U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 22-0083 BLA

BRYAN C. SNYDER	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
CONSOL PENNSYLVANIA COAL COMPANY, LLC	)	
	)	
and	)	
	)	DATE ISSUED: 6/29/2023
CONSOL ENERGY, INCORPORATED	)	
	)	
Employer/Carrier-Petitioners	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order Awarding Benefits of Natalie A. Appetta, Administrative Law Judge, United States Department of Labor.

Lynda D. Glagola (Lungs at Work), McMurray, Pennsylvania, lay representative, for Claimant.

Deanna Lyn Istik (SutterWilliams, LLC), Pittsburgh, Pennsylvania, for Employer and its Carrier.

Before: GRESH, Chief Administrative Appeals Judge, BUZZARD and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Employer and its Carrier (Employer) appeal Administrative Law Judge (ALJ) Natalie A. Appetta's Decision and Order Awarding Benefits (2020-BLA-05785) rendered

on a claim filed on July 5, 2018, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ credited Claimant with 16.21 years of coal mine employment in both underground coal mines and surface coal mines in conditions substantially similar to those in an underground mine. She also found Claimant has a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b)(2). Thus, she determined he invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.[1] 30 U.S.C. §921(c)(4) (2018). She further found Employer did not rebut the presumption and awarded benefits.

On appeal, Employer argues the ALJ erred in finding Claimant established at least fifteen years of qualifying coal mine employment and total disability, thereby invoking the Section 411(c)(4) presumption. Claimant responds in support of the denial. The Director, Office of Workers' Compensation Programs, has not filed a response brief.

The Benefits Review Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is rational, supported by substantial evidence, and in accordance with applicable law.[2] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

Invocation of the Section 411(c)(4) Presumption – Coal Mine Employment

To invoke the Section 411(c)(4) presumption, Claimant must establish he worked at least fifteen years in underground coal mine employment or "substantially similar" surface coal mine employment. 20 C.F.R. §718.305(b)(1)(i). The "conditions in a mine other than an underground mine will be considered 'substantially similar' to those in an underground mine if the Claimant demonstrates he was regularly exposed to coal-mine dust while working there." 20 C.F.R. §718.305(b)(2); *see Zurich Am. Ins. Grp. v. Duncan*, 889 F.3d 293, 304 (6th Cir. 2018). Claimant also bears the burden to establish the number of years he worked in coal mine employment. *See Kephart v. Director, OWCP*, 8 BLR 1-

[1] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis if he has at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory impairment. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305.

[2] This case arises within the jurisdiction of the United States Court of Appeals for the Third Circuit because Claimant performed his coal mine employment in Pennsylvania. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Decision and Order at 3 n.5; Director's Exhibit 3.

185, 1-186 (1985); *Hunt v. Director, OWCP*, 7 BLR 1-709, 1-710-11 (1985). The Board will uphold an ALJ's determination if it is based on a reasonable method of calculation that is supported by substantial evidence. *See Muncy v. Elkay Mining Co.*, 25 BLR 1-21, 1-27 (2011); *Vickery v. Director, OWCP*, 8 BLR 1-430, 1-432 (1986).

The ALJ found Claimant worked as a coal transportation worker hauling raw coal at surface mines from 1986 to 1993 for various trucking companies for a total of 4.28 years. Decision and Order at 10-11. She further found Claimant was regularly exposed to coal mine dust for all 4.28 years. *Id*. at 13-15. In addition, she found he worked for 11.93 years at underground coal mine sites from 2005 to 2016. *Id*. at 10-13. Thus she found 16.21 years of qualifying coal mine employment established.[3] *Id*. at 5-15.

Employer argues the ALJ erred in finding Claimant had 4.28 years of coal mine employment as a coal transportation worker from 1986 to 1993. Employer's Brief at 3-4. It asserts Claimant completed a questionnaire stating that ninety percent of his time driving a truck for Foster Allen Sickle, Darwin Rose Trucking, WG Trucking, Bradford Trucking, Liggett Trucking, and H.R. Weldon Trucking Company involved hauling raw coal, but the remaining percentage of his time involved hauling processed coal. *Id*.; *see* Director's Exhibit 7. In addition, it asserts Claimant similarly stated that only fifty percent of his time driving a truck for DOE Weldon involved hauling raw coal while the remainder involved hauling processed coal. *Id*. Because hauling processed coal does not constitute coal mine employment, it argues the ALJ should have reduced the 4.28 years Claimant worked as a coal transportation worker based on the percentage of time he spent hauling processed coal. *Id*.

The ALJ acknowledged Employer's argument "that only a portion of the Claimant's employment for [coal transportation] employers should be considered to be coal mine employment." Decision and Order at 10, *citing* Employer's Post-Hearing Brief at 5-6. She found, however, that the evidence establishes Claimant "generally hauled processed coal on the same days that he hauled raw coal" when he worked as a coal transportation worker. Decision and Order at 10. Because the regulations define a coal mining "working day" as "any day or *part of a day* for which a miner received pay for work as a miner," 20 C.F.R. §725.101(a)(32) (emphasis added), the ALJ found Claimant worked as a miner at all times when he engaged in coal transportation work, because he hauled raw coal on the same days he hauled processed coal. Decision and Order at 10. Employer identifies no error in this finding. Thus we affirm it. *See Cox v. Benefits Review Board*, 791 F.2d 445, 446-47 (6th

[3] The ALJ also found Claimant had an additional 1.09 years of surface coal mine employment with Michael M. Boich and A&M Construction, but found this work was not qualifying because he did not establish he was regularly exposed to coal mine dust with those employers. Decision and Order at 10-15.

Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107, 109 (1983); 20 C.F.R. §802.211(b).

Employer next argues the ALJ erred in finding Claimant was regularly exposed to coal mine dust when working as a coal transportation worker. Employer's Brief at 5-6. We disagree.

The ALJ summarized the evidence relevant to this issue as follows:

> There is . . . evidence that the Claimant was regularly exposed to coal mine dust in his work as a coal truck driver. At his deposition, Claimant's wife testified that he came home looking like an underground miner – that is, dirty. Claimant testified that the trucks did not have air conditioning so he rode with the windows down, and he also testified that he often (though not always) stood outside the truck while coal was loaded to direct the loading operations. Claimant also commented that, though he worked for several different companies, the coal truck work was pretty similar for each employer. There is no evidence of record contradicting such testimony.

Decision and Order at 14-15; *see* Employer's Exhibit 7 at 26-31. The ALJ also found Claimant stated on his employment history form CM-911a that he was exposed to dust, gases, or fumes throughout his time working as a coal transportation worker. Decision and Order at 14; *see* Director's Exhibit 3. Contrary to Employer's argument, the ALJ permissibly found the uncontradicted evidence credible and sufficient to establish Claimant was regularly exposed to coal mine dust when working as a coal transportation worker. *See Duncan*, 889 F.3d at 304 (widow's testimony that a miner's face and clothes were very dirty when he returned from work, in conjunction with a statement that he was exposed to dust, gases, and fumes for his entire coal mine employment, established regular coal mine dust exposure); *Brandywine Explosives & Supply v. Director, OWCP* [*Kennard*], 790 F.3d 657, 664 (6th Cir. 2015) ("uncontested lay testimony" regarding dust conditions "easily supports a finding" of regular dust exposure); *Cent. Ohio Coal Co. v. Director, OWCP* [*Sterling*], 762 F.3d 483, 489-90 (6th Cir. 2014).

Finally, Employer argues the ALJ should have reduced Claimant's underground coal mine employment by two months and nine days, or 0.2 of a year, because Claimant testified "his last day of coal mine employment was October 21, 2016."[4] Employer's Brief

[4] Although Employer argues the ALJ's length of coal mine employment finding should be reduced by one year because Claimant had no employment in 2017, Employer's Brief at 4, the ALJ did not credit Claimant with any qualifying coal mine employment for that year. Rather, the ALJ specifically found that because "Claimant stopped working in late 2016 when he underwent lung surgery, I will not credit the Claimant with coal mine

at 4. Because such a finding would not reduce the total qualifying coal mine employment finding below fifteen years, Employer has not explained how the error it alleges would make a difference. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009) (appellant must explain how the "error to which [it] points could have made any difference"); *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

As Employer raises no other arguments on the issue of the length and qualifying nature of Claimant's coal mine employment, and because it is supported by substantial evidence, we affirm the ALJ's finding that Claimant established at least fifteen years of qualifying coal mine employment. *Muncy*, 25 BLR at 1-27; *Vickery*, 8 BLR at 1-432.

Total Disability

A miner is totally disabled if his pulmonary or respiratory impairment, standing alone, prevents him from performing his usual coal mine work or comparable gainful work.[5] *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on pulmonary function studies, arterial blood gas studies, evidence of pneumoconiosis and cor pulmonale with right-sided congestive heart failure, or medical opinions. 20 C.F.R. §718.204(b)(2)(i)-(iv). The ALJ must weigh all relevant supporting evidence against all relevant contrary evidence. *See Defore v. Ala. By-Products Corp.*, 12 BLR 1-27, 1-28-29 (1988); *Rafferty v. Jones & Laughlin Steel Corp.*, 9 BLR 1-231, 1-232 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195, 1-198 (1986) (en banc).

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employment for 2017, even though there were earnings reported on his Social Security earnings record." Decision and Order at 8.

[5] In evaluating the exertional requirements of Claimant's usual coal mine employment as a section foreman, the ALJ noted Claimant testified he walked six or seven miles per day, loaded supplies and items that weighed 45 to 50 pounds, and dragged and hung heavy cable weighing about 110 pounds per segment once or twice a week. Decision and Order at 15; *see* Employer's Exhibit 7 at 40-46. The ALJ also noted that on his form CM-913, Claimant indicated he "lifted and carried weights of 50 to 100 pounds at various times during the day." Decision and Order at 15; *see* Director's Exhibit 5. Finally, the ALJ recognized "Claimant reported to Dr. Cohen, Dr. Sood, and Dr. Basheda that his work involved lifting and carrying weights of up to 100 pounds." Decision and Order at 15; *see* Director's Exhibit 15; Claimant's Exhibit 7; Employer's Exhibit 1. Based on this evidence, she found Claimant's usual "coal mine employment as a section foreman required heavy manual labor because he was required to lift and carry heavy items, such as cable, on a regular basis." Decision and Order at 15. We affirm this finding as unchallenged. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

The ALJ found Claimant established total disability based on the medical opinions.[6] 20 C.F.R. §718.204(b)(2)(iv); Decision and Order at 29-30. Employer argues the ALJ erred in making this finding. Employer's Brief at 6-23.

The ALJ considered the medical opinions of Drs. Sood, Saludes, Cohen, Basheda, and Rosenberg. Decision and Order at 27-29; Director's Exhibits 15, 18, 25; Claimant's Exhibits 5, 5a, 7, 7a; Employer's Exhibits 1, 3, 5, 6. Finding "all physicians concur that [] Claimant now has a total respiratory disability," she found the opinions of Drs. Sood, Cohen, Basheda and Rosenberg reasoned and documented, and specifically assigned Dr. Cohen's opinion the "most weight" because it is the "most well-reasoned and documented" and "quite persuasive." Decision and Order at 27-29 & n.51. While she found Dr. Saludes's opinion was also documented, she found it not reasoned and entitled to limited weight.[7] *Id*. at 27.

Employer argues the ALJ erred in crediting Dr. Sood's and Dr. Cohen's opinions. Employer's Brief at 12-16. We disagree.

Dr. Sood stated Claimant's usual coal mine employment was as a section foreman where he "performed heavy to very heavy physical labor including lifting and carrying heavy weights of as much as 100 pounds and lifting and dragging heavy cables." Claimant's Exhibit 7 at 2. He noted Claimant's pulmonary function testing "consistently demonstrates airflow obstruction since at least October 2013 (age of 52 years), progressing from mild to moderate severity of impairment." *Id*. at 8. Further, he noted Claimant's "[l]ung volume measurements demonstrate air trapping and/or hyperinflation," his "[d]iffusing capacity measurements demonstrate serial progressive reduction to a moderately reduced value," his "[a]rterial blood gas tests demonstrate abnormally elevated

[6] The ALJ found the pulmonary function and arterial blood gas studies do not establish total disability and there is no evidence Claimant has cor pulmonale with right-sided congestive heart failure. 20 C.F.R. §718.204(b)(2)(i)-(iii); Decision and Order at 16 n.27, 18-19.

[7] Employer generally states Dr. Swedarsky also opined Claimant is not totally disabled. Employer's Brief at 9. Dr. Swedarsky issued a biopsy report addressing pneumoconiosis but did not address whether Claimant has a totally disabling respiratory or pulmonary impairment. Employer's Exhibit 4. Thus Employer has not explained how his biopsy findings support the conclusion that Claimant is not totally disabled. *See Cox v. Benefits Review Board*, 791 F.2d 445, 446-47 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107, 109 (1983); 20 C.F.R. §802.211(b).

alveolar arterial gradient at rest and exercise," and finally his "[e]xercise tests demonstrate reduced peak exercise capacity." *Id.*

Dr. Sood opined the diffusing capacity measurement meets the criteria for a "Class III impairment" under the Sixth Edition of the American Medical Association (AMA) Guides to the Evaluation of Permanent Impairment. Claimant's Exhibit 7 at 24. Further, he opined Claimant is totally disabled because "[m]ultiple pre-bronchodilator FEV1 and both pre-bronchodilator and post-bronchodilator FEV1/FVC ratio [v]alues" on pulmonary function testing are qualifying.[8] *Id.* He explained why Claimant is also totally disabled by the diffusing capacity impairment:

> [Individuals with a Class III impairment] are moderately impaired with progressively lower levels of lung function correlating with diminishing ability to meet the physical demands of many jobs. In my opinion, [Claimant] certainly would not be able to perform his last coal mining job, which included heavy labor. Further, this patient had gas exchange abnormalities as suggested by his desaturation with ambulation and use of home oxygen supplementation. A coal miner on supplemental oxygen could not be expected to work in a coal mine.

Id. The ALJ permissibly found Dr. Sood's opinion reasoned and documented. *See Balsavage* v. *Director, OWCP*, 295 F.3d 390, 396 (3d Cir. 2002); *Kertesz v. Crescent Hills Coal Co.*, 788 F.2d 158, 163 (3d Cir. 1986); Decision and Order at 28.

Dr. Cohen stated Claimant's pulmonary function testing demonstrates a "moderately severe obstructive impairment with moderate diffusion impairment." Director's Exhibit 15 at 12; *see* Claimant's Exhibits 5, 5a. He noted Claimant's cardiopulmonary exercise test showed an "abnormal ventilatory limitation preventing further exercise." *Id.* Further, he stated Claimant's arterial blood gas testing indicates "gas exchange abnormalities consistent with pneumoconiosis." *Id.* He then concluded "these combined impairments are totally disabling for [Claimant's] last coal mine job" requiring heavy labor. *Id.* The ALJ permissibly assigned "significant weight" to Dr. Cohen's opinion because it is "supported by the objective evidence" and he "understood, correctly,

[8] A "qualifying" pulmonary function study or arterial blood gas study yields values equal to or less than the applicable table values listed in Appendices B and C of 20 C.F.R. Part 718, respectively. A "non-qualifying" study yields values in excess of those values. 20 C.F.R. §718.204(b)(2)(i), (ii).

that the Claimant's coal mine work involved heavy labor."[9] Decision and Order at 28; *see Balsavage*, 295 F.3d at 396; *Kertesz*, 788 F.2d at 163.

Employer argues the ALJ erred in crediting the opinions of Drs. Sood and Cohen because Claimant failed to establish total disability based on qualifying pulmonary function and arterial blood gas testing at 20 C.F.R. §718.204(b)(2)(i), (ii). Employer's Brief at 12-16. Contrary to Employer's assertion, even if total disability cannot be established by pulmonary function or arterial blood tests, it "may nevertheless be found if a physician exercising reasoned medical judgment, based on medically acceptable clinical and laboratory diagnostic techniques, concludes that a miner's respiratory or pulmonary condition prevents" him from performing his usual coal mine employment. *See* 20 C.F.R. §718.204(b)(2)(iv); *see Cornett v. Benham Coal, Inc.*, 227 F.3d 569, 577 (6th Cir. 2000) ("even a 'mild' respiratory impairment may preclude the performance of the miner's usual duties"); *Killman v. Director, OWCP*, 415 F.3d 716, 721-22 (7th Cir. 2005) (explaining a claimant can establish total disability despite non-qualifying objective tests).

Employer also summarizes the opinions of Drs. Sood and Cohen and contends they are not adequately reasoned or supported by the objective testing. Employer's Brief at 6-16. Its argument amounts to a request to reweigh the evidence, which we are not empowered to do. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989).

Finally, Employer argues the ALJ erred in finding that Drs. Basheda and Rosenberg opined Claimant is totally disabled by a respiratory or pulmonary impairment. Employer's Brief at 16-23. We disagree.

In his medical report, Dr. Basheda stated Claimant's "final pulmonary function test from July 21, 2020 demonstrated a mildly reduced FEV1 of 61% predicted, a normal FVC of 90% predicted, a reduced FEV1/FVC ratio of 0.51, and a moderately reduced diffusion measurement of 56% predicted." Employer's Exhibit 1 at 48-49. He indicated these values represent "a Class III (26-50%) impairment of the whole person" under the AMA guidelines. *Id*. In addition, he stated that in "labeling [Claimant] with this level of impairment, one must consider his previous lung resections, which will reduce his [pulmonary function study] numbers." *Id*. He noted Claimant did not suffer from any oxygenation impairment. *Id*. Based on "the pulmonary function testing results in the setting of lung resections and oxygenation data," Dr. Basheda opined Claimant is not

[9] Employer argues the ALJ erred in crediting Dr. Cohen's opinion because he relied on an inaccurate length of coal mine employment history. Employer's Brief at 12. Employer has not explained how the length of coal mine employment affects whether Claimant is totally disabled by a respiratory or pulmonary impairment. *See Cox*, 791 F.2d at 446-47; *Sarf*, 10 BLR at 1-120-21; *Fish*, 6 BLR at 109; 20 C.F.R. §802.211(b).

"disabled from a pulmonary standpoint." *Id*. However, Dr. Basheda also stated that from an "objective pulmonary standpoint, [Claimant] may have difficulty performing exertional work involving his last coal mining work or work of similar effort." *Id*.

Dr. Basheda clarified his opinion in his deposition. He stated Claimant's obstructive respiratory impairment evidenced by pulmonary function testing would not prevent him from doing the "less exertional" tasks associated with being a section foreman. Employer's Exhibit 5 at 36. Thus he testified Claimant is not totally disabled insofar as he would not be precluded from doing "any coal mining work" whatsoever. *Id*. He concluded, however, that Claimant could not "carry a 100 pounds on a regular basis throughout the day" if that was part of his usual coal mine employment work. *Id*.

As discussed above, the ALJ found Claimant had to lift 100 pounds as part of his usual coal mine employment as a section foreman and this job constituted "heavy manual labor because [Claimant] was required to lift and carry heavy items, such as cable, on a *regular basis*." Decision and Order at 15 (emphasis added). The ALJ rationally found Dr. Basheda's opinion supports a finding of total disability "[b]ecause in Dr. Basheda's view [] Claimant would be unable to perform such work." *Id*. at 28-29; *see Balsavage*, 295 F.3d at 396; *Kertesz*, 788 F.2d at 163; *Eagle v. Armco Inc.*, 943 F.2d 509, 512 n.4 (4th Cir. 1991) (in establishing the exertional requirements of a miner's usual coal mine employment, an ALJ must determine the exertional requirements of the most difficult job the miner performed). Because Employer does not challenge the ALJ's finding that Dr. Basheda's opinion is reasoned and documented, we affirm it. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 28-29.

Dr. Rosenberg opined Claimant's pre-bronchodilator pulmonary function testing evidences a "significant" obstructive respiratory impairment based on FEV1 values that are reduced by fifty-four percent and an FEV1/FVC ratio of fifty-one percent. Employer's Exhibit 3 at 10. When asked if Claimant is totally disabled, he conceded the pre-bronchodilator testing is qualifying for total disability. Employer's Exhibit 6 at 39-40. Although Dr. Rosenberg testified that if Claimant were given "appropriate" bronchodilator therapy he may not be totally disabled, the ALJ rationally found that aspect of his opinion "speculative, and therefore [] not relevant to the issue of whether [] Claimant currently demonstrates a total pulmonary impairment." Decision and Order at 29; *see Balsavage*, 295 F.3d at 396; *Kertesz*, 788 F.2d at 163; 45 Fed. Reg. 13,678, 13,682 (Feb. 29, 1980) (Department of Labor has cautioned against reliance on post-bronchodilator pulmonary function test results in determining total disability, stating that "the use of a bronchodilator does not provide an adequate assessment of the miner's disability, [although] it may aid in determining the presence or absence of pneumoconiosis."). Further, the ALJ also permissibly found Dr. Rosenberg's opinion supports a finding of total disability because he acknowledged Claimant's pre-bronchodilator pulmonary function testing is qualifying

for total disability.[10] *Balsavage*, 295 F.3d at 396; *Kertesz*, 788 F.2d at 163; Decision and Order at 29. Because Employer does not challenge the ALJ's finding that Dr. Rosenberg's opinion is reasoned and documented, we affirm it. *Skrack*, 6 BLR at 1-711; Decision and Order at 28-29.

Because it is supported by substantial evidence, we affirm the ALJ's determination that the medical opinion evidence establishes total disability at 20 C.F.R. §718.204(b)(2)(iv),[11] and that the evidence as whole establishes total disability. Decision and Order at 29-30; *see* 20 C.F.R. §718.204(b)(2); *Rafferty*, 9 BLR at 1-232.

As Claimant established at least fifteen years of qualifying coal mine employment and total disability, we affirm the ALJ's determination that Claimant invoked the Section 411(c)(4) presumption. Decision and Order at 30; *see* 20 C.F.R. §718.305. As Employer does not challenge the ALJ's finding that it did not rebut the presumption, we affirm it. *See Skrack*, 6 BLR at 1-711.

[10] Employer argues Dr. Rosenberg's opinion undermines a finding of total disability because he stated arterial blood gas testing does not evidence a totally disabling respiratory impairment. Employer's Brief at 22-23. This argument has no merit. Dr. Rosenberg diagnosed total disability based on the pulmonary function testing. Employer's Exhibits 3, 6. Because blood gas studies and pulmonary function studies measure different types of impairment, the results of pulmonary function testing are not called into question by a contemporaneous normal blood gas study. *See Sheranko v. Jones & Laughlin Steel Corp.* 6 BLR 1-797, 1-798 (1984).

[11] Employer also challenges the ALJ's finding that Dr. Saludes's total disability opinion is documented. Employer's Brief at 9-11. Because we have affirmed the ALJ's finding that Claimant has established total disability through the opinions of Drs. Cohen, Sood, Basheda, and Rosenberg, we need not address this argument. *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

Accordingly, the ALJ's Decision and Order Awarding Benefits is affirmed.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge