PART V

BENEFITS REVIEW BOARD POLICIES AND PROCEDURES

B. POLICIES AND PROCEDURES

5. SETTLEMENTS

Settlement of claims under the Black Lung Benefits Reform Act is prohibited. ***Ladigan v. Central Industries, Inc.***, 7 BLR 1-192 (1984). Previously, the Board had held that it would not permit a party to enter into a settlement through use of a motion that fails to provide a basis for review of an administrative law judge's Decision and Order. ***Putnam v. Director, OWCP***, 8 BLR 1-388 (1985); *see also* ***Lucas v. Director, OWCP***, 11 BLR 1-61 (1988)(Ramsey, CJ., concurring); ***Myers v. Director, OWCP***, 11 BLR 1-45 (1988)(en banc); ***Blake v. Director, OWCP***, 11 BLR 1-7 (1987)(en banc); ***Greico v. Director, OWCP***, 10 BLR 1-139 (1987)(en banc). In ***Pendley v. Director, OWCP***, 13 BLR 1-23 (1989)(en banc), however, the Board accepted the Director's Motion to Remand for Payment of Benefits as a withdrawal of controversion of all issues, thereby overruling ***Putnam***, ***Lucas***, ***Myers***, ***Blake***, ***Grieco*** and ***Putnam***, ***supra***.

CASE LISTINGS

DIGESTS

The Board held that an agreement stating that employer will withdraw its controversion of claimant's eligibility for medical benefits only in return for claimant's agreement to submit all future medical expenses to alternate health carriers initially constitutes an illegal settlement agreement under the Black Lung Benefits Reform Act of 1977. The Board determined that the Act and its accompanying regulations render an employer "absolutely liable" for furnishing medical and other expenses in connection with a work-related injury. The Board further held that the agreement at issue would deprive claimant of protection afforded to him under the regulations governing the provision of medical care to eligible miners, *see* 20 C.F.R. §§725.701-725.707. ***Gerzarowski v. Lehigh Valley Anthracite, Inc.***, 12 BLR 1-62 (1988).

The Board rejected the contention of the claimant and employer that Section 16 of the Longshore and Harbor Workers' Compensation Act (LHWCA), 33 U.S.C. §916, as

incorporated into the Act by 30 U.S.C. §932, barring settlements "except as provided by this chapter," incorporates the settlement provisions at Section 8(i), 33 U.S.C. §908, into the Act. The Board held that the Director's regulatory interpretation of the statute is reasonable and, therefore, entitled to deference: *i.e.*, because the plain language of Section 422 of the Act, 30 U.S.C. §932, excludes Section 8(i) from the Act, then Section 8(i) is inapplicable to claims arising under the Act and, therefore, Sections 16 and 15(b), 33 U.S.C. §915, which were incorporated into the Act pursuant to 30 U.S.C. §932, bar settlements of claims arising under the Act, as evidenced by the regulations promulgated by the Director implementing the Act, *see* 20 C.F.R. §§725.514, 725.620(d), 726.203(c)(5); *see also* 65 Fed. Reg. 80014, 80043-80044. ***Ramey v. Triple R Coal Co.***, 22 BLR 1- , BRB Nos. 01-0817 BLA, 01-0817 BLA-A, 01-0817 BLA-B (Apr. 17, 2002).

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