

PART IV

ADMINISTRATIVE PROCESSING OF CLAIMS, POWERS AND DUTIES OF THE ADMINISTRATIVE LAW JUDGE

D. EVALUATION AND WEIGHING OF EVIDENCE

4. MEDICAL REPORTS

a. Documented Opinion

A "documented" opinion is one that sets forth the clinical findings, observations, facts and other data on which the physician based the diagnosis. ***Fields v. Island Creek Coal Co.***, 10 BLR 1-19 (1987); ***Fuller v. Gibraltar Coal Corp.***, 6 BLR 1-1291 (1984). A report may be adequately documented if it is based on items such as a physical examination, symptoms and patient's history. See ***Hoffman v. B & G Construction Co.***, 8 BLR 1-65 (1985); ***Hess v. Clinchfield Coal Co.***, 7 BLR 1-295 (1984); ***Buffalo v. Director, OWCP***, 6 BLR 1-1164, 1-1166 (1984); ***Gomola v. Manor Mining and Contracting Corp.***, 2 BLR 1-130 (1979).

A medical report which, in addition to this documentation, is also based on one or more diagnostic tests contemplated by the regulations may be more credible than one not so supported. ***Ogozalek v. Director, OWCP***, 5 BLR 1-309 (1982). An administrative law judge, however, may not reject a medical report *solely* because it is not based on any of the diagnostic tests contemplated by the regulations. ***Adamson v. Director, OWCP***, 7 BLR 1-229 (1984); ***Ogozalek, supra***; ***Warman v. Pittsburg and Midway Coal Mining Co.***, 4 BLR 1-601, 1-608 (1982). This is particularly true when the use of diagnostic tests was either minimal or non-existent at the time the medical report was completed. ***Ogozalek, supra***.

CASE LISTINGS

[medical report of treating physician found adequately documented where based on work history, physical exam and x-ray] ***Watson v. Director, OWCP***, 4 BLR 1-186 (1981).

[diagnosis of "C.O.P.D. typical of black lung" alone does not constitute documented and reasoned opinion or establish presence of disabling respiratory impairment] ***Clay v. Director, OWCP***, 7 BLR 1-82 (1984).

[adjudicator properly found medical report inadequately documented where doctor did not state factors relied on or explain how objective data supported diagnosis] **York v. Jewell Ridge Coal Corp.**, 7 BLR 1-766 (1985); **Oggero v. Director, OWCP**, 7 BLR 1-860 (1985); **Cooper v. United States Steel Corp.**, 7 BLR 1-842 (1985); **White v. Director, OWCP**, 6 BLR 1-368, 1-371 (1983).

[totally undocumented medical opinion can be discredited] **Moore v. Dixie Pine Coal Co.**, 8 BLR 1-334 (1985).

DIGESTS

Medical reports supported by physical examinations, an accurate smoking history and a report of coal mine employment prepared by claimant are adequately documented and reasoned. See **Perry v. Director, OWCP**, 9 BLR 1-1 (1986).

A physician's letter diagnosing total disability for the first time cannot be considered documented by the physician's twenty year old medical report. **Bury v. Director, OWCP**, 9 BLR 1-79 (1986).

The quality standards found at Section 718.104 are not mandatory for medical evidence considered by the administrative law judge. Section 718.104 does not preclude a medical report merely because it lacks objective testing. See **Budash v. Bethlehem Mines Corp.**, 9 BLR 1-48 and 13 BLR 1-46 (1986)(en banc), *aff'd on recon.*, 9 BLR 1-104 (1986)(en banc).

Quality standards are mandatory guides. An ALJ may find a miner to be totally disabled in reliance upon a medical judgment in a *noncomplying* report so long as the judgment is reasoned and based upon medically acceptable evidence as required by Section 718.204(c)(4). **Director, OWCP v. Mangifest**, 826 F.2d 1318, 10 BLR 2-220 (3d Cir. 1987).

A physician's opinion in a supplemental letter written three years after the physician's examination of claimant, was properly accorded little weight when it contained no indication as to what documentation the opinion was based on. See **Cooper v. Director, OWCP**, 11 BLR 1-95 (1988)(Ramsey, CJ., concurring).

The administrative law judge may discredit an opinion as lacking reliable documentation because it is based on a pulmonary function study which does not meet applicable quality standards or because it is based on a pulmonary function study with values disparately lower than subsequent studies. See **McMath v. Director, OWCP**, 12 BLR 1-6 (1988).

Where the Board had previously held that a medical report was "unsupported" by objective tests, the administrative law judge did not exceed the scope of the Board's prior remand order by finding the same medical report to be "accompanied by" objective testing. ***Budash v. Bethlehem Mines Corp.***, 16 BLR 1-27 (1991).

6/95