the evidence, which we are not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989); Employer's Brief at 6-9. Because Claimant established total disability through the medical opinions of Drs. Basheda, Sarodia, and Davidson, we affirm the ALJ's finding that Claimant established total disability at 20 C.F.R. §718.204(b)(2)(iv). Decision and Order at 21.

We further affirm the ALJ's finding Claimant established total disability based on the evidence as a whole. 20 C.F.R. §718.204(b)(2); *Rafferty*, 9 BLR at 1-232; *Shedlock*, 9 BLR at 1-198; Decision and Order at 21. Thus, we affirm her finding Claimant invoked the Section 411(c)(4) presumption and established a change in an applicable condition of entitlement. 20 C.F.R. §§718.305, 725.309(c); Decision and Order at 21-22.

### **Rebuttal of the Section 411(c)(4) Presumption**

Because Claimant invoked the Section 411(c)(4) presumption of total disability due to pneumoconiosis, the burden shifted to Employer to establish he has neither legal nor clinical pneumoconiosis,<sup>10</sup> or that "no part of [his] respiratory or pulmonary total disability

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<sup>10</sup> "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

was caused by pneumoconiosis as defined in [20 C.F.R.] §718.201.” 20 C.F.R. §718.305. The ALJ found Employer failed to establish rebuttal by either method.

### **Clinical Pneumoconiosis**

To disprove clinical pneumoconiosis, Employer must establish Claimant does not have any of the 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. §§718.305(d)(1)(i)(B), 718.201(a)(1).

The ALJ considered eleven readings of five x-rays dated April 8, 2021, September 9, 2021, September 15, 2022, October 2, 2022, and November 4, 2022. Decision and Order at 24-26. She noted all the interpreting physicians are dually qualified as Board-certified radiologists and B readers. *Id.*

Drs. DePonte and Crum read the April 8, 2021 x-ray as positive for clinical pneumoconiosis, whereas Dr. Tarver read it as negative for the disease. Director’s Exhibits 16 at 22, 22 at 2, 24 at 3. Dr. Crum read the September 9, 2021 x-ray as positive for clinical pneumoconiosis, but Dr. Tarver read it as negative for the disease. Employer’s Exhibit 2 at 4; Claimant’s Exhibit 7. Dr. DePonte read the September 15, 2022 and November 4, 2022 x-rays as positive for clinical pneumoconiosis, but Dr. Meyer read both x-rays as negative. Claimant’s Exhibits 2 at 22, 5 at 25; Employer’s Exhibits 13, 11. Dr. Crum read the October 5, 2022 x-ray as positive for clinical pneumoconiosis, but Dr. Meyer read it as negative for the disease. Claimant’s Exhibit 1; Employer’s Exhibit 6 at 4.

The ALJ found the April 8, 2021 x-ray positive for pneumoconiosis because a greater number of dually-qualified radiologists read it as positive for the disease, and she found the readings of the remaining x-rays were in equipoise because an equal number of dually-qualified radiologists read each x-ray as positive and negative for pneumoconiosis. Decision and Order at 16. Because one x-ray is positive and the readings

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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).

of four x-rays are in equipoise, the ALJ found Employer did not rebut the presumption of clinical pneumoconiosis through x-ray evidence. *Id.*

Employer argues the ALJ erred by not considering the physicians' qualifications in resolving the conflicts in the x-ray interpretations. Employer's Brief at 4-6. We disagree.

The ALJ conducted both a qualitative and quantitative assessment of the x-ray evidence. *See Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 256-57 (4th Cir. 2016) (ALJ performs a qualitative and quantitative assessment of the x-ray evidence when she considers the radiological qualifications of each reader and the number of readings by better qualified readers). Moreover, while an ALJ has discretion to give greater weight to an expert with qualifications she finds superior to those of the other x-ray readers, the ALJ in this case permissibly found the physicians equally qualified to render opinions based on their dual credentials as B readers and Board-certified radiologists.<sup>11</sup> *See Melnick v. Consol. Coal Co.*, 16 BLR 1-31, 1-36-37 (1991) (en banc); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-154 (1989) (en banc). Thus, we affirm the ALJ's conclusion that the x-ray evidence does not rebut the presumption of clinical pneumoconiosis. Decision and Order at 25-26.

As Employer does not challenge the ALJ's weighing of the medical opinions on clinical pneumoconiosis, we affirm the ALJ's finding that they do not support Employer's burden. *See Skrack*, 6 BLR at 1-711; Decision and Order at 29. Consequently, we affirm the ALJ's finding that Employer failed to disprove clinical pneumoconiosis.<sup>12</sup> 20 C.F.R. §718.305(d)(1)(i)(B); Decision and Order at 29. Employer's failure to disprove clinical pneumoconiosis precludes a rebuttal finding that Claimant does not have pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i). Nevertheless, because legal

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<sup>11</sup> We also reject Employer's contention that the ALJ failed to adequately explain her findings as the Administrative Procedure Act (APA) requires. 20 C.F.R. §718.204(b)(2)(iv); *see Harman Mining Co. v. Director, OWCP [Looney]*, 678 F.3d 305, 316 (4th Cir. 2012); (APA's duty of explanation is satisfied if the reviewing court can discern what the ALJ did and why he did it); Employer's Brief at 5-6.

<sup>12</sup> Beyond finding Dr. Zaldivar's reliance on the negative x-ray readings to conclude Claimant's respiratory impairment was not caused by coal mine work is contrary to the regulations, 20 C.F.R. §718.202(b), the ALJ did not use her finding of clinical pneumoconiosis to support her findings on legal pneumoconiosis and disability causation. Decision and Order at 26-32; Employer's Brief at 4. Furthermore, we affirm the ALJ's finding that Employer failed to rebut the presumption of clinical pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i).

pneumoconiosis is relevant to the second method of rebuttal, we will address Employer's contention that the ALJ erred in finding it failed to disprove the existence of legal pneumoconiosis. *See Minich v. Keystone Coal Mining Co.*, 25 BLR 1-149, 159 (2015).

### **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*, 25 BLR at 1-155 n.8.

The ALJ considered the opinions of Drs. Basheda and Zaldivar. Decision and Order at 26-29. They opined Claimant does not have legal pneumoconiosis but has asthma unrelated to coal mine dust exposure. Employer's Exhibits 1 at 15; 5 at 7; 8 at 28; 9 at 16. The ALJ permissibly found their opinions unpersuasive and thus insufficient to rebut the presumption of legal pneumoconiosis. Decision and Order at 29-29.

Dr. Basheda diagnosed Claimant with asthma based on an obstructive impairment with bronchodilator response. Employer's Exhibit 9 at 12. He noted recurrent asthma exacerbation results in a loss of airway function because of airway remodeling and opined any obstruction present is not related to smoking or coal mine dust exposure. *Id.*

Dr. Zaldivar diagnosed Claimant with asthma based on his symptoms of wheezing and shortness of breath and on the pulmonary function studies demonstrating an obstructive impairment with a positive response to bronchodilators. Employer's Exhibit 5 at 6. Although Dr. Zaldivar did not address the cause of Claimant's asthma, he opined it was not legal pneumoconiosis, in part, based on the variability in results between the September 2022 and November 2022 pulmonary functions studies. Employer's Exhibit 8 at 28. Dr. Zaldivar also opined Claimant's "exacerbated lung condition" was a result of remodeling due to his untreated asthma. *Id.* The ALJ stated she appreciated Drs. Zaldivar's and Basheda's opinions regarding the etiology of Claimant's asthma. Decision and Order at 27. However, she permissibly found their opinions unpersuasive because neither physician adequately explained why Claimant's coal mine dust exposure did not substantially aggravate his asthma or otherwise significantly contribute to his obstructive pulmonary impairment. *See Hicks*, 138 F.3d at 533; *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); Decision and Order at 27, 29.

Because the ALJ permissibly discredited the opinions of Drs. Basheda and Zaldivar, the only opinions supportive of Employer's burden on rebuttal, we affirm the ALJ's finding Employer failed to disprove that Claimant had legal pneumoconiosis at 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 31-32. She permissibly discredited the opinions of Drs. Basheda and Zaldivar on disability causation because they did not diagnose legal pneumoconiosis, contrary to her finding Employer failed to disprove the existence of the disease. *See Hobet Mining, LLC v. Epling*, 783 F.3d 498, 505 (4th Cir. 2015); Decision and Order at 16. We therefore affirm the ALJ’s finding that Employer failed to establish no part of Claimant’s total disability was caused by legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(ii). Because Employer did not rebut the Section 411(c)(4) presumption, we affirm the award of benefits.

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

SO ORDERED.

DANIEL T. GRESH, Chief  
Administrative Appeals Judge

JONATHAN ROLFE  
Administrative Appeals Judge

MELISSA LIN JONES  
Administrative Appeals Judge