U.S. Department of Labor

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

BRB No. 20-0401 BLA

ISOM G. SMITH, II	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
STILLHOUSE MINING, LLC c/o ALPHA NATURAL RESOURCES	)	
	)	
and	)	
	)	
AMERICAN INTERNATIONAL SOUTH/AIG	)	DATE ISSUED: 10/26/2021
	)	
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 Denying Benefits of Scott R. Morris, Administrative Law Judge, United States Department of Labor.

Isom G. Smith, II, Harlan, Kentucky.

Catherine A. Karczmarczyk (Penn, Stuart & Eskridge), Johnson City, Tennessee, for Employer and its Carrier.

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

PER CURIAM:

Claimant appeals, without the assistance of counsel,[1] Administrative Law Judge (ALJ) Scott R. Morris's Decision and Order Denying Benefits (2018-BLA-06117) rendered on a claim filed on June 30, 2016, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ credited Claimant with 13.68 years of coal mine employment and thus found he could not invoke the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4) (2018).[2] Considering entitlement under 20 C.F.R. Part 718, the ALJ found Claimant established a totally disabling respiratory impairment but did not establish clinical or legal pneumoconiosis. 20 C.F.R. §§718.202(a), 718.204(b). Thus he denied benefits.

On appeal, Claimant generally challenges the denial of benefits. Employer and its Carrier (Employer) respond in support of the decision. The Director, Office of Workers' Compensation Programs, has not filed a response brief.[3]

In an appeal filed by a claimant without the assistance of counsel, the Board considers the issue raised to be whether the Decision and Order below is supported by substantial evidence. *McFall v. Jewell Ridge Coal Corp.*, 12 BLR 1-176 (1989); *Stark v. Director, OWCP*, 9 BLR 1-36 (1986). We must affirm the ALJ's Decision and Order if the findings of fact and conclusions of law are rational, supported by substantial evidence,

[1] Robin Napier, a benefits counselor with Stone Mountain Health Services of St. Charles, Virginia, requested on Claimant's behalf that the Benefits Review Board review the ALJ's decision, but Ms. Napier is not representing Claimant in this appeal. *See Shelton v. Claude V. Keen Trucking Co.*, 19 BLR 1-88 (1995) (Order).

[2] 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.

[3] We affirm as unchallenged on appeal the ALJ's finding that Claimant established a totally disabling respiratory impairment. 20 C.F.R. §718.204(b); *see Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 18-32; Employer's Response Brief at 6.

and in accordance with law.[4] 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).

The Section 411(c)(3) Presumption – Complicated Pneumoconiosis

Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3), provides an irrebuttable presumption that a miner is totally disabled due to pneumoconiosis if he suffers from a chronic dust disease of the lung which: (a) when diagnosed by x-ray, yields one or more opacities greater than one centimeter in diameter that would be classified as Category A, B, or C; (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung; or (c) when diagnosed by other means, would be a condition that could reasonably be expected to yield a result equivalent to (a) or (b). *See* 20 C.F.R. §718.304. In determining whether Claimant has invoked the irrebuttable presumption, the ALJ must consider all evidence relevant to the presence or absence of complicated pneumoconiosis. *See Gray v. SLC Coal Co.*, 176 F.3d 382, 388-89 (6th Cir. 1999); *Melnick v. Consol. Coal Co*., 16 BLR 1-31, 1-33-34 (1991) (en banc).

The record contains x-ray and computed tomography (CT) scan evidence relevant to the existence of complicated pneumoconiosis. Claimant's Exhibit 1, 3; Employer's Exhibit 1, 16. The ALJ did not address this evidence which, if credited, could invoke the irrebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(3) of the Act. 30 U.S.C. §921(c)(3); *see* 20 C.F.R. §718.304.

In view of the foregoing, we vacate the ALJ's Decision and Order and remand the case for him to consider all the relevant evidence in accordance with the Administrative Procedure Act (APA).[5] *See* 30 U.S.C. §923(b); *Director, OWCP v. Rowe*, 710 F.2d 251, 254-55 (6th Cir. 1983); *Wojtowicz v. Duquesne Light Co*., 12 BLR 1-162, 1-165 (1989); *McCune v. Central Appalachian Coal Co.*, 6 BLR 1-996, 1-998 (1984) (fact finder's failure to discuss relevant evidence requires remand). On remand, the ALJ must critically examine all the relevant medical evidence to determine whether Claimant established the presence

[4] This case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit as Claimant performed his coal mine employment in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 3.

[5] The Administrative Procedure Act, 5 U.S.C. §§500-591, provides that every adjudicatory decision must include "findings and conclusions and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented . . . ." 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a).

of complicated pneumoconiosis. 30 U.S.C. §921(c)(3); *Gray*, 176 F.3d at 388-89; 20 C.F.R. §718.304(a)-(c).

The Section 411(c)(4) Presumption – Length of Coal Mine Employment

We next review the ALJ's determination that Claimant did not invoke the Section 411(c)(4) presumption of total disability due to pneumoconiosis because he worked for only 13.68 years in qualifying coal mine employment. 20 C.F.R. §718.305(b)(1)(i).

To invoke the Section 411(c)(4) presumption, Claimant must establish he worked at least fifteen years in underground coal mines or surface coal mines in conditions "substantially similar to conditions in an underground mine." 30 U.S.C. §921(c)(4) (2018). Claimant bears the burden to establish the number of years he worked in coal mine employment. *Mills v. Director, OWCP*, 348 F.3d 133, 136 (6th Cir. 2003); *Kephart v. Director, OWCP*, 8 BLR 1-185, 1-186 (1985). The Board will uphold an ALJ's determination based on a reasonable method of calculation that is supported by substantial evidence. *Muncy v. Elkay Mining Co.*, 25 BLR 1-21, 1-27 (2011).

The ALJ first addressed whether Claimant's work as a night watchman for Martin's Fork Security Agency (Martin's Fork) in 1993 and 1994, and Jericol Mining in 1994 and 1995, constituted the work of a "miner" under the Act. Decision and Order at 12. A "miner" is "any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal." 30 U.S.C. §902(d). The implementing regulation provides "a rebuttable presumption that any person working in or around a coal mine or coal preparation facility is a miner." 20 C.F.R. §725.202(a); *see* 20 C.F.R. §725.101(a)(19). The United States Court of Appeals for the Sixth Circuit, within whose jurisdiction this cases arises, has held duties that meet situs and function requirements constitute the work of a miner as defined in the Act. *Navistar, Inc. v. Forester*, 767 F.3d 638, 641 (6th Cir. 2014); *Director, OWCP v. Consolidation Coal Co.* [*Petracca*], 884 F.2d 926, 929-30 (6th Cir. 1989). Under the situs requirement, the work must take place in or around a coal mine or coal preparation facility; under the function requirement, the work must be integral or necessary to the extraction or preparation of coal. *Forester*, 767 F.3d at 641; *Petracca*, 884 F.2d at 929.

The ALJ rationally found Claimant's job as a night watchman with Martin's Fork did not take place in or around a coal mine or coal preparation facility, and thus did not satisfy the situs prong, based on Claimant's testimony that this work was not "for a coal mine," but took place "outside the coal company." Decision and Order at 12; *see Petracca*, 884 F.2d at 934-35; *Rowe*, 710 F.2d at 254-255; Employer's Exhibit 13 at 9-10. With respect to Claimant's work for Jericol Mining, the ALJ found Claimant established the work took place in or around a coal mine or preparation facility, and thus he invoked the

rebuttable presumption that this work constitutes that of a miner at 20 C.F.R. §725.202(a). Decision and Order at 12. Based on Claimant's testimony that his duties involved "just watching the mine site," Employer's Exhibit 8 at 10, the ALJ rationally found Employer rebutted the presumption by establishing Claimant's work with Jericol Mining was not integral or necessary to the extraction or preparation of coal. *Falcon Coal Co. v. Clemons*, 873 F.2d 916, 921 (6th Cir. 1989) (a night watchman who sat in a guardhouse and occasionally drove around the mine was not integral or necessary to the extraction or preparation of coal and, thus, not a miner); 20 C.F.R. §725.202(a)(2); Decision and Order at 12. We therefore affirm his determination that Martin's Fork and Jericol Mining did not employ Claimant as a miner.

For Claimant's remaining employers from 1991 to 2010, the ALJ permissibly found Claimant's Social Security Administration (SSA) earnings record the most probative evidence regarding the dates of his coal mine employment. *See Tackett v. Director, OWCP*, 6 BLR 1-839, 1-841 (1984) (an ALJ may credit SSA earnings records over testimony and other sworn statements); Decision and Order at 15. As the ALJ was unable to determine the beginning and ending dates of Claimant's employment, he permissibly applied the method of calculation at 20 C.F.R. §725.101(a)(32)(iii). *Shepherd v. Incoal, Inc.*, 915 F.3d 392, 405-06 (6th Cir. 2019); Decision and Order at 13-16. He divided Claimant's annual earnings for the operators as set forth in Claimant's SSA earnings record by the yearly average wage for 125 days as reported in Exhibit 610 of the *Office of Workers' Compensation Programs Coal Mine (BLBA) Procedure Manual.*[6] Decision and Order at 15-16; Director's Exhibit 9. Where Claimant's wages exceeded the 125-day average, the ALJ credited him with a full year of coal mine employment. *Id*. Where Claimant's earnings fell below the 125-day average, the ALJ credited him with a fractional year. *Id*. Applying this method of calculation, he rationally found Claimant established 13.68 years of coal mine employment. Decision and Order at 16. We therefore affirm the ALJ's finding Claimant did not invoke the Section 411(c)(4) presumption. *See Muncy*, 25 BLR at 1-29; Decision and Order at 32.

20 C.F.R. Part 718 Entitlement

To be entitled to benefits under the Act, Claimant must establish disease (pneumoconiosis); disease causation (it arose out of coal mine employment); disability (a totally disabling respiratory or pulmonary impairment); and disability causation

[6] Exhibit 610 to the *Office of Workers' Compensation Programs Coal Mine (BLBA) Procedure Manual*, entitled "Average Wage Base," contains the average daily earnings of employees in coal mining and "yearly" earnings for those who worked 125 days during a year, and is referenced in 20 C.F.R. §725.101(a)(32)(iii).

(pneumoconiosis substantially contributed to the disability). 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Statutory presumptions may assist claimants in establishing the elements of entitlement if certain conditions are met, but failure to establish any one of these elements precludes an award of benefits. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (en banc).

The ALJ addressed whether Claimant met his burden to establish the existence of pneumoconiosis without the assistance of any statutory presumptions. 20 C.F.R. §718.202(a).

Clinical Pneumoconiosis

Clinical pneumoconiosis consists of "those diseases recognized by the medical community as pneumoconioses, i.e., the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(1). The ALJ first considered ten interpretations of four x-rays dated July 25, 2016, February 6, 2017, January 7, 2019, and January 31, 2019. All the physicians who interpreted these x-rays are dually-qualified as B readers and Board-certified radiologists. Director's Exhibits 15, 22, 25; Claimant's Exhibits 1-3; Employer's Exhibits 1, 4, 5, 16. Drs. DePonte and Miller read the July 25, 2016 x-ray as positive for pneumoconiosis, whereas Drs. Adcock and Simone read it as negative.[7] Director's Exhibits 15, 22, 25; Employer's Exhibit 4. Dr. Adcock read the February 6, 2017 x-ray as positive for pneumoconiosis, while Dr. Simone read it as negative.[8] Director's Exhibit 24; Claimant's Exhibit 2; Employer's Exhibit 5. Dr. Ramakrishnan read the January 7, 2019 x-ray as positive for pneumoconiosis, while Dr. Simone read it as negative. Claimant's Exhibit 1; Employer's Exhibit 16. Drs. Ramakrishnan and Adcock each interpreted the January 31, 2019 x-ray as positive for pneumoconiosis. Claimant's Exhibit 3; Employer's Exhibit 1.

[7] Dr. Lundberg interpreted the July 25, 2016 x-ray for quality purposes only. Director's Exhibit 18.

[8] In his chart of the x-ray evidence, the ALJ correctly listed the respective interpretations of the February 6, 2017 x-ray by Drs. Adcock and Simone. Decision and Order at 33-34. Nevertheless, in his analysis he noted "Dr. DePonte interpreted the x-ray as positive for pneumoconiosis while Dr. Adcock's interpretation was contrary to a finding of pneumoconiosis." *Id.* at 35. This appears to be a scrivener's error and is harmless. *See Larioni v. Director, OWCP*, 6 BLR 1-1276 (1984).

The ALJ found the interpretations of the July 25, 2016, February 6, 2017, and January 7, 2019 x-rays in equipoise. Decision and Order at 35. He found the January 31, 2019 x-ray positive for pneumoconiosis based on the uncontradicted readings by Drs. Ramakrishnan and Adcock. *Id*. Further, the ALJ observed the January 31, 2019 x-ray is the most recent x-ray. *Id*. However, because the January 7, 2019 x-ray "was taken in the same month and same year… [and] received conflicting readings from dually qualified radiologists," he declined to accord greater weight to the January 31, 2019 positive x-ray based on its recency. Decision and Order at 35. The ALJ concluded that, because the interpretations of three x-rays are in equipoise and one x-ray is positive for pneumoconiosis, "the x-ray evidence preponderates toward a finding that Claimant does not suffer from clinical pneumoconiosis." *Id.* at 35-36. This was error.

When an ALJ finds the readings of an x-ray deserving of equal weight and thus in equipoise, the x-ray neither confirms nor disproves the presence of clinical pneumoconiosis. *See Dixie Fuel Co. v. Director, OWCP* [*Hensley*], 820 F.3d 833, 843 (6th Cir. 2016), *Sunny Ridge Mining Co. v. Keathley*, 773 F.3d 734, 740 (6th Cir. 2014). Put another way, the January 7, 2019 x-ray was found to be neither positive nor negative for clinical pneumoconiosis. The ALJ erred to the extent he treated it as negative – and thus contrary to the positive January 31, 2019 x-ray – despite deeming its interpretations to be in equipoise. *Hensley*, 820 F.3d at 842, *Sunny Ridge Mining Co.*, 773 F.3d at 740. While these x-rays do not support the existence of clinical pneumoconiosis, they are not contrary to the positive reading of record.

Notwithstanding the ALJ's error, the facts of this case do not mandate a remand for further consideration of this issue. While factual determinations are the province of the ALJ, reversal is warranted where no factual issues remain to be determined and no further factual development is necessary. *See Adams v. Director, OWCP*, 886 F.2d 818, 826 (6th Cir. 1989) (reversing denial, as no factual issue remained as to cause of death, with directions to award benefits without further administrative proceedings); *Collins v. Pond Creek Mining Co*., 751 F.3d 180, 187 (4th Cir. 2014) (same).

The ALJ rendered dispositive findings. In light of the radiological qualifications of the doctors, the ALJ permissibly found the interpretations of three x-rays in equipoise and one positive for pneumoconiosis, with the most recent x-ray positive for pneumoconiosis. *Staton v. Norfolk & Western Ry. Co.*, 65 F.3d 55, 59 (6th Cir. 1995); *Woodward v. Director, OWCP*, 991 F.2d 314, 321 (6th Cir. 1993); Decision and Order at 35. The x-ray evidence thus requires a finding of clinical pneumoconiosis, notwithstanding the ALJ's error. Consequently, we reverse the ALJ's clinical pneumoconiosis finding. 20 C.F.R. §718.202(a)(1).

The ALJ next found the CT scan evidence establishes clinical pneumoconiosis. 20 C.F.R. §718.202(a)(4); Decision and Order at 45. No party challenges this finding. Thus we affirm it. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

The ALJ found the biopsy, treatment record, and medical opinion evidence does not establish clinical pneumoconiosis. 20 C.F.R. §718.202(a)(2), (4); Decision and Order at 38-41, 46-47. He concluded the evaluations of a 2007 biopsy of Claimant's lungs are negative for clinical pneumoconiosis but permissibly concluded it is entitled to diminished weight because it was taken ten years earlier and thus not of "much value in assessing Claimant's condition more than a decade later." Decision and Order at 26-38; Claimant's Exhibit 5; *see Woodward*, 991 F.2d at 321.

Similarly, the ALJ permissibly found the contrary medical opinions of Drs. Dahhan and Sargent excluding clinical pneumoconiosis entitled to little weight as they based their conclusions on the outdated biopsy evidence.[9] *Woodward*, 991 F.2d at 321; *Tennessee Consolidated Coal Co. v. Crisp*, 866 F.2d 179, 185 (6th Cir. 1989); *Rowe*, 710 F.2d at 254-255; Decision and Order at 40-41. Consequently, because the x-ray and CT scan evidence establishes clinical pneumoconiosis and the ALJ's dispositive findings assign the contrary evidence diminished weight, the facts also warrant reversal of the ALJ's finding the evidence as a whole does not support a finding of clinical pneumoconiosis. *See Adams*, 886 F.2d at 826; *Collins*, 751 F.3d at 187. We therefore hold Claimant established he has clinical pneumoconiosis. 20 C.F.R. §718.202(a); *Hensley*, 820 F.3d at 881.

Legal Pneumoconiosis

"Legal pneumoconiosis" includes any chronic lung disease or impairment and its sequelae arising out of coal mine employment. 20 C.F.R. §718.201(a)(2). In order to establish legal pneumoconiosis, Claimant must prove that he has a "chronic pulmonary disease or respiratory or pulmonary impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b). The ALJ considered the medical opinions of Drs. Ajjarapu, Sargent, and Dahhan. 20 C.F.R. §718.202(a)(4); Decision and Order at 22-31, 39-43. Dr. Ajjarapu diagnosed Claimant with legal pneumoconiosis in the form of chronic bronchitis due to his coal mine

[9] Drs. Sargent and Dahhan are the only doctors who provided medical opinions affirmatively opining Claimant does not have clinical pneumoconiosis. They both acknowledged the x-ray interpretations they obtained of Claimant were interpreted as positive for clinical pneumoconiosis. Employer's Exhibit 1; Director's Exhibit 24. However, both physicians relied on the pathological evidence to opine Claimant does not have clinical pneumoconiosis. Employer's Exhibit 1, Director's Exhibit 24.

employment and cigarette smoking. Director's Exhibits 15, 16. Dr. Sargent did not find evidence of legal pneumoconiosis. Employer's Exhibit 1. He opined Claimant suffers from "a partially reversible obstructive impairment that is consistent with asthma." *Id.* Dr. Dahhan also opined Claimant does not have legal pneumoconiosis. Director's Exhibit 24. Rather, he concluded any impairment Claimant has is due to his smoking habit. *Id.*

We cannot affirm the ALJ's weighing of these medical opinions. After fully delineating the specific diagnoses and underlying documentation of the opinions of Drs. Ajjarapu, Sargent, and Dahhan, he stated:

> Here, Drs. Dahhan and Sargent's opinions contradict Dr. Ajjarapu's opinion. Each physician supported their conclusion on legal pneumoconiosis with medical data and the undersigned finds their medical opinions equally persuasive. . . . As Dr. Dahhan's and Sargent's opinions are similarly persuasive as to whether coal mine dust contributed to Claimant's impairment, the undersigned finds that Claimant has failed to establish that he suffers from legal pneumoconiosis through physician opinion evidence.

Decision and Order at 43.

While the ALJ found the opinions of Drs. Ajjarapu, Sargent, and Dahhan "equally persuasive" as they were all "well-reasoned and well-documented," the ALJ failed to resolve the conflicts in the medical opinions or explain why he found the opinions of Drs. Sargent and Dahhan in equipoise as compared to the contrary opinion of Dr. Ajjarapu. Decision and Order at 42-43; *see Wojtowicz*, 12 BLR at 1-165. While a claimant fails to meet his burden of proof when the evidence is equally balanced, *see Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 279-81 (1994), the ALJ must nevertheless explain his rationale for reaching that conclusion. The mere fact that the relevant evidence may be conflicting does not authorize the ALJ to declare Claimant failed to establish legal pneumoconiosis. *See generally Gunderson v. U.S. Dep't of Labor*, 601 F.3d 1013, 1024 (10th Cir. 2010) ("[ALJ] has a duty to explain, on scientific grounds, why a conclusion cannot be reached"). It is the ALJ's duty to evaluate conflicting evidence, draw appropriate inferences, and assess probative value. *See Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 713-14 (6th Cir. 2002); *Crisp*, 866 F.2d at 185; *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-155 (1989) (en banc).

In light of the foregoing, we vacate the ALJ's determination that Claimant failed to establish the existence of legal pneumoconiosis based on the medical opinion evidence and the evidence as a whole. 20 C.F.R. §718.202(a)(4).

Disability Causation

To establish his total disability is due to pneumoconiosis, Claimant must prove that pneumoconiosis is a "substantially contributing cause" of the totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c)(1). Pneumoconiosis is a substantially contributing cause of a miner's totally disabling impairment if it has "a material adverse effect on the miner's respiratory or pulmonary condition," or if it "[m]aterially worsens a totally disabling respiratory or pulmonary impairment which is caused by a disease or exposure unrelated to coal mine employment." 20 C.F.R. §718.204(c)(1)(i), (ii).

The ALJ did not address this element of entitlement in his Decision and Order. On remand, the ALJ must determine if Claimant's clinical pneumoconiosis is a "substantially contributing cause" of his totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c)(1). Further, if the ALJ finds Claimant has established legal pneumoconiosis, he must also determine if it is a "substantially contributing cause" of Claimant's totally disabling respiratory or pulmonary impairment. *Id.*

Remand Instructions

The ALJ must first consider the evidence relevant to whether Claimant established complicated pneumoconiosis and thus invoked the irrebuttable presumption of total disability due to pneumoconiosis. 30 U.S.C. §921(c)(3); *see* 20 C.F.R. §718.304. If Claimant establishes complicated pneumoconiosis, the ALJ should address whether it arose out of his coal mine employment.[10] 20 C.F.R. §718.203. If Claimant establishes complicated pneumoconiosis arising out of his coal mine employment, he is entitled to benefits.

If the ALJ finds Claimant did not establish complicated pneumoconiosis, he must reconsider Claimant's entitlement to benefits under Part 718. He must reconsider whether the medical opinion evidence establishes the existence of legal pneumoconiosis based on the opinions of Drs. Ajjarapu, Sargent, and Dahhan. 20 C.F.R. §718.202(a)(4). The ALJ must resolve the conflict in their opinions by addressing the physicians' explanations of their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their diagnoses. *See Crisp*, 866 F.2d at 185, *Rowe*, 710 F.2d at 254-255. If the ALJ determines Claimant established legal pneumoconiosis under 20 C.F.R. §718.202(a)(4), he must determine whether Claimant has established he is totally disabled due to legal pneumoconiosis. 20 C.F.R. §718.204(c). Regardless of whether the

[10] Because Claimant has more than ten years of coal mine employment, he is presumed to have established disease causation; the burden is on Employer to disprove it. 20 C.F.R. §718.203(b).

ALJ finds Claimant established legal pneumoconiosis, he must consider whether Claimant has proven he is totally disabled due to clinical pneumoconiosis. 20 C.F.R. §718.204(c). If Claimant establishes he is totally disabled due to either clinical or legal pneumoconiosis, he is entitled to benefits. If he fails to establish total disability due to clinical or legal pneumoconiosis, benefits are precluded. *See Anderson*, 12 BLR at 1-112.

Accordingly, the ALJ's Decision and Order Denying Benefits is affirmed in part, reversed in part, and vacated in part, and the case is remanded to the ALJ for further consideration consistent with this opinion.

SO ORDERED.

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

DANIEL T. GRESH
Administrative Appeals Judge