

BRB No. 05-0100 BLA

WILLIAM J. COFFAY (Deceased)	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	DATE ISSUED: 08/26/2005
	)	
DIRECTOR, OFFICE OF WORKERS'	)	
COMPENSATION PROGRAMS, UNITED	)	
STATES DEPARTMENT OF LABOR	)	
	)	
Respondent	)	DECISION and ORDER

Appeal of the Decision and Order of Robert D. Kaplan, Administrative Law Judge, United States Department of Labor.

Carolyn M. Marconis, Pottsville, Pennsylvania, for claimant.

Barry H. Joyner (Howard M. Radzely, Solicitor of Labor; Donald S. Shire, Associate Solicitor; Rae Ellen Frank James, Deputy Associate Solicitor; 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: DOLDER, Chief Administrative Appeals Judge, SMITH and BOGGS, Administrative Appeals Judges.

**PER CURIAM:**

Claimant<sup>1</sup> appeals the Decision and Order (03-BLA-5838) of Administrative Law Judge Robert D. Kaplan 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). This case involves a subsequent claim filed on June 4, 2002.<sup>2</sup>

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<sup>1</sup>According to a letter from claimant's counsel, claimant is now deceased. His claim for benefits is being pursued by his widow, Shirley Coffay.

<sup>2</sup>The relevant procedural history of this case is as follows: Claimant initially filed a claim for benefits on September 5, 1980. Director's Exhibit 1. The district director

After crediting claimant with at twelve years of coal mine employment, the administrative law judge found that the evidence was sufficient to establish the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a). The administrative law judge also found that claimant was entitled to the presumption that his pneumoconiosis arose out of his coal mine employment pursuant to 20 C.F.R. §718.203(b). The administrative law judge further noted that the Director, Office of Workers' Compensation Programs (the Director), conceded that claimant was totally disabled pursuant to 20 C.F.R. §718.204(b). However, the administrative law judge found that the evidence was insufficient to establish that claimant's total disability was due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). Accordingly, the administrative law judge denied benefits. On appeal, claimant contends that the administrative law judge erred in finding the evidence insufficient to establish that his total disability was due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). The Director responds in support of the administrative law judge's denial of benefits.

The Board must affirm the findings of the administrative law judge if they are supported by substantial evidence, are rational, and are in accordance with applicable 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).

Claimant contends that the administrative law judge erred in finding the evidence insufficient to establish that his total disability was due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c).

Revised Section 718.204(c)(1) provides that:

A miner shall be considered totally disabled due to pneumoconiosis if pneumoconiosis, as defined in §718.201, is a substantially contributing cause of the miner's totally disabling respiratory or pulmonary impairment. Pneumoconiosis is a "substantially contributing cause" of the miner's disability if it:

- (i) Has a material adverse effect on the miner's respiratory or pulmonary condition; or
- (ii) Materially worsens a totally disabling respiratory or pulmonary impairment which is caused by a disease or exposure unrelated to coal mine employment.

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denied the claim on April 17, 1981. *Id.* There is no indication that claimant took any further action in regard to his 1980 claim.

Claimant filed a second claim on June 4, 2002. Director's Exhibit 3.

20 C.F.R. §718.204(c)(1).

In this case, the administrative law judge found that the opinions of Drs. Talati and Manganiello were insufficient to establish that claimant's total disability was due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). Decision and Order at 11-12. The administrative law judge, therefore, found that "the record contains no acceptable evidence that [c]laimant's pneumoconiosis contributed to his total disability." *Id.* at 12.

Claimant contends that that administrative law judge erred in finding Dr. Manganiello's opinion insufficient to establish that claimant's total disability was due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). Although the administrative law judge noted that Dr. Manganiello was claimant's treating physician, *see* Decision and Order at 8, he properly discredited his opinion because the doctor failed to provide any reasoning or rationale for his conclusion that claimant's disability was due to his pneumoconiosis.<sup>3</sup> *See Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Lucostic v. United States Steel Corp.*, 8 BLR 1-46 (1985); Decision and Order at 11; Claimant's Exhibit 3.

We reject claimant's contention that the administrative law judge erred in not according greater weight to Dr. Manganiello's opinion based upon his status as claimant's treating physician. Revised Section 718.104(d) provides that an adjudicator must give consideration to the relationship between the miner and any treating physician whose report is admitted into the record. 20 C.F.R. §718.104(d). However, Section 718.104(d) further provides that:

In appropriate cases, the relationship between the miner and his treating physician may constitute substantial evidence in support of the adjudication officer's decision to give that physician's opinion controlling weight, *provided that the weight given to the opinion of a miner's treating physician shall also be based on the credibility of the physician's opinion in light of its reasoning and documentation, other relevant evidence and the record as a whole.*

20 C.F.R. §718.104(d)(5) (emphasis added).

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<sup>3</sup>Although Dr. Manganiello explained that claimant had been under his care since 1995, he limited his discussion of the cause of claimant's disability to a one page report dated February 25, 2003. In this report, Dr. Manganiello stated that it was "evident that [claimant's] major disability is on the basis of his [pneumoconiosis]." Claimant's Exhibit 3. Dr. Manganiello provided no explanation or documentation to support his finding.

As discussed, *supra*, the administrative law judge properly discredited Dr. Manganiello's opinion because he found that it was not sufficiently reasoned.

Claimant's remaining statements neither raise any substantive issue nor identify any specific error on the part of the administrative law judge in determining that the evidence is insufficient to establish that claimant's total disability is due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). See *Cox v. Benefits Review Board*, 791 F.2d 445, 9 BLR 2-46 (6th Cir. 1986); *Sarf v. Director, OWCP*, 10 BLR 1-119 (1987). Consequently, we affirm the administrative law judge's finding that the evidence is insufficient to establish that claimant's total disability is due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c).

In light of our affirmance of the administrative law judge's finding that the evidence is insufficient to establish that claimant's total disability is due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c) an essential element of entitlement, we affirm the administrative law judge's denial of benefits under 20 C.F.R. Part 718. See *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Gee v. W. G. Moore and Sons*, 9 BLR 1-4 (1986) (*en banc*); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (*en banc*).

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

SO ORDERED.

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NANCY S. DOLDER, Chief  
Administrative Appeals Judge

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ROY P. SMITH  
Administrative Appeals Judge

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JUDITH S. BOGGS  
Administrative Appeals Judge