

PART IV

ADMINISTRATIVE PROCESSING OF CLAIMS, POWERS AND DUTIES OF THE ADMINISTRATIVE LAW JUDGE

D. EVALUATION AND WEIGHING OF EVIDENCE

10. DETERMINATIONS OF STATE MEDICAL BOARDS AND OTHER GOVERNMENTAL AGENCIES

The finding of a state workers' compensation board on the extent of claimant's respiratory impairment is relevant evidence but is not binding on the administrative law judge. *Miles v. Central Appalachian Coal Co.*, 7 BLR 1-744 (1985); *Stanley v. Eastern Associated Coal Corp.*, 6 BLR 1-1157 (1984); *Auton v. Eastern Gas and Fuel Corp.*, 2 BLR 1-269 (1979); see also 20 C.F.R. 718.206. While the administrative law judge must, therefore, discuss a state workers' compensation board report and give reasons for accepting or rejecting it in order to comport with Administrative Procedure Act's requirements, *Dalton v. Eastern Associated Coal Corp.*, 4 BLR 1-1 (1982), the failure to discuss it may constitute harmless error if the record fails to indicate the legal and medical criteria the state board relied upon in reaching its finding. *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(en banc).

A general disability determination by the Social Security Administration is not binding on the Department of Labor with regard to a black lung claim under Part C of the Act, but may be used as some evidence of the existence of total disability at the discretion of the trier-of-fact. *Reighnouer v. Director, OWCP*, 2 BLR 1-334, 1-336 (1979). The only exception to this rule is that a final determination or decision that the miner is totally disabled for purposes of Section 223 of the Social Security Act, 42 U.S.C. §423, as the result of coal workers' pneumoconiosis, is binding on the Department of Labor regarding the issue of disability in a black lung claim. 20 C.F.R. §410.470; *Tackett v. Director, OWCP*, 7 BLR 1-703 (1985); *Reighnouer, supra*.

CASE LISTINGS

[opinion of West Virginia Occupational Pneumoconiosis Board of "15% pulmonary functional impairment" is relevant to disability] *Stanley v. Eastern Associated Coal Corp.*, 6 BLR 1-1157 (1984).

[argument that award of black lung benefits on state level precludes denial of benefits at

federal level rejected, especially where state award not proved before adjudicator at a formal hearing] ***Piniansky v. Director, OWCP***, 7 BLR 1-171 (1984).

[adjudicator's finding that general disability determination by Social Security Administration (SSA) not binding affirmed where SSA adjudicator found claimant totally disabled due to respiratory impairment but did not specifically find total disability was due to pneumoconiosis or impairment arose out of coal mine employment] ***Tackett v. Director, OWCP***, 7 BLR 1-703 (1985).

DIGESTS

Except as provided by 20 C.F.R. §410.470, Social Security Administration findings are not binding on the Department of Labor adjudication officer. ***Wenanski v. Director, OWCP***, 8 BLR 1-487 (1986).

Administrative law judge erred in finding that 30% impairment found by WV Occupational Pneumoconiosis Board constitutes a finding of total respiratory disability without first assessing the physical requirements of claimant's usual coal mine employment. ***Fields v. Island Creek Coal Co.***, 10 BLR 1-19 (1987).

It is a matter within the administrative law judge's discretion to determine what weight to give to a state workers' compensation board decision. ***Clark v. Karst-Robbins Coal Co.***, 12 BLR 1-149 (1989)(en banc).

The Board held that where the State of West Virginia awarded claimant total disability benefits upon a determination of 30% disability due to pneumoconiosis and 57% disability due to other impairments, Black Lung benefits are reduced by 30% (30/100) of the state award, not 34.5% (30/87). ***Lucas v. Director, OWCP***, 14 BLR 1-112 (1990)(en banc)(McGranery, J., dissenting).

The Board has held that while determinations made by other agencies serve as relevant evidence to a Department of Labor adjudication, such determinations are not binding. ***Schegan v. Waste Management and Processors, Inc.***, 18 BLR 1-41 (1994).

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