

BRB No. 08-0472 BLA

A.D.)	
(Widow of R.D.))	
)	
Claimant-Petitioner)	
)	
v.)	
)	
PBS COALS, INCORPORATED)	
)	
and)	DATE ISSUED: 02/25/2009
)	
INTERNATIONAL BUSINESS &)	
MERCANTILE REASSURANCE)	
COMPANY)	
)	
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 of Daniel L. Leland, Administrative Law Judge, United States Department of Labor.

Blair V. Pawlowski (Pawlowski, Bilonick & Long), Ebensburg, Pennsylvania, for claimant.

Laura Metcoff Klaus (Greenberg Traurig LLP), Washington, D.C., for employer.

Before: DOLDER, Chief Administrative Appeals Judge, SMITH and HALL, Administrative Appeals Judges.

PER CURIAM:

Claimant¹ appeals the Decision and Order (07-BLA-5742 and 07-BLA-5743) of Administrative Law Judge Daniel L. Leland (the administrative law judge) denying benefits on a subsequent miner's claim and a survivor's claim filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq.* (the Act).² The administrative law judge credited the miner with eleven years of coal mine employment³ and adjudicated both claims pursuant to the regulations contained in 20 C.F.R Part 718. The administrative law judge found that the medical evidence developed since the prior denial of benefits established total disability pursuant to 20 C.F.R. §718.204(b). Consequently, the administrative law judge found that the new evidence established a change in an applicable condition of entitlement pursuant to 20 C.F.R. §725.309. On the merits, the administrative law judge found that the evidence established the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a). However, the administrative law judge found that the evidence did not establish total disability due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). Accordingly, the administrative law judge denied benefits in the miner's claim. With regard to the survivor's claim, the administrative law judge found that the evidence did not establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). Accordingly, the administrative law judge denied benefits in the survivor's claim.

On appeal, claimant challenges the administrative law judge's finding that the evidence did not establish total disability due to pneumoconiosis at 20 C.F.R. §718.204(c) in the miner's claim. Claimant also challenges the administrative law judge's finding that the evidence did not establish that the miner's death was due to

¹ Claimant is the widow of the miner, who died on April 26, 2006. Survivor's Claim - Director's Exhibits 2, 7.

² The miner filed his first claim on April 13, 1995. Miner's Claim - Director's Exhibit 1. It was finally denied on September 25, 1995. *Id.* The miner filed his second claim on September 17, 2002. Miner's Claim - Director's Exhibit 2. It was finally denied on July 7, 2003. *Id.* The miner filed this claim on March 23, 2005. Miner's Claim - Director's Exhibit 4. While the claim was pending before the Office of Administrative Law Judges, the miner died. Miner's Claim - Director's Exhibit 39. Claimant filed her survivor's claim on May 16, 2006. Survivor's Claim - Director's Exhibit 2.

³ The record indicates that the miner was employed in the coal mining industry in Pennsylvania. Miner's Claim - Director's Exhibits 1, 2, 7. Accordingly, this case arises within the jurisdiction of the United States Court of Appeals for the Third Circuit. *See Shupe v. Director, OWCP*, 12 BLR 1-200 (1989)(*en banc*).

pneumoconiosis at 20 C.F.R. §718.205(c) in the survivor's claim. Employer responds, urging affirmance of the administrative law judge's Decision and Order. The Director, Office of Workers' Compensation Programs, has declined to participate in this appeal.⁴

The Board's scope of review is defined by statute. The administrative law judge's Decision and Order must be affirmed if it is supported by substantial evidence, is rational, and is in accordance with applicable law. 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In order to establish entitlement to benefits in a miner's claim filed pursuant to 20 C.F.R. Part 718, claimant must establish that the miner was totally disabled due to pneumoconiosis arising out of coal mine employment. 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes entitlement. *See Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989).

To establish entitlement to survivor's benefits, claimant must demonstrate by a preponderance of the evidence that the miner had pneumoconiosis arising out of coal mine employment and that his death was due to pneumoconiosis. *See* 20 C.F.R. §§718.3, 718.202, 718.203, 718.205(a); *Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85 (1993).

MINER'S CLAIM

Section 718.204(c)

Claimant initially contends that the administrative law judge erred in finding that the evidence did not establish total disability due to pneumoconiosis at 20 C.F.R. §718.204(c). The administrative law judge considered the reports of Drs. Begley, Perper, Rizkalla, Pickerill, and Renn. Dr. Begley opined that the miner had coal workers' pneumoconiosis and a 75% pulmonary impairment that would inhibit his employment in the coal mines. Miner's Claim – Director's Exhibit 11. Dr. Perper opined that coal workers' pneumoconiosis was a substantial cause of the miner's impairment and disability. Claimant's Exhibit 1. Dr. Rizkalla opined that coal workers' pneumoconiosis affected the miner's lifetime pulmonary function. Claimant's Exhibit 7 (Dr. Rizkalla's Deposition at 19). By contrast, Dr. Pickerill opined that pneumoconiosis did not

⁴ Because the administrative law judge's length of coal mine employment finding and his findings that the new evidence established total disability at 20 C.F.R. §718.204(b), that the new evidence established a change in an applicable condition of entitlement at 20 C.F.R. §725.309, and that the evidence established the existence of pneumoconiosis at 20 C.F.R. §718.202(a) on the merits are not challenged on appeal, we affirm these findings. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710 (1983).

contribute to the miner's respiratory disability. Employer's Exhibits 1, 2. Similarly, Dr. Renn opined that pneumoconiosis did not cause a lifetime pulmonary impairment. Employer's Exhibit 20 (Dr. Renn's Deposition at 39).

The administrative law judge gave greatest weight to the opinions of Drs. Pickerill and Renn because they were detailed and well-reasoned. Decision and Order at 10. In addition, the administrative law judge gave little weight to the opinions of Drs. Rizkalla and Perper because they did not examine the miner, but reviewed pathology slides and medical data. *Id.* The administrative law judge also gave little weight to Dr. Rizkalla's opinion because Dr. Rizkalla did not explain how the minimal amount of pneumoconiosis that he observed would have caused the miner's pulmonary disability. *Id.* Further, the administrative law judge found that Dr. Begley's opinion was both vague and unreasoned. *Id.* at 9. Consequently, the administrative law judge found that the preponderance of the evidence failed to establish total disability due to pneumoconiosis at Section 718.204(c).

Claimant argues that the administrative law judge erred in discounting Dr. Begley's opinion. As discussed, *supra*, in a report dated April 25, 2005, based on an examination of the miner, Dr. Begley diagnosed coal workers' pneumoconiosis and pulmonary fibrosis related to "? coal dust versus idiopathic," and opined that the miner had a 75% pulmonary impairment that would inhibit his employment in the coal mines. Miner's Claim – Director's Exhibit 11. In considering Dr. Begley's opinion, the administrative law judge stated that "[i]t is not clear whether Dr. Begley attributed the miner's total disability to coal workers' pneumoconiosis or to pulmonary fibrosis which may be idiopathic." Decision and Order at 9. Because the administrative law judge reasonably found that Dr. Begley's opinion was vague and unreasoned, *Justice v. Island Creek Coal Co.*, 11 BLR 1-91 (1988); *Campbell v. Director, OWCP*, 11 BLR 1-16 (1987), we reject claimant's assertion that the administrative law judge erred in discounting Dr. Begley's opinion.

Claimant also argues that the administrative law judge erred in finding that the opinions of Drs. Pickerill and Renn were well-reasoned. In reports dated October 17, 2005 and June 28, 2007, based on an examination of the miner and a review of medical records, Dr. Pickerill opined that the miner's respiratory disability was attributable to idiopathic pulmonary fibrosis and ischemic heart disease (cardiomyopathy), and not to pneumoconiosis. Employer's Exhibits 1, 2. During a deposition dated January 17, 2008, based on a review of medical records, Dr. Renn opined that the miner's pulmonary disability was attributable to ischemic heart disease (cardiomyopathy) and pulmonary interstitial fibrosis, and not to coal mine dust exposure. Employer's Exhibit 20 (Dr. Renn's Deposition at 27-28, 51-52). The administrative law judge found that "Dr. Pickerill and Dr. Renn agreed that the miner had pneumoconiosis but found that it was

too mild to have caused total disability.”⁵ Decision and Order at 9. The administrative law judge next found that “Dr. Pickerill attributed the miner’s total pulmonary disability to interstitial pulmonary fibrosis and ischemic heart disease, and Dr. Renn found that the miner’s pulmonary disability is due to sarcoidosis which was unrelated to coal dust exposure.”⁶ *Id.* at 9-10. The administrative law judge then concluded, “I give greatest weight to the detailed well-reasoned opinions of Dr. Pickerill and Dr. Renn that the miner’s pneumoconiosis was too mild to have caused total disability and that his pulmonary impairment was primarily due to interstitial pulmonary fibrosis which did not arise out of the miner’s coal mine employment.” *Id.* at 10.

The Administrative Procedure Act (APA), 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), requires that an administrative law judge independently evaluate the evidence and provide an explanation for his findings of fact and conclusions of law. *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162 (1989). In this case, the administrative law judge failed to explain why he found that the opinions of Drs. Pickerill and Renn were well-reasoned. *Wojtowicz*, 12 BLR at 1-165. Although the administrative law judge noted that Dr. Pickerill’s report was detailed, he did not explain how the conclusions of Drs. Pickerill and Renn regarding the cause of the miner’s disability were supported by the underlying documentation. *See generally Tackett v. Cargo Mining Co.*, 12 BLR 1-11 (1988)(*en banc*); *Oggero v. Director, OWCP*, 7 BLR 1-860 (1985). Thus, the

⁵ Dr. Renn stated that the miner’s simple pneumoconiosis was “too minor” to cause a lifetime pulmonary impairment. Employer’s Exhibit 20 (Dr. Renn’s Deposition at 39).

⁶ Contrary to the administrative law judge’s finding, Dr. Renn did not opine that sarcoidosis was the sole cause of the miner’s pulmonary disability. *Tackett v. Director, OWCP*, 7 BLR 1-703 (1985). In a report dated April 5, 2006, based on an examination of the miner and a review of medical records, Dr. Renn opined that the miner had pulmonary interstitial fibrosis, which was likely sarcoidosis. Employer’s Exhibit 3. However, in a subsequent report dated August 5, 2007, based on a review of medical records, Dr. Renn opined that while a part of the miner’s pulmonary interstitial fibrosis had an element of sarcoidosis, the majority of the disease was the result of repeated episodes of biventricular cardiac failure. Employer’s Exhibit 4. During a January 17, 2008 deposition, based on a review of medical records, Dr. Renn opined that he was unable to determine the cause of the miner’s interstitial fibrosis, but, after noting that tobacco smoking was the cause of the disease in the majority of individuals, he indicated that the miner’s chronic congestive heart failure was a cause of his disease. Employer’s Exhibit 20 (Dr. Renn’s Deposition at 29-30).

administrative law judge erred in giving greatest weight to the opinions of Drs. Pickerill and Renn because they were well-reasoned.

Further, contrary to the administrative law judge's finding that Dr. Pickerill stated that the miner's pneumoconiosis was too mild to have caused total disability, Dr. Pickerill indicated that the miner did not have pneumoconiosis. Employer's Exhibits 1, 2; see *Tackett v. Director, OWCP*, 7 BLR 1-703 (1985). In a report dated October 17, 2005, Dr. Pickerill opined that the miner had a severe functional respiratory impairment and chronic hypoxemic respiratory failure that were attributable to idiopathic pulmonary fibrosis, rather than coal workers' pneumoconiosis.⁷ Employer's Exhibit 1. Dr. Pickerill noted that "[i]t is very unlikely that progressive coal workers' pneumoconiosis and pulmonary fibrosis due to coal workers' pneumoconiosis would have started in 1997 without any further exposure to coal dust." *Id.* Dr. Pickerill also opined that the miner's respiratory disability was attributable to idiopathic pulmonary fibrosis and ischemic heart disease (cardiomyopathy), and not pneumoconiosis. *Id.* In a subsequent report dated June 28, 2007, Dr. Pickerill noted that he would not change his prior assessment. Employer's Exhibit 2. Dr. Pickerill opined that "the type of pulmonary fibrosis and the clinical progression, which occurred many years after his last coal dust exposure is very unlikely to be due to coal workers' pneumoconiosis." *Id.* Dr. Pickerill further opined that the miner's respiratory disability was attributable to idiopathic pulmonary fibrosis and ischemic heart disease (cardiomyopathy), and not pneumoconiosis. *Id.* Thus, because Dr. Pickerill did not opine that the miner had pneumoconiosis, the administrative law judge mischaracterized the basis for Dr. Pickerill's disability causation opinion by finding that Dr. Pickerill stated that the miner's pneumoconiosis was too mild to have caused total disability. *Tackett*, 7 BLR at 1-706; Decision and Order at 9.

In addition, to the extent that the administrative law judge found that "Dr. Rizkalla stated that the largest nodules of pneumoconiosis were three millimeters and he failed to explain why this minimal amount of pneumoconiosis would have caused the miner's pulmonary disability," Decision and Order at 10, he impermissibly discounted Dr. Rizkalla's opinion because it did not comply with his own medical conclusion. *Hall v. Consolidation Coal Co.*, 6 BLR 1-1306, 1-1309 (1984). Moreover, the administrative law judge erred in discounting the opinions of Drs. Rizkalla and Perper because they did not examine the miner, *Evosevich v. Consolidation Coal Co.*, 789 F.2d 1021, 9 BLR 2-10 (3d Cir. 1986), and because they were based on a review of the pathology slides and the miner's medical data, *Wojtowicz*, 12 BLR at 1-165.

⁷ Dr. Pickerill noted that "[the miner] stopped working in the coal mining industry in 1982 and had no radiographic evidence of coal workers' pneumoconiosis by chest x-rays of 11/04/85 to 5/10/95 according to a highly qualified B-reader, Dr. E. Nicholas Sargent." Employer's Exhibit 1. Dr. Pickerill additionally noted that the miner's clinical course was more consistent with an idiopathic pulmonary fibrosis. *Id.*

In view of the foregoing, we vacate the administrative law judge's finding that the evidence did not establish total disability due to pneumoconiosis at 20 C.F.R. §718.204(c), and remand the case for further consideration of all the evidence in accordance with the APA.

SURVIVOR'S CLAIM
Section 718.205(c)

Claimant next contends that the administrative law judge erred in finding that the evidence did not establish that the miner's death was due to pneumoconiosis at 20 C.F.R. §718.205(c). Because this survivor's claim was filed after January 1, 1982, claimant must establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c).⁸ See 20 C.F.R. §§718.1, 718.202, 718.203, 718.205(c); *Neeley v. Director, OWCP*, 11 BLR 1-85 (1988). A miner's death will be considered to be due to pneumoconiosis if the evidence establishes that pneumoconiosis was a substantially contributing cause or factor leading to the miner's death. 20 C.F.R. §718.205(c)(2). Pneumoconiosis is a "substantially contributing cause" of a miner's death if it hastens the miner's death. 20 C.F.R. §718.205(c)(5); see *Lukosevic v. Director, OWCP*, 888 F.2d 1001, 13 BLR 2-100 (3d Cir. 1989).

⁸ Section 718.205(c) provides that death will be considered to be due to pneumoconiosis if any of the following criteria is met:

- (1) Where competent medical evidence establishes that pneumoconiosis was the cause of the miner's death, or
- (2) Where pneumoconiosis was a substantially contributing cause or factor leading to the miner's death or where the death was caused by complications of pneumoconiosis, or
- (3) Where the presumption set forth at §718.304 is applicable.
- (4) However, survivors are not eligible for benefits where the miner's death was caused by traumatic injury or the principal cause of death was a medical condition not related to pneumoconiosis, unless the evidence establishes that pneumoconiosis was a substantially contributing cause of death.
- (5) Pneumoconiosis is a "substantially contributing cause" of a miner's death if it hastens the miner's death.

20 C.F.R. §718.205(c).

At Section 718.205(c), the administrative law judge considered the reports of Drs. He, Rizkalla, Perper, Oesterling, and Renn.⁹ In an autopsy report dated June 9, 2006, Drs. He and Rizkalla diagnosed old myocardial infarction, simple coal workers' pneumoconiosis, and interstitial fibrosis with emphysema, and opined that the miner died from severe atherosclerotic coronary artery disease. Survivor's Claim – Director's Exhibit 8. In a subsequent report dated September 19, 2007, Dr. Rizkalla opined that the miner died from the combined effect of severe atherosclerotic coronary artery disease with hypoxia induced by interstitial fibrosis lung secondary to coal workers' pneumoconiosis. Claimant's Exhibit 2. Further, in the September 19, 2007 report and a November 14, 2007 deposition, Dr. Rizkalla opined that coal workers' pneumoconiosis was a substantial contributing factor in the miner's death. Claimant's Exhibits 2, 7 (Dr. Rizkalla's Deposition at 19). Dr. Perper opined that coal workers' pneumoconiosis was a substantial contributing cause and a hastening cause of the miner's death. Claimant's Exhibit 1. By contrast, Dr. Oesterling opined that coal workers' pneumoconiosis did not contribute to, or hasten, the miner's death. Survivor's Claim – Director's Exhibit 11; Employer's Exhibits 5, 20 (Dr. Oesterling's Deposition at 34-35, 49). Dr. Renn opined that coal workers' pneumoconiosis was not a contributing factor or a hastening factor of the miner's demise. Employer's Exhibits 6, 20 (Dr. Renn's Deposition at 39-40).

The administrative law judge discounted Dr. Rizkalla's opinion that coal workers' pneumoconiosis was a substantial contributing factor in the miner's death because it was inconsistent with his prior opinion. Decision and Order at 10. The administrative law judge next discounted Dr. Perper's opinion because it was poorly reasoned and unsupported. *Id.* The administrative law judge then gave greatest weight to Dr. Oesterling's opinion because it was well-reasoned. *Id.* at 10-11. Consequently, the administrative law judge concluded that pneumoconiosis did not cause, contribute to, or hasten the miner's death. *Id.* at 11.

Claimant argues that the administrative law judge erred in discounting Dr. Rizkalla's opinion that coal workers' pneumoconiosis was a substantial contributing factor in the miner's death. Although Dr. Rizkalla initially opined, in his autopsy report, that the miner died from severe atherosclerotic coronary artery disease, Survivor's Claim – Director's Exhibit 8, he subsequently opined, in another report and deposition, based on a review of the autopsy report, pathology slides, and medical records, that coal workers' pneumoconiosis was a substantial contributing factor in the miner's death, Claimant's

⁹ The record also contains a death certificate signed by Dr. Lincuando. Survivor's Claim - Director's Exhibit 7. Dr. Lincuando listed the immediate cause of the miner's death as respiratory arrest due to respiratory failure, chronic obstructive lung disease, and pulmonary fibrosis that was probably black lung disease. *Id.* Dr. Lincuando also listed coronary artery disease and generalized arteriosclerosis as significant conditions contributing to the miner's death. *Id.*

Exhibits 2, 7 (Dr. Rizkalla's Deposition at 19). In considering Dr. Rizkalla's opinion, the administrative law judge stated:

In his original autopsy report, Dr. Rizkalla unequivocally stated that the miner died from severe atherosclerotic coronary artery disease. He diagnosed pneumoconiosis but did not list it as a cause of death. It was only in his written report and deposition testimony that Dr. Rizkalla implicated pneumoconiosis as a cause of death, and I find his explanation unconvincing that his second review of the autopsy slides and other medical data transformed his opinion. I accept Dr. Rizkalla's determination in the autopsy report as his candid belief that the miner died due (sic) solely due to heart disease and that his later change of opinion is unpersuasive and entitled to no weight.

Decision and Order at 10.

As discussed, *supra*, the APA, 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), requires that an administrative law judge independently evaluate the evidence and provide an explanation for his findings of fact and conclusions of law. In this case, the administrative law judge did not explain why he found that Dr. Rizkalla's explanation for the change in his opinion was unconvincing and unpersuasive. *Wojtowicz*, 12 BLR at 1-165. The administrative law judge did not specifically address the reasons that Dr. Rizkalla provided, during the November 14, 2007 deposition, for his failure to originally opine that pneumoconiosis was a contributing factor in the miner's death. Claimant's Exhibit 7 (Dr. Rizkalla's Deposition at 26-28, 51). Thus, the administrative law judge erred in discounting Dr. Rizkalla's opinion on this basis.

Claimant also argues that the administrative law judge erred in discounting Dr. Perper's opinion. In a report dated June 24, 2007, based on a review of medical records and materials, Dr. Perper opined that coal workers' pneumoconiosis "ultimately contributed to and hastened [the miner's] death." Claimant's Exhibit 1. In considering Dr. Perper's opinion, the administrative law judge stated:

Dr. Perper's opinion regarding the role pneumoconiosis played in the miner's death is thoroughly unconvincing as he attempted but failed to find a nexus between the miner's interstitial pulmonary fibrosis and his coal mine employment. Dr. Perper's lengthy report is long on verbiage but short on substance. He did not present a convincing argument for finding that interstitial pulmonary fibrosis can be caused by coal dust exposure, and the medical research, as Dr. Renn pointed out, fails to establish such a connection. Dr. Perper asserts that the miner's micronodular coal workers'

pneumoconiosis substantially contributed to his death but I find that his report is poorly reasoned and unsupported, and does not take into account the minimal amount of pneumoconiosis the autopsy prosecutors found and the fact that the miner had only eleven years of coal mine employment[,] none of which were underground. Dr. Perper provides a number of reasons for concluding that pneumoconiosis hastened the miner's death but I find that his opinion is poorly reasoned and refuted by the contrary reports of Dr. Oesterling and Dr. Renn.

Decision and Order at 10.

The administrative law judge did not explain why he found that Dr. Perper's view that interstitial pulmonary fibrosis can be caused by coal dust exposure was unconvincing. *Wojtowicz*, 12 BLR at 1-165. Dr. Perper provided a full discussion of medical studies and literature that supported his view that interstitial pulmonary fibrosis can be caused by coal dust exposure. *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); Claimant's Exhibit 1. Further, the administrative law judge did not provide a valid basis for relying on Dr. Renn's opinion to refute Dr. Perper's opinion at 20 C.F.R. §718.205(c). *Wojtowicz*, 12 BLR at 1-165. Thus, we hold that the administrative law judge erred in discounting Dr. Perper's opinion that coal workers' pneumoconiosis was a substantial contributing cause in the miner's death because it was poorly reasoned.

Finally, claimant argues that the administrative law judge erred in finding that Dr. Oesterling's opinion was well-reasoned. In a report dated February 21, 2007, based on a review of pathology slides and the autopsy report of Drs. He and Rizkalla, Dr. Oesterling opined that coal workers' pneumoconiosis did not contribute to, or hasten, the miner's death. Survivor's Claim – Director's Exhibit 11; Employer's Exhibits 5, 20 (Dr. Oesterling's Deposition at 34-35, 49). The administrative law judge stated that "Dr. Oesterling's report is exceptionally well reasoned as he identified hemosiderin due to heart disease as the cause of the miner's death[,] not the minimal amount of pneumoconiosis found in the miner's lungs." Decision and Order at 10-11. However, the administrative law judge did not adequately explain why he found that Dr. Oesterling's conclusions that that the miner's pneumoconiosis did not cause, contribute to, or hasten his demise, and that hemosiderin due to heart disease was the cause of his death were well-reasoned. *Wojtowicz*, 12 BLR at 1-165; *see also Tackett*, 12 BLR at 1-14; *Oggero*, 7 BLR at 1-865. Thus, the administrative law judge erred in giving greater weight to Dr. Oesterling's opinion than to the contrary opinions of Drs. Rizkalla and Perper because it was better reasoned.

In view of the foregoing, we vacate the administrative law judge's finding that the evidence did not establish that the miner's death was due to pneumoconiosis at 20 C.F.R.

§718.205(c), and remand the case for further consideration of all the evidence in accordance with the APA.

Accordingly, the administrative law judge's Decision and Order denying benefits in the miner's and the survivor's claims is affirmed in part and vacated in part, and the case is remanded to the administrative law judge for further consideration consistent with this opinion.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge