

BRB No. 92-2069 BLA

BRUNO GLOBETTI)
)
 Claimant-Petitioner)
)
 v.)
) DATE ISSUED: _____)
 DIRECTOR, OFFICE OF WORKERS')
 COMPENSATION PROGRAMS, UNITED)
 STATES DEPARTMENT OF LABOR)
)
 Respondent) DECISION and ORDER

Appeal of the Decision and Order of A.A. Simpson, Jr., Administrative Law Judge, United States Department of Labor.

William Z. Cullen (Cooper, Mitch, Crawford, Kuykendall & Whatley), Birmingham, Alabama, for claimant.

Nancy G. Feeney (Thomas S. Williamson, Jr., Solicitor of Labor; Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; Richard A. Seid and Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: SMITH and McGRANERY, Administrative Appeals Judges, and SHEA, Administrative Law Judge.*

PER CURIAM:

Claimant appeals the Decision and Order (91-BLA-2204) of Administrative Law Judge A.A. Simpson, Jr., denying benefits on a 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). Claimant filed a claim on November 27, 1970 which was finally denied in 1977. Claimant elected review of his

*Sitting as a temporary Board member by designation pursuant to the Longshore and Harbor Workers' Compensation Act, as amended in 1984, 33 U.S.C. §921(b)(5)(1988).

claim with the Social Security Administration (SSA) on April 6, 1978. The SSA issued a Notice of Approval of Claim on July 9, 1979 and referred the claim to the Department of Labor (DOL) pursuant to 20 C.F.R. §725.104(c). On July 27, 1979, DOL authorized payments to claimant. On March 19, 1990, DOL notified claimant that his claim had been reviewed and that he was required to submit additional medical evidence to support his claim. See Director's Exhibit 21. Claimant submitted additional evidence, but on September 7, 1990, claimant was informed by DOL that the evidence submitted was insufficient to support his continuing receipt of benefits. See Director's Exhibit 23. Accordingly, the payment of benefits was terminated. Claimant thereafter requested a hearing before the Office of Administrative Law Judges. After the formal hearing, the administrative law judge determined that this case was a modification proceeding pursuant to 20 C.F.R. §725.310. The administrative law judge then found that claimant established twenty years of coal mine employment and, based on the filing date, considered the claim pursuant to 20 C.F.R. Part 727. The administrative law judge considered the evidence of record and determined that claimant failed to establish invocation of the interim presumption pursuant to 20 C.F.R. §727.203(a). The administrative law judge further found that claimant failed to establish entitlement pursuant to 20 C.F.R. Part 410, Subpart D. Accordingly, benefits were denied. On appeal, claimant contends that the district director erred in reviewing and readjudicating the claim after eleven years as there was no mistake of fact, and that the administrative law judge's Decision and Order does not comport with the Administrative Procedures Act (APA) as the administrative law judge substituted his opinion for that of the medical doctors. Claimant makes no specific arguments in regard to this second allegation of error. The Director, Office of Workers' Compensation Programs (the Director), responds in support of the administrative law judge's Decision and Order.

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

Regarding the administrative law judge's findings as to the status of the claim, the administrative law judge properly found that the district director had the authority to modify the award of benefits pursuant to 20 C.F.R. §725.310 as claimant was in payment status and because the district director received medical evidence subsequent to the award of benefits which indicated that claimant did not have pneumoconiosis. See Decision and Order at 3; *Cooper v. Director, OWCP*, 11 BLR 1-95 (1988). Further, the administrative law judge properly conducted a *de novo* review of the old and new evidence in determining that claimant failed to establish

invocation pursuant 20 C.F.R. §727.203(a). See *Nataloni v. Director, OWCP*, 17 BLR 1-82 (1993).

Regarding claimant's APA argument, claimant makes no specific allegations of error in the administrative law judge's weighing of the evidence. Claimant merely states that the administrative law judge erred in analyzing the medical reports in evidence by substituting his own opinion for that of the medical doctors. The Board has consistently held that it will not address any issues on appeal that are inadequately brief. See 20 C.F.R. §802.211; *Sarf v. Director, OWCP*, 10 BLR 1-119 (1987); *Slinker v. Peabody Coal Co.*, 6 BLR 1-465 (1983); *Fish v. Director, OWCP*, 6 BLR 1-107 (1983). Claimant's contentions of error on this issue are therefore rejected.¹ Thus, as claimant has failed to raise any meritorious contentions of error on appeal, the findings of the administrative law judge are affirmed. See generally *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989).

Accordingly, the administrative law judge's Decision and Order denying benefits is affirmed.

SO ORDERED.

ROY P. SMITH
Administrative Appeals Judge

REGINA C. McGRANERY
Administrative Appeals Judge

ROBERT J. SHEA
Administrative Law Judge

¹Although claimant's arguments regarding the weighing of the evidence are rejected, we note that the administrative law judge's finding that claimant failed to establish invocation of the interim presumption pursuant to 20 C.F.R. §727.203(a)(1)-(4) is supported by the evidence of record.