



BRB No. 15-0421 BLA

MELVIN NELSON)	
)	
Claimant-Petitioner)	
)	
v.)	
)	
ARCH OF WEST VIRGINIA)	
)	DATE ISSUED: 03/11/2016
Employer-Respondent)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	ORDER

The Director, Office of Workers' Compensation Programs (the Director), has filed a Motion to Remand this case to the district director for further development of the medical evidence in order to provide claimant with a complete pulmonary evaluation. Claimant has not objected to the Director's Motion to Remand.

Further, the Director states that employer's parent company, Patriot Coal Corporation, has been reorganized in bankruptcy and is being liquidated.¹ The Director states that the Black Lung Disability Trust Fund will be liable for any benefits awarded in this claim.

On the facts of this case, we grant the Director's Motion to Remand, given the Director's concession that the Department of Labor failed to provide claimant with a complete pulmonary evaluation, sufficient to constitute an opportunity to substantiate the

¹ In response to the bankruptcy proceedings, Jackson Kelly PLLC, counsel for employer, notified the Board on November 10, 2015, that it withdraws as counsel in this case.

claim, as required by the Act.² 30 U.S.C. §923(b), implemented by 20 C.F.R. §§718.101(a), 725.406; *R.G.B. [Blackburn] v. S. Ohio Coal Co.*, 24 BLR 1-129 (2009) (en banc); *see also Greene v. King James Coal Mining, Inc.*, 575 F.3d 628, 641-42, 24 BLR 2-199 (6th Cir. 2009). The Board, therefore, vacates the administrative law judge's Decision and Order denying benefits, and remands this case to the district director for further development of the medical evidence so that claimant may be provided with a complete pulmonary evaluation.

JUDITH S. BOGGS
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

² The Director, Office of Workers' Compensation Programs (the Director), concedes that the Department of Labor (DOL) failed to satisfy its obligation to provide claimant with a complete pulmonary evaluation because Dr. Hussain, the physician who conducted the DOL-sponsored evaluation, failed to address whether claimant suffers from legal pneumoconiosis. Director's Motion to Remand at 3. Because Dr. Hussain's opinion does not completely address an essential element of entitlement, i.e., whether claimant suffers from legal pneumoconiosis, the Director concedes that the DOL failed to satisfy its obligation. *Id.*