



BRB Nos. 23-0315 BLA
and 23-0316 BLA

RHONDA L. DISNEY)
(o/b/o and Widow of HERMAN L. DISNEY))

Claimant-Petitioner)

v.)

ENTERPRISE COAL COMPANY, LLC)

and)

COASTAL COAL COMPANY, LLC)

DATE ISSUED: 05/15/2024

Employer/Carrier-)
Respondents)

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

Party-in-Interest)

DECISION and ORDER

Appeal of the Decision and Order Denying Benefits in the Miner's Initial Claim and Denying Benefits in the Survivor's Claim of Larry S. Merck, Administrative Law Judge, United States Department of Labor.

Rhonda L. Disney, Pennington Gap, Virginia.

Denise M. Davidson (Davidson & Associates), Hazard, Kentucky, for Employer and its Carrier.

Before: GRESH, Chief Administrative Appeals Judge, BOGGS and BUZZARD, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals, without representation,¹ Administrative Law Judge (ALJ) Larry S. Merck's Decision and Order Denying Benefits in the Miner's Initial Claim and Denying Benefits in the Survivor's Claim (2017-BLA-05419 and 2017-BLA-06283) pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).² This case involves a miner's claim filed on April 24, 2014, and a survivor's claim filed on July 16, 2015.

The ALJ credited the Miner with at least fifteen years of qualifying coal mine employment.³ However, he found Claimant did not establish the Miner had a totally disabling respiratory impairment and therefore could not invoke the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.⁴ 30 U.S.C.

¹ Robin Napier, a benefits counselor with Stone Mountain Health Services of St. Charles, Virginia, requested the Benefits Review Board review the ALJ's decision on Claimant's behalf, but Ms. Napier is not representing Claimant on appeal. *See Shelton v. Claude V. Keene Trucking Co.*, 19 BLR 1-88 (1995) (Order).

² Claimant is the widow of the Miner, who died on May 12, 2015. Survivor's Claim (SC) Director's Exhibit 10. Claimant is pursuing the miner's claim on her husband's behalf and her own survivor's claim. Initially, the ALJ denied benefits in the miner's and survivor's claims on October 19, 2020. In response to a March 9, 2023 handwritten letter from Claimant to the ALJ informing him that she was unaware of the ALJ's denial of benefits until a week before her letter, the ALJ reissued his denial of benefits in both claims on April 24, 2023, unchanged except for the appeal rights section which had been updated.

³ We affirm, as unchallenged on appeal, the ALJ's crediting of the Miner with at least fifteen years of qualifying coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4.

⁴ In a miner's claim, Section 411(c)(4) of the Act provides a rebuttable presumption that the miner was totally disabled due to pneumoconiosis. In a survivor's claim, Section 411(c)(4) provides a presumption that the miner's death was due to pneumoconiosis. To invoke the presumption in either the miner's or survivor's claims, Claimant must establish the Miner had at least fifteen years of underground or substantially similar surface coal mine employment, and a totally disabling respiratory or pulmonary impairment at the time of his death. 30 U.S.C. §921(c)(4) (2018); 20 C.F.R. §718.305.

§921(c)(4) (2018). He found Claimant's failure to establish total disability, a necessary element of entitlement under 20 C.F.R. Part 718, precluded benefits in the miner's claim. In the survivor's claim, the ALJ found Claimant established the Miner had clinical pneumoconiosis arising out of his coal mine employment, but not legal pneumoconiosis. However, he found Claimant failed to establish the Miner's death was caused or hastened by clinical pneumoconiosis and therefore denied benefits in the survivor's claim.

On appeal, Claimant generally challenges the ALJ's denials of benefits in both the miner's and survivor's claims. Employer and its Carrier (Employer) respond in support of the denial. The Director, Office of Workers' Compensation Programs, declined to file a substantive response brief.

In an appeal a claimant files without representation, the Board considers whether the Decision and Order below is supported by substantial evidence. *Hodges v. BethEnergy Mines, Inc.*, 18 BLR 1-84, 1-86 (1994). We must affirm the ALJ's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with applicable law.⁵ 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Miner's Claim

Total Disability

To invoke the Section 411(c)(4) presumption or establish entitlement to benefits under 20 C.F.R. Part 718, Claimant must establish the Miner had a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.305(b)(1)(i)-(iii). A miner was totally disabled if his pulmonary or respiratory impairment, standing alone, prevented him from performing his usual coal mine work and comparable gainful work. *See* 20 C.F.R. §718.204(b)(1). 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.

⁵ The Board will apply the law of the United States Court of Appeals for the Fourth Circuit as the Miner performed his last coal mine employment in West Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Decision and Order at 3 n.4; Miner's Claim (MC) Director's Exhibit 6; Hearing Transcript at 6-7, 28.

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

§718.204(b)(2)(i)-(iv). The ALJ must weigh all relevant supporting evidence against all relevant contrary evidence. See *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 failed to establish the Miner was totally disabled by any method. Decision and Order at 7-15.

Pulmonary Function Studies

The ALJ considered two pulmonary function studies, both conducted without the administration of a bronchodilator. 20 C.F.R. §718.204(b)(2)(i); Decision and Order at 8-9; Miner's Claim (MC) Director's Exhibits 11, 12. The October 19, 2011 study produced non-qualifying values, while the June 11, 2014 study produced qualifying results. Decision and Order at 8-9. The ALJ found both pulmonary function studies are invalid and thus determined Claimant cannot establish total disability at 20 C.F.R. §718.204(b)(2)(i). *Id.* at 9.

Dr. Ajjarapu conducted the June 11, 2014 qualifying study in conjunction with her examination of the Miner during the Department of Labor-sponsored complete pulmonary evaluation. MC Director's Exhibit 11. The technician who conducted the study indicated that the Miner was unable to understand the instructions for performing the test due to severe dementia. *Id.* Additionally, Dr. Ajjarapu stated in her report that due to his dementia, the Miner "was not able to understand directions, and his respiratory effort is very poor." *Id.* Dr. Michos reviewed the test and also indicated it was invalid due to less than optimal effort, cooperation, and comprehension. *Id.* Thus, we affirm the ALJ's determination that the June 11, 2014 study was invalid based on the uncontradicted opinions of the technician, Dr. Ajjarapu, and Dr. Michos. *Island Creek Coal Co. v. Compton*, 211 F.3d 203, 211 (4th Cir. 2000); *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 528 (4th Cir. 1998); see also 20 C.F.R Part 718, Appendix B; Decision and Order at 8-9 and nn. 10-12.

Although the ALJ did not address 20 C.F.R. §718.103(c), we consider the error to be harmless. That regulation provides that, in the case of a deceased miner where no pulmonary function studies are in substantial compliance with the quality standards, noncomplying tests may form the basis for a total disability finding if, in the opinion of the adjudication officer, the tests demonstrated technically valid results obtained with good cooperation of the miner. 20 C.F.R. §718.103(c). Here there is no evidence that would support a finding that the June 11, 2014 study demonstrated technically valid results obtained with good cooperation of the Miner in light of the observations and conclusions that Drs. Ajjarapu, Michos, and the technician made regarding his inability to cooperate or perform the test. *Id.*; MC Director's Exhibit 11.

Moreover, although the ALJ did not address 20 C.F.R. §725.406(c), we consider the error to be harmless as well. That regulation provides that the district director must provide a miner an additional opportunity to take a DOL-sponsored pulmonary function study if the deficiencies in the first study are due to lack of effort. 20 C.F.R. §725.406(c). Here, the Miner was physically unable to perform the study with the required effort due to his dementia and thus another study was medically contraindicated. *See* 20 C.F.R. §§718.104(a)(6) (recognizing that performance of a pulmonary function study is excused if the miner is physically unable to perform it or if the test is medically contraindicated), 718.204(b)(2)(iv) (same), 725.406(c); MC Director’s Exhibit 11.

Because there is no valid and qualifying pulmonary function study evidence to support Claimant’s burden of proof, we affirm the ALJ’s finding that Claimant did not establish total disability at 20 C.F.R. §718.204(b)(2)(i).⁷ *Hicks*, 138 F.3d at 528; Decision and Order at 7-9.

Arterial Blood Gas Studies

The ALJ correctly noted there was only one blood gas study for consideration in the miner’s claim: the Miner’s treatment records contain a study dated May 4, 2015, which was performed at rest and produced qualifying values.⁸ Decision and Order at 9 n.14; MC Claimant’s Exhibit 6. The ALJ permissibly determined the study was unreliable for assessing the Miner’s total disability because it was administered during a hospitalization which ended in the Miner’s death and was not accompanied by a physician’s report establishing that the test results were produced by a chronic respiratory or pulmonary condition.⁹ 20 C.F.R. §718.105(d); Decision and Order at 9 & n.14; MC Claimant’s

⁷ As noted, the ALJ found the October 19, 2011 non-qualifying study to be invalid. Miner’s Claim (MC) Director’s Exhibit 12. Because the study is non-qualifying, it would not support Claimant’s burden to establish total disability even had the ALJ found it probative. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Decision and Order at 8-9; MC Director’s Exhibit 12.

⁸ Dr. Ajjarapu was unable to conduct an arterial blood gas study during her Department of Labor-sponsored complete pulmonary evaluation of the Miner on June 11, 2014, because, as the technician stated, the Miner was confused and agitated due to his Alzheimer’s Disease. *See* Decision and Order at 9 n.14; MC Director’s Exhibit 11. In essence, the complete pulmonary evaluation did not include an arterial blood gas study because it was “medically contraindicated.” 20 C.F.R. §725.406(a).

⁹ There was no statement on the blood gas study report itself that related the test results to a chronic respiratory or pulmonary condition. Although the hospital discharge

Exhibit 6. Therefore, we affirm the ALJ's finding that Claimant is unable establish total disability at 20 C.F.R. §718.204(b)(2)(ii). Decision and Order at 9 & n.14.

Cor Pulmonale

The ALJ accurately found there is no evidence the Miner had cor pulmonale with right-sided congestive heart failure, and therefore Claimant cannot establish total disability at 20 C.F.R. §718.204(b)(2)(iii). Decision and Order at 9.

Medical Opinions and Treatment Records

The ALJ considered the medical opinions of Drs. Ajarapu, Shields, Jarboe, Helms, and Oesterling. Decision and Order at 10-12. Dr. Ajarapu opined that because the pulmonary function study she conducted was invalid, the Miner's "[p]ulmonary function could not be determined at this time." MC Director's Exhibit 11. Dr. Shields did not address the Miner's respiratory condition. MC Claimant's Exhibit 3. Dr. Jarboe stated there was no evidence of total disability as the Miner's non-qualifying pulmonary function study dated October 19, 2011, showed neither obstruction nor restriction, the Miner's oxygen saturation was consistently reported within normal limits, and the Miner's chest and respirations were consistently reported as "clear" and "effortless and normal," respectively. MC Employer's Exhibit 5. Dr. Helms reported that a specimen of the Miner's right lung showed simple pneumoconiosis, pneumonia, and emphysema. MC Claimant's Exhibit 4. Dr. Oesterling opined the Miner's coal mine dust exposure did not cause lifetime pulmonary disability. MC Employer's Exhibit 4.

The ALJ accurately observed none of the physicians rendering an opinion diagnosed a totally disabling respiratory or pulmonary impairment. *See Gee v. W.G. Moore and Sons*, 9 BLR 1-4, 1-6 (1986) (en banc) (medical evidence that fails to state the miner is totally disabled or otherwise address the severity of the impairment in such a way as to permit the ALJ to infer total disability is not probative evidence of total disability); Decision and Order at 14; MC Director's Exhibit 11; MC Claimant's Exhibits 3, 4; MC Employer's Exhibits 4, 5.

Furthermore, the ALJ considered the Miner's treatment records. Decision and Order at 12-14. He found that although the Pennington Family Health records document respiratory symptoms in the year before the Miner's death, "they do not specifically indicate whether the Miner had a total respiratory disability." Decision and Order at 13;

summary dated May 12, 2015, gave a discharge diagnosis of "respiratory failure secondary to end stage [chronic obstructive pulmonary disease]," the ALJ discredited that diagnosis. *See infra* at 7; MC Claimant's Exhibit 6.

MC Director's Exhibit 12. In addition, he accurately noted that the MSMG Neurology records discuss the Miner's treatment for dementia but do not identify any respiratory symptoms. MC Claimant's Exhibit 5.

The ALJ also considered the Bristol Regional Medical Center records, which describe the Miner as having coal workers' pneumoconiosis, emphysema, and dementia; and Dr. Stephanie Adams's discharge summary, which describes the Miner as oxygen dependent and attributes his death to "respiratory failure secondary to end stage [chronic obstructive pulmonary disease] COPD." MC Claimant's Exhibit 6 at 46.

The ALJ acknowledged that Dr. Adams's statement, that the Miner had respiratory failure due to end stage COPD, could constitute an opinion that the Miner had a totally disabling respiratory or pulmonary impairment. Decision and Order at 13-14; MC Claimant's Exhibit 6. However, the ALJ permissibly found her opinion is not well-reasoned because she did not explain why she concluded that the Miner had respiratory failure and the record does not contain medically acceptable data from which that conclusion could be drawn. *See Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989) (en banc); Decision and Order at 14.

Moreover, the ALJ acted within his discretion in not crediting Dr. Adams's diagnosis of "[oxygen] dependent end stage COPD" because it was inconsistent with the remaining treatment records, which did not identify any respiratory diagnoses until 2014 and did not reflect the Miner was oxygen dependent with end stage COPD. *See Snorton v. Zeigler Coal Co.*, 9 BLR 1-106, 1-107 (1986) (ALJ may reasonably question the validity of a physician's opinion that varies significantly from the remaining medical opinions of record); *Hutchens v. Director, OWCP*, 8 BLR 1-16, 1-19 (1985) (ALJ must consider factors that tend to undermine the reliability of a physician's conclusions before accepting it); Decision and Order at 14; MC Claimant's Exhibit 6 at 46.

Because there is no credited evidence to support a finding of total disability, we affirm the ALJ's determination that the medical opinion evidence and the Miner's treatment records do not establish total disability at 20 C.F.R. §718.204(b)(2)(iv). Decision and Order at 9-15. We further affirm the ALJ's conclusion that the relevant medical evidence, when weighed together, fails to establish total disability, a required element of entitlement in the miner's claim.¹⁰ 20 C.F.R. §718.204(b)(2); *Shedlock*, 9 BLR at 1-198;

¹⁰ Claimant could not invoke the irrebuttable presumption that the Miner was totally disabled due to pneumoconiosis at Section 411(c)(3) of the Act because, as the ALJ

Rafferty, 9 BLR at 1-232; Decision and Order at 15. We therefore affirm the ALJ’s denial of benefits in the miner’s claim.

Survivor’s Claim

Invocation of the Section 411(c)(4) Presumption

Because Claimant submitted additional treatment records and the Miner’s death certificate for consideration in the survivor’s claim, the ALJ considered whether this evidence established total disability for the purpose of invoking the rebuttable presumption that the Miner’s death was due to pneumoconiosis at Section 411(c)(4) of the Act. 20 C.F.R. §718.305; Decision and Order at 17-18.

Treatment records from Thompson/Pennington Family Health Centers noted the Miner reported shortness of breath and coughing at times, and a physician diagnosed “pneumocytosis.”¹¹ SC Director’s Exhibit 12. The Miner’s death certificate lists “Respiratory Failure” as the immediate cause of death with contributing causes listed as “Alzheimer’s Disease Dementia” and “COPD.” SC Director’s Exhibit 10.

The ALJ permissibly found the treatment records submitted in the survivor’s claim do not establish total disability as they do not reflect the Miner had “any objective respiratory abnormalities” and do not indicate any physician prescribed medications to treat respiratory complaints. *Underwood v. Elkay Mining, Inc.*, 105 F.3d 946, 949 (4th Cir. 1997) (ALJ must evaluate the evidence, weigh it, and draw his own conclusions); *Gee*, 9 BLR at 1-6; Decision and Order at 18; SC Director’s Exhibit 12.

Additionally, the ALJ reasonably gave little weight to the death certificate Dr. Adams completed and signed because the treatment records do not indicate that a physician diagnosed the Miner with end-stage COPD or prescribed treatment for any respiratory condition. See *Grizzle v. Pickands Mather & Co.*, 994 F.2d 1093, 1096 (4th Cir. 1993) (ALJ has sole power to make credibility determinations); *Bill Branch Coal Co. v. Sparks*, 213 F.3d 186, 192 (4th Cir. 2000) (death certificate does not constitute a reasoned medical opinion unless it explains the reasoning behind its conclusion); *Addison v. Director*,

correctly observed, there was no evidence of complicated pneumoconiosis. Decision and Order at 19 n.35.

¹¹ Pneumocytosis is a fungal infection of the lungs. U.S. Dep’t of Health & Human Services, National Institutes of Health, National Center for Advancing Translational Sciences, Genetic & Rare Diseases Information Center “Pneumocytosis” (last updated February 2024).

OWCP, 11 BLR 1-68, 1-70 (1988) (ALJ must evaluate the credibility of the death certificate before relying on it); Decision and Order at 18; SC Director’s Exhibit 10.

Because it is supported by substantial evidence, we affirm the ALJ’s conclusion that Claimant did not establish total disability in the survivor’s claim, and thus did not invoke the rebuttable presumption that the Miner’s death was due to pneumoconiosis. 20 C.F.R. §718.305; Decision and Order at 18.

Entitlement under 20 C.F.R. Part 718

Without the Section 411(c)(3)¹² or Section 411(c)(4) presumptions, Claimant must establish the Miner had pneumoconiosis arising out of coal mine employment and that his death was due to pneumoconiosis. See 20 C.F.R. §§718.202(a), 718.203, 718.205(a); *Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85, 1-87-88 (1993). Death is considered due to pneumoconiosis if pneumoconiosis or complications of pneumoconiosis cause a miner’s death, or if pneumoconiosis was a substantially contributing cause of his death. 20 C.F.R. §718.205(b)(1), (2). Pneumoconiosis is a “substantially contributing cause” if it hastens the miner’s death. 20 C.F.R. §718.205(b)(6); see *Collins v. Pond Creek Mining Co.*, 751 F.3d 180, 184 (4th Cir. 2014). Failure to establish pneumoconiosis or death causation precludes entitlement. See *Trumbo*, 17 BLR at 1-87-88.

Legal Pneumoconiosis

With regard to whether the Miner had legal pneumoconiosis,¹³ the ALJ considered the opinions of Drs. Ajjarapu and Jarboe. Decision and Order at 24-26. Dr. Ajjarapu diagnosed the Miner with legal pneumoconiosis in the form of chronic bronchitis due in part to coal mine dust exposure while Dr. Jarboe concluded that the Miner did not have

¹² The ALJ accurately found there is no evidence the Miner had complicated pneumoconiosis; therefore, Claimant is unable to invoke the irrebuttable presumption that the Miner’s death was due to pneumoconiosis at Section 411(c)(3) of the Act, 20 C.F.R. §718.304. Decision and Order at 19 n.35.

¹³ 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). This definition encompasses 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).

legal pneumoconiosis. SC Claimant's Exhibit 4; SC Employer's Exhibit 5. The ALJ found neither opinion well-documented nor well-reasoned. Decision and Order at 26.

The ALJ rationally questioned the documentation and reasoning underlying Dr. Ajarapu's opinion because it was based on subjective reports of the Miner's symptoms rather than on objective data or Dr. Ajarapu's observations, particularly given that the physician recorded the Miner's physical examination was normal. *Hicks*, 138 F.3d at 528; *Akers*, 131 F.3d at 441; Decision and Order at 26; SC Claimant's Exhibit 4. We need not address whether the ALJ erred in rejecting Dr. Jarboe's opinion because it does not support a finding of legal pneumoconiosis. *Larioni*, 6 BLR at 1-1278; Decision and Order at 26; SC Employer's Exhibit 5.

The ALJ also considered the Miner's treatment records from MSMG Neurology, Pennington Family Health, and Bristol Regional Medical Center. Decision and Order at 26-27. The ALJ rationally found the treatment records did not support a finding of legal pneumoconiosis because the MSMG Neurology records do not mention any respiratory conditions, and the records from Pennington Family Health and Bristol Regional identified emphysema and COPD but did not provide an etiology for either diagnosis. 20 C.F.R. §718.201(a)(2), (b); Decision and Order at 26-27; SC Director's Exhibit 12; SC Claimant's Exhibits 5-7.

Finally, the ALJ considered the Miner's death certificate. Decision and Order at 27. Although it listed respiratory failure as the immediate cause of death with COPD as a contributing cause, it did not identify the cause of the Miner's COPD. Thus, the ALJ rationally found that it also does not support a finding of legal pneumoconiosis. 20 C.F.R. §718.201(a)(2), (b); Decision and Order at 27; SC Director's Exhibit 10.

Consequently, as it is supported by substantial evidence, we affirm the ALJ's conclusion that Claimant did not establish the Miner had legal pneumoconiosis. *Underwood*, 105 F.3d at 949; Decision and Order at 27, 29. As Claimant failed to establish legal pneumoconiosis, she cannot establish the Miner's death was due to legal pneumoconiosis. 20 C.F.R. §718.205(b).

Death Causation

The ALJ found that while Claimant established the Miner had simple clinical pneumoconiosis arising out of his coal mine employment, she failed to establish that his simple clinical pneumoconiosis contributed to or hastened the Miner's death. Decision and Order at 19-29. In so finding, the ALJ considered the autopsy reports, medical opinions, death certificate, and treatment records from the Miner's last hospitalization. *Id.* at 28-29.

Neither Dr. Helms, in her pathology report, nor Dr. Shields, in her medical report, addressed the cause of the Miner's death. SC Director's Exhibit 13; SC Claimant's Exhibit 3. Dr. Oesterling, in his pathology report, stated that coal dust did not cause, hasten, or contribute to the Miner's death. SC Employer's Exhibit 4. Dr. Jarboe stated in his medical report that the Miner's death was not caused by, contributed to, or the result of coal workers' pneumoconiosis. SC Employer's Exhibit 5 at 6. Neither the Miner's death certificate nor the treatment records from the Miner's final hospitalization identified coal workers' pneumoconiosis as a cause of his death. SC Director's Exhibit 10; SC Claimant's Exhibit 7. Consequently, the ALJ accurately found there is no evidence of record to support a finding that the Miner's death was due to clinical pneumoconiosis. Decision and Order at 29; SC Director's Exhibits 10, 13; SC Claimant's Exhibits 3, 7; SC Employer's Exhibits 4, 5. We thus affirm that finding.

Based on our affirmance of the ALJ's findings that Claimant did not establish the Miner had legal pneumoconiosis or that his death was due to clinical pneumoconiosis, Claimant failed to establish entitlement to benefits in the survivor's claim. 20 C.F.R. §718.205(b); *Trumbo*, 17 BLR at 1-87; Decision and Order at 29.

Accordingly, we affirm the ALJ's Decision and Order Denying Benefits in the Miner's Initial Claim and Denying Benefits in the Survivor's Claim.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge