



BRB No. 25-0173 BLA

NORMAN LEE WILLIAMSON)
)
 Claimant-Respondent)
)
 v.)
)
 ARGUS ENERGY, LLC)
)
 and)
)
 NEW HAMPSHIRE INS/CHARTIS)
)
 Employer/Carrier-)
 Petitioners)
)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Party-in-Interest)

NOT-PUBLISHED

DATE ISSUED: 03/31/2026

DECISION and ORDER

Appeal of the Decision and Order Granting Request for Modification of Patricia J. Daum, Administrative Law Judge, United States Department of Labor.

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

Daniel G. Murdock (Fulton, Devlin & Powers, LLC), Lexington, Kentucky, for Employer and its Carrier.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Patricia J. Daum's Decision and Order Granting Request for Modification (2024-BLA-05070) in a claim filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act). This case involves a second request for modification of a claim filed on July 1, 2015.

The ALJ issued a Decision and Order Denying Benefits on May 15, 2020, finding Claimant established simple clinical coal workers' pneumoconiosis but did not establish complicated or legal pneumoconiosis, and the evidence did not support a finding of a totally disabling respiratory or pulmonary condition. On August 18, 2020, Claimant requested modification, which the district director denied on October 18, 2021. The claim was transferred to the Office of Administrative Law Judges (OALJ), where Claimant submitted additional medical evidence in support of his request for modification, including a reading of a May 17, 2022 x-ray finding the existence of complicated pneumoconiosis. On April 3, 2023, the Employer filed a motion withdrawing its controversion of all issues and requesting the ALJ remand the claim to the Office of Workers' Compensation Programs for the payment of benefits.¹

On May 10, 2023, the ALJ issued an Order Remanding Claim to District Director for Payment of Benefits, noting the uncontested May 17, 2022 positive x-ray reading for complicated pneumoconiosis established modification based on a change in condition and setting May 17, 2022, as the onset date for the payment of benefits.

On July 7, 2023, Claimant filed another request for modification of the ALJ's onset date determination only. The district director forwarded the case to the OALJ on October 27, 2023, after informing Claimant his request for modification would be considered as based on a mistake in a determination of fact because no additional evidence was submitted in support of his request. On January 21, 2025, the ALJ issued her Decision and Order Granting Request for Modification finding the appropriate onset date for the payment of

¹ As the parties had not addressed the issue of the appropriate onset date of Claimant's total disability due to pneumoconiosis for the commencement of benefits, the ALJ issued an Order directing the parties to advise her of their position on the onset date for the award of benefits. Employer timely filed its position, that May 17, 2022, the date of the undisputed positive x-ray reading for complicated pneumoconiosis, was the date that a conclusive diagnosis of complicated pneumoconiosis could be made, and thus was the appropriate onset date. Neither the Claimant nor the Director, Office of Workers' Compensation Programs, filed a brief putting forth their position on the appropriate onset date.

benefits is August 2020, the month in which Claimant requested modification of the ALJ's original denial of benefits.

On appeal, Employer does not challenge the award of benefits. Rather, it argues the ALJ erred in determining the date for the commencement of benefits.² Claimant filed a response brief urging affirmance of the ALJ's finding regarding the date for the commencement of benefits. The Director, Office of Workers' Compensation Programs, has not filed a response.

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.³ 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).

Commencement Date of 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 Rochester & Pittsburgh Coal Co. v. Krecota*, 868 F.2d 600, 603 (3d Cir. 1989); *Lykins v. Director, OWCP*, 12 BLR 1-181, 1-184 (1989). Where, as here, modification is based on the correction of a mistake in a determination of fact, the miner is entitled to benefits from the date he first became totally disabled due to pneumoconiosis or, if that date is not ascertainable, from the date he filed his claim, unless credited evidence establishes that he was not disabled due to pneumoconiosis at any subsequent time. 20 C.F.R. §725.503(d)(1).

When a claimant is found to be entitled to the irrebuttable presumption of total disability due to pneumoconiosis at 20 C.F.R. §718.304, the onset date of when the miner became totally disabled due to pneumoconiosis is the date the miner's pneumoconiosis progressed to complicated pneumoconiosis. *Williams v. Director, OWCP*, 13 BLR 1-28, 1-30 (1989); *see Truitt v. N. Am. Coal Corp.*, 2 BLR 1-199, 1-203-04 (1979) (holding that, for purposes of identifying the responsible operator, the miner was totally disabled due to pneumoconiosis from the first month the evidence established the presence of complicated

² We affirm, as unchallenged on appeal, the ALJ's finding that Claimant is entitled to benefits. Order Remanding Claim to District Director for Payment of Benefits at 2-3; *see Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

³ 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 West Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 3.

pneumoconiosis, which was the date of the earliest x-ray interpreted as positive for complicated pneumoconiosis); 20 C.F.R. §725.503. If the evidence does not reflect that date, the date for the commencement of benefits is the month in which the claim was filed, unless the evidence affirmatively establishes that the miner had only simple pneumoconiosis for any period subsequent to the date of filing. *Williams*, 13 BLR at 1-30; 20 C.F.R. §725.503(b).

The ALJ noted she had previously set the onset date for the payment of benefits as May 17, 2022, because she found Dr. DePonte's uncontradicted positive interpretation of the May 17, 2022 x-ray for complicated pneumoconiosis was conclusive evidence that Claimant's simple pneumoconiosis progressed to complicated pneumoconiosis. Order Remanding Claim to District Director for Payment of Benefits. Upon further reflection, she found that determination to be a mistake in fact because the Board has held the date of the first medical evidence diagnosing complicated pneumoconiosis does not necessarily establish the onset date of a miner's complicated pneumoconiosis; rather, such evidence only indicates that a claimant's simple pneumoconiosis progressed to complicated pneumoconiosis at some prior point in time. *Tobrey v. Director, OWCP*, 7 BLR 1-407, 1-409 (1984); *Hall v. Consolidation Coal Co.*, 6 BLR 1-1306, 1-1310 (1984). The ALJ further noted she had not credited any evidence that would affirmatively establish Claimant had only simple pneumoconiosis between the filing date of Claimant's request for modification of the denial of benefits and the uncontested May 17, 2022 positive x-ray reading for complicated pneumoconiosis; thus, as the date Claimant's pneumoconiosis progressed to complicated pneumoconiosis was not ascertainable, she awarded benefits beginning August 2020, the month in which he filed his request for modification of the denial of benefits.⁴ Decision and Order Granting Request for Modification at 6.

Employer argues the ALJ erred in determining whether there was evidence that affirmatively established Claimant had only simple pneumoconiosis at any time after the date of his request for modification of the denial of benefits because "the only way to establish a date for 'when claimant's simple pneumoconiosis became complicated' is some diagnostic test establishing that diagnosis," namely the positive May 17, 2022 x-ray. Employer's Brief at 5. We disagree.

⁴ We affirm, as unchallenged on appeal, the ALJ's findings that Claimant timely sought modification, that Claimant acted in good faith in pursuit of his second request for modification of the ALJ's onset date determination, and, thus, that granting the request for modification would render justice under the Act. *Westmoreland Coal Co. v. Sharpe [Sharpe II]*, 692 F.3d 317, 327-28 (4th Cir. 2012); Decision and Order Granting Request for Modification at 7-8.

We reject Employer's argument as directly contrary to the Board's longstanding precedents in *Tobrey* and *Hall*. As determined in those cases, the May, 17, 2022 x-ray establishes only that Claimant's simple pneumoconiosis progressed to complicated pneumoconiosis at some prior point in time. See *Tobrey*, 7 BLR at 1-409; *Hall*, 6 BLR at 1-1310. Further, the ALJ did not credit any evidence that Claimant had only simple pneumoconiosis at any time after the filing date of his modification request of the denial of benefits. Thus, substantial evidence supports the ALJ's finding that the medical evidence does not reflect when Claimant's simple pneumoconiosis progressed to complicated pneumoconiosis. Therefore, we affirm the ALJ's determination that benefits are payable from the month in which Claimant filed his request for modification of the denial of benefits, August 2020.⁵ 20 C.F.R. §725.503(b), (d)(1).

⁵ In her initial May 10, 2023 Order Remanding Claim to District Director for Payment of Benefits, the ALJ found Claimant had three dependents, his wife Sonya Williamson and two children, Camron and Kaleb Williamson. Order Remanding Claim to District Director for Payment of Benefits at 5-6. She noted, however, based on the May 2022 onset date she determined in that Order, Kaleb was over eighteen years old by that time, had ceased being a full-time student in December 2020, and thus was no longer a dependent. *Id.* at 5. Subsequently, the ALJ did not revisit and address the number of dependents Claimant had as of the revised August 2020 date of onset she found in her Decision and Order Granting Request for Modification. See generally Decision and Order Granting Request for Modification.

While the ALJ noted Kaleb was born on January 13, 2002, and thus had reached the age of 18 before the revised August 2020 onset date, the ALJ further noted he did not cease being a full-time student at Southern West Virginia Community College until December 2020. Order Remanding Claim to District Director for Payment of Benefits at 5, citing Director's Exhibits 15 and 53. The ALJ further noted Camron Williamson was born on November 27, 2007, and therefore he remained under the age of 18 in August 2020 and thus a dependent of Claimant until he reached the age of 18. *Id.* at 6. Thus, in overseeing Employer's paying Claimant benefits based on the revised August 2020 date of onset, the district director should determine the number of dependents Claimant has for purposes of augmentation of benefits and the length of their dependency based upon the August 2020 onset date.

Accordingly, we affirm the ALJ's Decision and Order Granting Request for Modification.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

GLENN E. ULMER
Administrative Appeals Judge