U.S. Department of Labor

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

BRB No. 24-0260 BLA

MICHAEL J. WARMUS Claimant-Respondent v. KEYSTONE COAL MINING CORPORATION and CONSOL ENERGY, INCORPORATED Employer/Carrier-Petitioners DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	**NOT-PUBLISHED** DATE ISSUED: 05/08/2025 DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Drew A. Swank, Administrative Law Judge, United States Department of Labor.

Heath M. Long and Matthew A. Gribler (Pawlowski, Bilonick & Long), Ebensburg, Pennsylvania, for Claimant.

Christopher L. Wildfire (SutterWilliams, LLC), Pittsburgh, Pennsylvania, for Employer and its Carrier.

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

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Drew A. Swank's Decision and Order Awarding Benefits (2023-BLA-05783) rendered on a claim filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act). This case involves a subsequent claim filed on October 18, 2021.[1]

The ALJ accepted the parties' stipulation that Claimant worked in coal mine employment for 29.63 years and found he has a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). Thus the ALJ found Claimant invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act,[2] and established a change in an applicable condition of entitlement. 30 U.S.C. §921(c)(4) (2018); 20 C.F.R. §725.309.[3] He further found Employer did not rebut the presumption and awarded benefits.

Employer contends the ALJ erred in finding Claimant established at least fifteen years of qualifying coal mine employment and total disability necessary to invoke the Section 411(c)(4) presumption. It also contends he erred in finding it did not rebut the

[1] Claimant filed his first claim on September 15, 2011. Director's Exhibit 1. The district director denied the claim because Claimant failed to establish any element of entitlement. Director's Exhibit 1. Claimant filed three additional claims that he later withdrew; therefore, those claims are considered not to have been filed. *See* 20 C.F.R. §725.306; Director's Exhibits 2-5. He filed the current pending claim on October 18, 2021. Director's Exhibit 6.

[2] Section 411(c)(4) 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.

[3] 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 that "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); *see 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). Claimant was therefore required to establish at least one element of entitlement to obtain review of the merits of his current claim. *White*, 23 BLR at 1-3.

presumption. Claimant responds in support of the award of benefits. The Acting Director, Office of Workers' Compensation Programs, has not filed a response brief.

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.[4] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman and Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

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

Qualifying Coal Mine Employment

To invoke the Section 411(c)(4) presumption, Claimant must establish he worked at least fifteen years in underground coal mines or surface coal mines in conditions "substantially similar" to those in an underground mine. 20 C.F.R. §718.305(b)(1)(i); *see Muncy v. Elkay Mining Co.*, 25 BLR 1-21, 1-29 (2011). The conditions in a surface mine are "substantially similar" to those underground if "the miner was regularly exposed to coal-mine dust while working there." 20 C.F.R. §718.305(b)(2).

The ALJ accepted the parties' stipulation that Claimant established 29.63 years of coal mine employment. Decision and Order at 4; Hearing Tr. at 5-6. Employer does not challenge the ALJ's length of coal mine employment finding. Thus, we affirm this finding. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983). Instead, Employer argues the ALJ erred in finding Claimant established he was regularly exposed to coal mine dust in the years he worked aboveground. Employer's Brief at 26-27. We agree.

During the January 26, 2024 hearing, Employer agreed with Claimant that he worked for "29.63 years in coal mine employment." Hearing Tr. at 5. Employer further concedes Claimant worked in underground coal mine employment for 13.72 years. Employer's Brief at 26. The ALJ permissibly relied on the parties' stipulation to credit Claimant with 29.63 years of coal mine employment and noted his coal mining work was both above and belowground. Decision and Order at 4, 5. Nevertheless, the ALJ did not

[4] This case arises within the jurisdiction of the United States Court of Appeals for the Third Circuit because Claimant performed his coal mine employment in Pennsylvania. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 7.

determine whether Claimant established fifteen years of *qualifying* coal mine employment necessary to invoke the Section 411(c)(4) presumption.[5] Decision and Order at 4-5.

Work aboveground at an underground mine constitutes qualifying coal mine employment for purposes of Section 411(c)(4). *See* 20 C.F.R. §725.101(a)(30); *Muncy*, 25 BLR at 1-29; *Alexander v. Freeman United Coal Mining Co*., 2 BLR 1-497, 1-501 (1979). However, where employment took place at a surface mine, a claimant must establish that the work took place in dust conditions that were substantially similar to those in an underground mine. 30 U.S.C. §921(c)(4); *see Director, OWCP v. Midland Coal Co.* [*Leachman*], 855 F.2d 509, 512 (7th Cir. 1988); *Harris v. Cannelton Indus.,* 24 BLR 1-217, 1-223 (2011). Under the Administrative Procedure Act (APA), the ALJ must identify the evidence on which he relies and set forth his findings, and the underlying rationale, in adequate detail. 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a), by means of 33 U.S.C. §919(d) and 5 U.S.C. §554(c)(2). We agree with Employer that the ALJ failed to comply with the requirements of the APA in this instance because he did not render a finding as to whether at least fifteen years of Claimant's 29.63 years of coal mine employment constitutes qualifying coal mine employment.

Moreover, we cannot say the ALJ's error was harmless as the record indicates Claimant worked in jobs both underground and aboveground. Hearing Tr. at 13-19. Here, the ALJ did not determine the duration of Claimant's jobs underground, aboveground at an underground mine site, or at surface mines where Claimant must establish the conditions were substantially similar to underground coal mine employment. Therefore, we must vacate the ALJ's finding that Claimant invoked the Section 411(c)(4) presumption and remand the case for the ALJ to determine whether Claimant has established at least fifteen years of qualifying coal mine employment. On remand, the ALJ must reconsider the relevant evidence to determine the qualifying nature of Claimant's coal mine employment and must explain the rationale for his finding. *See Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989).

[5] The ALJ's reliance on the parties' stipulation as to the *length* of Claimant's coal mine employment of 29.63 years was proper. Hearing Tr. at 5-6. Subsequent to the January 16, 2024 hearing, Employer raised the issue of whether Claimant was regularly exposed to coal mine dust while working above ground, thereby establishing the requisite fifteen years of coal mine employment necessary to invoke the Section 411(c)(4) presumption. Employer's Closing Position Statement at 2-4.

Total Disability

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. *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on qualifying[6] pulmonary function studies or arterial blood gas studies, 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 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 medical opinion evidence and the evidence as a whole.[7] 20 C.F.R. §718.204(b)(2)(iv); Decision and Order at 7-15. Employer challenges the ALJ's finding that the medical opinion evidence establishes total disability. Employer's Brief at 28-34.

The ALJ considered the medical opinions of Drs. Zlupko, Go, and Basheda. Decision and Order at 21-24. Drs. Zlupko and Go opined Claimant is totally disabled, while Dr. Basheda opined he is not. Director's Exhibits 17, 23; Claimant's Exhibit 2; Employer's Exhibits 2, 7. The ALJ found Drs. Zlupko's and Basheda's opinions not reasoned. Decision and Order at 23-24. He found Dr. Go's opinion well-reasoned and thus found the medical opinions support a finding of total disability. *Id*. at 23, 24. We agree with Employer's arguments that the ALJ erred in his assessment of the opinions of Drs. Go and Basheda. Employer's Brief at 31-34; *see* Claimant's Exhibit 2; Employer's Exhibits 2, 7.

Dr. Go noted Claimant worked as a mechanic, face worker, miner helper, face laborer, and shuttle car operator. Claimant's Exhibit 2 at 1. He stated Claimant's last job as a mechanic involved lifting twenty-five to fifty pound loads four to five times per day; carrying forty to fifty pound loads five to ten times per day; and crawling ten to twenty feet

[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. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

[7] The ALJ found Claimant did not establish total disability based on the pulmonary function studies or arterial blood gas studies, and there is no evidence he has cor pulmonale with right-sided congestive heart failure. 20 C.F.R. §718.204(b)(2)(i)-(iii); Decision and Order at 19-20.

per day. *Id*. While he acknowledged the results of the pulmonary function studies and arterial blood gas studies do not meet the Department of Labor (DOL) standards for total disability, Dr. Go nevertheless opined Claimant "has demonstrated abnormal gas exchange on multiple occasions" as evidenced by hypoxemia on the pulse oximetry testing and the June 14, 2023 arterial blood gas study which is the most recent study. *Id*. at 7. He concluded that after Claimant walked only 1.2 miles per hour on a fifteen percent decline during the exercise portion of the June 14, 2023 study he had "hypoxemia with [an] oxygen saturation of 88%," an amount that would meet the requirements for Claimant to receive supplemental oxygen. *Id*. He therefore opined Claimant could not perform his usual coal mine employment based on this level of impairment. *Id*.

Dr. Basheda reported Claimant worked as a mechanic for seventeen years and also worked briefly as a general inside laborer and miner helper. Employer's Exhibit 2 at 2. He noted Claimant's work as a mechanic required him to carry a twenty-pound tool bag while walking and crawling and, at various times, carry mechanical parts and five-gallon cans of oil. *Id.* He also reported Claimant's underground coal mine jobs required working in coal heights of forty-six inches to seven feet. *Id.* Noting the pulmonary function and arterial blood gas studies produced non-qualifying values per DOL standards, Dr. Basheda opined Claimant does not have "an oxygenation impairment that would prevent [him] from performing his last coal mine work." *Id.* at 14. Dr. Basheda also reviewed additional medical records and, in a supplemental report, criticized Dr. Go's disability assessment, stating there was no objective evidence to support the conclusion that Claimant is totally disabled; he therefore reiterated his opinion Claimant does not have a disabling pulmonary impairment. Employer's Exhibit 7 at 5-6.

The ALJ found Dr. Go's opinion that Claimant cannot perform any coal mine employment well-reasoned and accorded it great weight, based on Dr. Go's consideration of the exertional requirements of Claimant's last coal mining job and the diagnostic test results. Decision and Order at 23. However, as Employer correctly asserts, Dr. Basheda, like Dr. Go, considered the exertional requirements of Claimant's last coal mine job as a mechanic, objective testing, Claimant's medical and work histories, and his physical examination findings. Employer's Brief at 32-33; Employer's Exhibit 2. Consequently, we are unable to discern why the ALJ found Dr. Go's opinion better reasoned and entitled to more weight than Dr. Basheda's opinion on this basis. We hold the ALJ erred by failing to critically analyze the physicians' opinions and otherwise explain, as the Administrative Procedure Act[8] (APA) requires, why he found Dr. Go's opinion merited dispositive

[8] The Administrative Procedure Act, 5 U.S.C. §§500-591, provides that every adjudicatory decision must include "findings and conclusions and the reasons or basis

weight. *See* 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a); *see Barren Creek Coal Co. v. Witmer*, 111 F.3d 352, 354-56 (3d Cir. 1997); *Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 256-57 (4th Cir. 2016) (ALJ must conduct an appropriate analysis of the evidence to support his conclusions and render necessary credibility findings); *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998) (ALJ erred by failing to adequately explain why he credited certain evidence and discredited other evidence); *Wojtowicz*, 12 BLR at 1-165; *McCune v. Cent. Appalachian Coal Co.*, 6 BLR 1-996, 1-998 (1984).

Similarly, substantial evidence does not support the ALJ's stated bases for discrediting Dr. Basheda's opinion. Decision and Order at 23-24. Dr. Basheda referred to the guidelines set forth by the American Medical Association (AMA) for permanent disability and explained how these guidelines "utilize the results of pulmonary function testing, namely the FEV_1, FVC, and FEV_1/FVC ratio, and diffusion measurement to determine impairment and disability." Employer's Exhibit 2 at 13. He then noted the values obtained on the March 7, 2023 pulmonary function study and, applying the DOL's disability criteria for pulmonary function testing, opined Claimant does not have a significant impairment that would preclude him from performing his usual coal mine work. *Id*. at 14. Next, he reviewed the March 7, 2023 arterial blood gas study, in addition to the October 28, 2021 study and, because these studies did not meet the DOL standards for disability, concluded Claimant is not totally disabled from his usual coal mine employment. *Id*.

The ALJ stated:

> Doctor Basheda opined that Claimant could perform his last coal mining job, citing the fact that Claimant's arterial blood gas testing results did not meet the Department of Labor guidelines for total disability. . . . While it is true that Claimant's diagnostic testing results did not meet Department of Labor guidelines for total disability, *supra,* 20 C.F.R. §718.204(b)(2)(iv) is more than merely a recapitulation of 20 C.F.R. §718.204(b)(2)(i) and (ii). To limit 20 C.F.R. §718.204(b)(2)(iv) vitiates its purpose and renders it superfluous – a result contrary to a basic principle in statutory or regulatory interpretation.

Decision and Order at 23. On this basis, he found Dr. Basheda's opinion not well-reasoned and worthy of no weight. *Id.* However, while Dr. Basheda determined the objective studies did not meet the DOL standards to qualify for total disability, he also listed the duties and

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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).

exertional requirements of Claimant's coal mining jobs and opined Claimant would be able to perform those duties based on the results of the objective studies. Given that Dr. Basheda apparently considered the question posed by 20 C.F.R. §718.204(b)(2)(iv) separate and apart from the non-qualifying nature of the objective studies, we cannot affirm the ALJ's finding that Dr. Basheda limited the scope of his inquiry on this issue. Employer's Exhibits 4 at 14; 7 at 5-6.

We are also unable to affirm the ALJ's finding Dr. Basheda's opinion is internally inconsistent because the doctor initially opined Claimant "has no impairment or disability from any pulmonary cause" but later in a supplemental report opined Claimant "is not disabled from a pulmonary standpoint from performing his coal mine employment as a result of coal workers' pneumoconiosis/coal mine dust exposure." Decision and Order at 23-24. The ALJ surmised these statements are contradictory as the former suggests Claimant has no pulmonary disability, whereas the latter suggests Claimant is totally disabled, albeit due to a non-coal mine dust cause. *Id.* at 24. Throughout his two reports, Dr. Basheda consistently stated Claimant's objective studies did not meet AMA or DOL disability standards and did not qualify him for supplemental oxygen; he described any impairment shown on the studies as slight or mild, and he opined they would not prevent Claimant from performing his last coal mine job. Employer's Exhibits 4, 7. Based on the totality of Dr. Basheda's opinion we are unable to discern the ALJ's basis for surmising his supplemental report supports finding Claimant is totally disabled and, thus, contradicts his earlier opinion. *See Balsavage* v. *Director, OWCP*, 295 F.3d 390, 396 (3d Cir. 2002); *Kertesz v. Crescent Hills Coal Co.*, 788 F.2d 158, 163 (3d Cir. 1986); *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989). We therefore must vacate this finding and his finding that Claimant established total disability. Because we have vacated the ALJ's finding of total disability, we also vacate his finding that Claimant invoked the Section 411(c)(4) presumption.

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

In the interest of judicial efficiency, we address the ALJ's findings on rebuttal. Because Claimant invoked the Section 411(c)(4) presumption, the burden shifted to Employer to establish he has neither legal nor clinical pneumoconiosis,[9] or that "no part of

[9] "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 pneumoconiosis, *i.e.*, the conditions characterized by permanent deposition of substantial amounts of particulate matter in the

[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.[10]

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 ALJ considered the opinions of Drs. Zlupko, Go, and Basheda. Decision and Order at 15-17. As Drs. Zlupko and Go diagnosed legal pneumoconiosis,[11] the ALJ found their opinions insufficient to rebut the presumption of legal pneumoconiosis. He also found Dr. Basheda's opinion that Claimant does not suffer from legal pneumoconiosis contradictory and inadequately reasoned, and, thus, insufficient to rebut the presumption of legal pneumoconiosis. Decision and Order at 16.

Employer argues the ALJ provided invalid reasons for finding Dr. Basheda's opinion not credible. Employer's Brief at 35-38. We agree.

Dr. Basheda opined Claimant does not have legal pneumoconiosis because there is no evidence of obstructive lung disease or pulmonary restriction. Employer's Exhibits 2 at 13; 7 at 5. He observed Claimant has mild restriction "that is not pulmonary in nature." *Id.* He explained Claimant had a significant spinal surgery in his cervical and lumbar spine and opined his orthopedic issues prevent him from taking a deep breath on pulmonary function testing. Employer's Exhibits 2 at 13; 7 at 4. The ALJ found Dr. Basheda's

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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).

[10] The ALJ found Employer disproved clinical pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i)(B); Decision and Order at 15.

[11] Drs. Zlupko and Go opined Claimant has legal pneumoconiosis in the form of significant hypoxemia attributable to coal mine dust exposure and smoking. Director's Exhibits 17, 23; Claimant's Exhibit 2. The ALJ found Dr. Zlupko's opinion inadequately explained, and not well-reasoned, whereas he found Dr. Go's opinion consistent with the preamble and accorded it great weight. Decision and Order at 16. Nevertheless, he concluded both opinions "do[] nothing to rebut the presumption." *Id.*

statement in his supplemental report – that there is "a decline in PaO2 with exercise/hypoxemia" – constitutes a diagnosis of "an impairment," contrary to his original opinion that Claimant has no impairment. Decision and Order at 16. Contrary to the ALJ's determination, Dr. Basheda explained the June 14, 2023 arterial blood gas study demonstrated a "slight decline in the PaO2 with exercise," but that these values "did not qualify [Claimant] for oxygen therapy, nor did it qualify for disability under the Department of Labor guidelines." Employer's Exhibit 7 at 2. As the ALJ's characterization of Dr. Basheda's opinion is inaccurate, we vacate his finding that the physician's opinion is contradictory. *See Witmer*, 111 F.3d at 354-56; *Addison*, 831 F.3d at 256-57; *Balsavage*, 295 F.3d at 396; *Kertesz*, 788 F.2d at 163. Because the ALJ's discrediting of Dr. Basheda's opinion, the sole medical opinion sufficient to disprove legal pneumoconiosis, is not supported by substantial evidence, we vacate his finding that Employer did not disprove legal pneumoconiosis. Thus we also vacate his finding that Employer failed to disprove that Claimant has pneumoconiosis.[12] 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); *see* Decision and Order at 24-27. Because we vacate the ALJ's finding that Employer failed to establish rebuttal of the presumption of pneumoconiosis, we must also vacate his finding that Employer failed to establish no part of Claimant's respiratory disability was caused by legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(ii). Consequently, we vacate the ALJ's finding that Employer did not rebut the Section 411(c)(4) presumption and the award of benefits.

Remand Instructions

On remand, the ALJ must first reconsider whether Claimant has established at least fifteen years of qualifying coal mine employment necessary to invoke the Section 411(c)(4)

[12] We need not address Employer's argument that the ALJ erred in weighing Dr. Go's opinion that Claimant has legal pneumoconiosis because this opinion does not assist it in satisfying its burden to rebut the presumption of legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i); *see Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Employer's Brief at 36-37.

presumption. Next, he must reconsider whether the medical opinion evidence supports a finding of total disability. 20 C.F.R. §718.204(b)(2)(iv). He should address the comparative credentials of the physicians, the explanations for their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their diagnoses. *See Balsavage*, 295 F.3d at 396; *Kertesz*, 788 F.2d at 163. If he finds the medical opinions support total disability, he should address whether Claimant established total disability when considering the record as a whole. *See Fields v. Island Creek Coal Co.*, 10 BLR 1-19, 1-21 (1987); *Rafferty*, 9 BLR at 1-232; *Shedlock*, 9 BLR at 1-198. The ALJ must set forth his findings and conclusions with adequate explanation, as the APA requires. *Wojtowicz*, 12 BLR at 1-165.

If Claimant establishes at least fifteen years of qualifying coal mine employment and total disability, he will have invoked the Section 411(c)(4) presumption, 30 U.S.C. §921(c)(4), and the ALJ must then determine whether Employer rebutted it. *See* 20 C.F.R. §718.305(d)(1)(i), (ii); *see Minich,* 25 BLR at 1-150. If Claimant fails to establish total disability, an essential element of entitlement, the ALJ may reinstate the denial of benefits. *See Trent v. Director, OWCP*, 11 BLR 1-26, 27 (1987).

Accordingly, the ALJ's Decision and Order Awarding Benefits is affirmed in part and vacated in part, and the case is remanded for further consideration consistent with this opinion.

SO ORDERED.

JUDITH S. BOGGS
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge