

BRB No. 08-0799 BLA

W.M.)	
(Widow of and on behalf of C.M.))	
)	
Claimant-Petitioner)	
)	
v.)	
)	
EASTERN ASSOCIATED COAL)	
CORPORATION)	DATE ISSUED: 08/20/2009
)	
Employer-Respondent)	
)	
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 Daniel L. Leland,
Administrative Law Judge, United States Department of Labor.

W.M., English, West Virginia, *pro se*.

Laura Metcoff Klaus (Greenberg Traurig LLP), Washington, D.C., for
employer.

Before: DOLDER, Chief Administrative Appeals Judge, SMITH and
HALL, Administrative Appeals Judges.

PER CURIAM:

Claimant¹ appeals the Decision and Order – Denying Benefits (2006-BLA-5226)
of Administrative Law Judge Daniel L. Leland with respect to a miner's subsequent
claim and an initial survivor's 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.*

¹ Claimant is the surviving spouse of the miner, C.M., who died on July 24, 2004.
Survivor Director's Exhibit 12.

(the Act). The miner filed his third claim² for benefits on February 25, 2004, and the district director issued an initial finding of entitlement on December 2, 2004. Miner Director's Exhibits 4, 25. Claimant filed her survivor's claim on August 23, 2004, and the district director rendered an initial finding of entitlement on September 19, 2005. Survivor Director's Exhibits 2, 24. Employer requested a hearing before the Office of Administrative Law Judges. Miner Director's Exhibit 26; Survivor Director's Exhibit 25. The two claims were subsequently consolidated and assigned to the administrative law judge for consideration. *See* Miner Director's Exhibit 28; Survivor Director's Exhibit 28.

After crediting claimant with twenty-two years of coal mine employment, the administrative law judge adjudicated both of the claims pursuant to the regulations at 20 C.F.R. Part 718. With respect to the miner's subsequent claim, the administrative law judge found that the newly submitted evidence was insufficient to establish a change in an applicable condition of entitlement pursuant to 20 C.F.R. §725.309(d). Regarding the survivor's claim, the administrative law judge determined that claimant failed to satisfy her burden to establish that pneumoconiosis caused, contributed to, or hastened the miner's death pursuant to 20 C.F.R. §718.205(c). Accordingly, the administrative law judge denied benefits.

Claimant generally appeals the administrative law judge's decision denying benefits in both the miner's and the survivor's claims. Employer responds, urging affirmance of the administrative law judge's denial of benefits in both claims as the decision is supported by substantial evidence. The Director, Office of Workers' Compensation Programs, has not filed a response brief in this appeal.

In an appeal filed by a claimant without the assistance of counsel, the Board considers the issue to be whether the Decision and Order below is supported by substantial evidence. *Stark v. Director, OWCP*, 9 BLR 1-36 (1986). We 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.³ 33 U.S.C. §921(b)(3), as

² The miner previously filed two claims for black lung benefits on June 27, 1989 and March 27, 1997. Miner Director's Exhibits 1, 2. The first claim was denied because the evidence was insufficient to establish any of the conditions of entitlement. Miner Director's Exhibit 1. The second claim was denied on the grounds that the miner was not totally disabled by pneumoconiosis pursuant to 20 C.F.R. §718.204(b), (c). Miner Director's Exhibit 2. The miner took no action with regard to the denial of his second claim until filing the current subsequent claim. Miner Director's Exhibit 4.

³ The record reflects that the miner's coal mine employment was in West Virginia. Miner Director's Exhibits 1, 2; Survivor Director's Exhibit 5. Accordingly, this case

incorporated into the Act by 30 U.S.C. §932(a); *O’Keeffe v. Smith, Hinchman and Grylls Associates, Inc.*, 380 U.S. 359 (1965).

I. Evidentiary Issue

At the hearing, twenty-nine Director’s Exhibits were introduced in the miner’s claim and thirty Director’s Exhibits were introduced in the survivor’s claim. Hearing Transcript at 4-5. Claimant and employer also submitted additional exhibits. *Id.* at 6-8. Employer proffered the reports of three physicians, Drs. Zaldivar, Weiss and Caffrey, but did not specify how that evidence was to be designated pursuant to 20 C.F.R. §725.414, with respect to either the miner’s claim or the survivor’s claim.⁴ *Id.* at 9-10. In its post-hearing brief, employer clarified that Dr. Caffrey’s opinion was proffered as a biopsy report, along with his deposition testimony. Employer conceded, however, that Dr. Caffrey’s deposition testimony could be considered inadmissible under the evidentiary limitations at 20 C.F.R. §725.414(c), but argued that good cause was established for admission of the “three medical reports into the record.” Employer’s Post-Hearing Brief at 21 n.13. In his Decision and Order, although the administrative law judge did not address employer’s good cause argument, he limited his review of employer’s evidence in the miner’s claim to the opinion of Dr. Zaldivar, and also limited his review of employer’s evidence in the survivor’s claim to the opinions of Drs. Weiss and Caffrey. Because the administrative law judge did not consider any evidence submitted by employer in excess of the evidentiary limitations in deciding this case, we conclude that claimant has not been adversely affected by the administrative law judge’s failure to specifically address employer’s good cause argument for the admission of Dr. Caffrey’s deposition testimony. Thus, any error, which may have been committed by the administrative law judge with respect to the admission of Dr. Caffrey’s deposition testimony, is harmless. *See Johnson v. Jeddo-Highland Coal Co.*, 12 BLR 1-53 (1988); *Larioni v. Director, OWCP*, 6 BLR 1-1276 (1984).

II. Miner’s Claim

arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit. *See Shupe v. Director, OWCP*, 12 BLR 1-200 (1989) (*en banc*).

⁴ The regulation at 20 C.F.R. §725.414, in conjunction with 20 C.F.R. §725.456(b)(1), sets limits on the amount of specific types of medical evidence that the parties can submit into the record in order to avoid the admission of excessive, repetitious evidence.

For a subsequent living miner's claim, where a miner files a claim for benefits more than one year after the final denial of a previous claim, the subsequent claim must also be denied unless the administrative law judge finds that "one of the applicable conditions of entitlement . . . has changed since the date upon which the order denying the prior claim became final." 20 C.F.R. §725.309(d); *White v. New White Coal Co.*, 23 BLR 1-1 (2004). The "applicable conditions of entitlement" are "those conditions upon which the prior denial was based." 20 C.F.R. §725.309(d)(2). In this case, because the miner's previous claim was denied on the grounds that he failed to prove that he was totally disabled by pneumoconiosis, the administrative law judge properly found that "at the very least, the evidence from the miner's current claim must demonstrate that he became totally disabled since his last claim." Decision and Order at 6.

The administrative law judge reviewed the following medical evidence submitted in the miner's subsequent claim: chest x-ray readings,⁵ CT scan readings, pulmonary function studies, blood gas studies, medical reports, pathology reports, and deposition testimony.⁶ Concerning the chest x-rays, all of the physicians who provided interpretations are dually qualified B readers and Board-certified radiologists. The March 24, 2004 x-ray was read as positive for complicated pneumoconiosis by Dr. Patel, as positive for simple pneumoconiosis by Dr. Cappiello, and as negative for pneumoconiosis by Dr. Scott. Miner Director's Exhibit 17; Claimant's Exhibit 3;

⁵ Employer submitted a negative reading of the March 24, 2004 x-ray by Dr. Wheeler, which was excluded by the administrative law judge on the grounds that it exceeded the evidentiary limitations pursuant to 20 C.F.R. §725.414(a)(3)(ii). Decision and Order at 3 n.2; Employer's Exhibit 2. We affirm the administrative law judge's exclusion of Dr. Wheeler's negative reading as it is not adverse to claimant or challenged on appeal. *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710 (1983).

⁶ The record contains medical and treatment records from Princeton Community Hospital, Charleston Area Medical Center, Healthsouth Southern Hills Rehabilitation Hospital, Family Healthcare Associates, and Quail Valley Medical Center. See Employer's Exhibits 7, 11-15. These records indicate that the miner was diagnosed with coal workers' pneumoconiosis, underwent a lung biopsy in 2004, and was treated for various non-respiratory conditions. Because the medical and treatment records do not address whether the miner was totally disabled from a respiratory or pulmonary standpoint, any error by the administrative law judge in failing to specifically discuss this evidence in his consideration of the miner's claim is harmless. See *Johnson v. Jeddo-Highland Coal Co.*, 12 BLR 1-53 (1988); *Larioni v. Director, OWCP*, 6 BLR 1-1276 (1984).

Employer's Exhibit 1. The July 19, 2004 x-ray was read once by Dr. Scatarige as negative for pneumoconiosis.⁷ Employer's Exhibit 2.

The record contains three CT scans dated November 17, 2003, April 2, 2004, and May 17, 2004. Dr. Miller read each of the three scans as positive for simple coal workers' pneumoconiosis. Claimant's Exhibit 4. Conversely, Dr. Scott opined that the November 17, 2003 scan did not contain any small, rounded opacities to suggest coal workers' pneumoconiosis. Employer's Exhibit 8. Dr. Wheeler read the April 2, 2004 CT scan as negative for pneumoconiosis, Employer's Exhibit 9, and Dr. Scatarige read the May 17, 2004 scan as negative for pneumoconiosis. Employer's Exhibit 10.

There is one pulmonary function study and one blood gas study of record, each of which is dated March 24, 2004. Miner Director's Exhibit 17. Both the pulmonary function study and the blood gas study results were non-qualifying for total disability.⁸ There were also four medical opinions considered by the administrative law judge with respect to the miner's subsequent claim.

Dr. Mullins examined the miner on March 24, 2004, at the request of the Department of Labor. Miner Director's Exhibit 17. Dr. Mullins determined that the chest x-ray showed results consistent with coal dust exposure due to the miner's coal mine employment; she found a lung mass attributable to smoking and unknown causes; she diagnosed chronic obstructive pulmonary disease (COPD), which was due to coal workers' pneumoconiosis, smoking, and the lung mass, and found coronary artery disease as a result of the miner's family history, high blood pressure, and smoking. *Id.* Dr. Mullins also determined that the miner suffered from a moderate ventilatory impairment that would have prevented the performance of his last coal mine job. Dr. Mullins attributed fifty percent of the impairment to coal workers' pneumoconiosis and fifty percent to other causes. *Id.*

Dr. Zaldivar provided a report dated November 28, 2005, based on his review of the evidence, and he was also deposed on February 4, 2008. Employer's Exhibits 4, 16. Dr. Zaldivar diagnosed coal workers' pneumoconiosis based on the findings of a few coal

⁷ The administrative law judge mistakenly identified the physician interpreting the July 19, 2004 x-ray as Dr. Scott when it was read by Dr. Scatarige. *See* Decision and Order at 3; Employer's Exhibit 2.

⁸ A "qualifying" pulmonary function study or blood gas study yields results that are equal to or less than the values set out in the tables at 20 C.F.R. Part 718, Appendices B and C, respectively. A "non-qualifying" study produces results that exceed those values. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

macules in the lobe of the lung that was removed for biopsy. Employer's Exhibit 4. In his deposition, Dr. Zaldivar reviewed the results of the miner's pulmonary function testing prior to his death. Employer's Exhibit 16 at 23. Dr. Zaldivar noted that while the March 24, 2004 pulmonary function test obtained by Dr Mullins revealed a mild respiratory impairment, he opined that the study was not performed with maximal effort by the miner. *Id.* In support of his opinion that the study was invalid, Dr. Zaldivar noted that arterial blood gas testing performed on the same day showed "an excellent oxygenation during exercise." *Id.* at 24. Dr. Zaldivar concluded there was no evidence of pulmonary impairment or disability prior to the miner's surgery for lung cancer. *Id.* at 27.

Dr. Gaziano also reviewed evidence and submitted a consulting report dated July 14, 2006. Claimant's Exhibit 2. Dr. Gaziano opined that pneumoconiosis was a "significant contributory factor" in the miner's death because the primary mechanism of the miner's death was respiratory failure. *Id.* He also stated that the miner's lung cancer was not a material cause of his death, except "to the extent that it further compromised limited lung function." *Id.* Dr. Gaziano, however, did not specifically address whether the miner was totally disabled by a respiratory or pulmonary impairment prior to his death. *Id.*

Finally, Dr. Stefanini, a pathologist, prepared a consulting report dated May 21, 2006, which was based on his review of the miner's death certificate, the examination report of Dr. Mullins, a surgical pathology report signed by Dr. Huang, and thirteen lung tissue slides. Claimant's Exhibit 1. Dr. Stefanini stated that "[t]here is evidence of non[complicated coal workers'] pneumoconiosis sufficient to prevent the deceased from continuing employment in mining." *Id.*

In considering whether the miner was totally disabled, the administrative law judge initially determined that claimant was not entitled to the irrebuttable presumption of total disability due to pneumoconiosis set forth at 20 C.F.R. §718.304. Decision and Order at 6 n.4. The administrative law judge noted that Dr. Patel was the only radiologist to identify a Category A opacity for complicated pneumoconiosis. *Id.* The administrative law judge specifically found Dr. Patel's x-ray reading to be outweighed by the weight of the x-ray and CT scan evidence diagnosing that claimant suffered from simple and not complicated pneumoconiosis. *Id.*

Further, pursuant to 20 C.F.R. §718.204(b)(2)(i), the administrative law judge determined that the sole pulmonary function study results were just above the qualifying level and observed that Dr. Zaldivar questioned whether the study was performed with maximal effort. Decision and Order at 7. The blood gas study results were also found to be non-qualifying under 20 C.F.R. §718.204(b)(2)(ii). *Id.* In addition, pursuant to 20

C.F.R. §718.204(b)(2)(iii), the administrative law judge concluded that there was no evidence that the miner had cor pulmonale. *Id.*

Pursuant to 20 C.F.R. §718.204(b)(2)(iv), the administrative law judge noted that Dr. Gaziano did not address the issue of total disability. Decision and Order at 7. The administrative law judge afforded less weight to the opinion of Dr. Mullins, finding her opinion to be “poorly reasoned.” *Id.* The administrative law judge specifically noted that Dr. Mullins did not explain the basis for her conclusion that the miner’s moderate ventilatory impairment would have prevented the performance of his last coal mine employment. *Id.* In addition, the administrative law judge found Dr. Mullins’ opinion to be less credible since she did not discuss the exertion required to perform the miner’s last coal mine job. *Id.* Similarly, the administrative law judge found that Dr. Stefanini did not cite to any specific evidence to support his conclusion that the miner would have been unable to continue working in coal mine employment. *Id.* In contrast to these opinions, the administrative law judge noted that Dr. Zaldivar provided a “well reasoned and well documented” opinion that “the miner had no pulmonary impairment prior to his surgery for lung cancer and his strokes.” *Id.* Thus, the administrative law judge concluded that claimant failed to establish total disability and was unable to establish a change in an applicable condition of entitlement pursuant to 20 C.F.R. §725.309(d). Decision and Order at 7.

Based on our review of the administrative law judge’s Decision and Order and the evidence of record, we affirm the administrative law judge’s denial of benefits in the miner’s claim. The administrative law judge properly treated the claim filed on February 25, 2004 as a subsequent claim since it was filed more than one year after the final denial of the miner’s previous claim. *See* 20 C.F.R. §725.309(d). In addition, the administrative law judge permissibly determined that the irrebuttable presumption at 20 C.F.R. §718.304 did not apply because the weight of the evidence did not support a finding of complicated pneumoconiosis. Decision and Order at 6; *see Lester v. Director, OWCP*, 993 F.2d 1143, 17 BLR 2-114 (4th Cir. 1993); *Gollie v. Elkay Mining Corp.*, 22 BLR 1-306 (2003).

We further affirm the administrative law judge’s determinations that the only pulmonary function study results in the record were insufficient to establish total disability pursuant to 20 C.F.R. §718.204(b)(2)(i) and that the blood gas study results did not support a finding of total disability as they were non-qualifying under 20 C.F.R. §718.204(b)(2)(ii). Further, the administrative law judge’s finding that the evidence did not demonstrate total disability due to cor pulmonale with right-sided congestive heart failure at 20 C.F.R. §718.204(b)(2)(iii) is affirmed as it is supported by substantial evidence.

Next, the administrative law judge permissibly discounted the medical opinion of Dr. Mullins, pursuant to 20 C.F.R. §718.204(b)(2)(iv), because he found that it was poorly reasoned, since Dr. Mullins did not explain how she concluded that the miner's ventilatory impairment would have prevented his previous coal mine employment, and not supported by the evidence because Dr. Mullins failed to describe the exertional requirements of the miner's last coal mine job. *See Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989) (en banc); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987). Further, the administrative law judge acted within his discretion in affording little weight to Dr. Stefanini's opinion because the physician failed to specify what evidence he relied on when stating that the miner was unable to continue his coal mine employment based on coal workers' pneumoconiosis. *See Cosaltar v. Mathies Coal Co.*, 6 BLR 1-1182 (1984). The administrative law judge also accurately determined that Dr. Gaziano failed to offer an opinion as to total disability. Claimant's Exhibit 2.

Moreover, the administrative law judge rationally found that Dr. Zaldivar's opinion was well reasoned and well documented and did not support a finding of total disability based on a pulmonary or respiratory impairment. *Clark*, 12 BLR at 1-155. This finding is supported by substantial evidence because Dr. Zaldivar clearly indicated that the miner was not totally disabled before surgery and did not diagnose the miner as having a totally disabling pulmonary or respiratory impairment after surgery. Based on these findings, the administrative law judge permissibly concluded that the miner failed to prove he became totally disabled pursuant to 20 C.F.R. §718.204(b) subsequent to the denial of his previous claim. Consequently, we affirm the administrative law judge's denial of benefits in the miner's subsequent claim for failing to prove a change in an applicable condition of entitlement, as required under 20 C.F.R. §725.309(d). *See White*, 23 BLR at 1-3.

III. Survivor's Claim

Because this survivor's claim was filed after January 1, 1982, claimant was required to establish that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). *See* 20 C.F.R. §§718.1, 718.202, 718.203, 718.205(c); *Neeley v. Director, OWCP*, 11 BLR 1-85 (1988). A miner's death will be considered to be due to pneumoconiosis if the evidence is sufficient to establish that pneumoconiosis was a substantially contributing cause or factor leading to the miner's death. 20 C.F.R. §718.205(c)(2). Pneumoconiosis is a "substantially contributing cause" of a miner's death if it hastens the miner's death. 20 C.F.R. §718.205(c)(5); *see Piney Mountain Coal Co. v. Mays*, 176 F.3d 753, 21 BLR 2-587 (4th Cir. 1992); *Shuff v. Cedar Coal Co.*, 967 F.2d 977, 16 BLR 2-901 (4th Cir. 1992).

In determining whether claimant met her burden under 20 C.F.R. §718.205(c), the administrative law judge initially determined that claimant established the existence of

pneumoconiosis based on Dr. Caffrey's pathology report identifying simple coal workers' pneumoconiosis.⁹ Decision and Order at 7; Employer's Exhibit 6. Thus, the administrative law judge focused his analysis on whether pneumoconiosis caused, contributed to or hastened the miner's death.

The administrative law judge considered the miner's death certificate, which was prepared by Dr. Smith, and identified the immediate cause of the miner's death as "acute respiratory failure" due to coal workers' pneumoconiosis, lung cancer, and pneumonia in the right lower lobe. Survivor Director's Exhibit 12.

The administrative law judge also considered the medical reports of Drs. Gaziano and Weiss. Dr. Gaziano submitted a consulting report, dated July 14, 2006, based on his review of medical evidence, including medical records, pulmonary function study results, blood gas study results, and chest x-rays. Claimant's Exhibit 2. Dr. Gaziano stated:

There is no evidence of recurrent cancer. [The miner], however, had considerable difficulty in surviving with his residual lung function with the postoperative pulmonary function test obtained on 04/13/2004 at CAMC indicating a severe impairment, some of which would have been expected to be related to the postoperative affects. [sic] However, the inability to recovery [sic] from the surgical event with continued difficulty terminating in respiratory failure and pneumonia indicates the primary mechanism of death is respiratory and that the cancer itself was . . . a material cause of his demise only to the extent that it further compromised limited lung function. Therefore, it is my opinion that occupational pneumoconiosis was a significant contributory factor in [the miner's] death.

Id.

Dr. Weiss submitted a consulting report on July 28, 2006. Employer's Exhibit 5. In his report, Dr. Weiss stated that "[t]he 'simple' [coal workers' pneumoconiosis] was the **least** of [the miner's] medical problems, and I see absolutely no evidence it played any role in his death." *Id.* (emphasis in original). Instead, Dr. Weiss found that it was the other chronic debilitating conditions the miner suffered and the acute pneumonia that resulted in his death. In addition, Dr. Weiss opined that while there was some

⁹ Dr. Caffrey diagnosed minimal simple coal workers' pneumoconiosis. Employer's Exhibit 6. We affirm the administrative law judge's finding that claimant established the existence of pneumoconiosis, as that finding is unchallenged by the parties on appeal and is not adverse to claimant. *Skrack*, 6 BLR at 1-711.

pathological evidence of simple coal workers' pneumoconiosis, it would not have had a meaningful effect on the miner's overall health. *Id.*

Further, the administrative law judge considered the pathology reports of Drs. Caffrey and Stefanini. Dr. Caffrey submitted a report dated November 9, 2005, and provided deposition testimony on February 18, 2008. Employer's Exhibits 6, 17. In preparing his report, Dr. Caffrey reviewed medical documents, pathology reports and surgical pathology slides. He opined that the miner had a minimal degree of simple coal workers' pneumoconiosis, but not legal pneumoconiosis. Employer's Exhibit 6. Dr. Caffrey did not believe that the lesions of pneumoconiosis occupied as much as five percent of the miner's lung tissue. *Id.* In addition, Dr. Caffrey found that the immediate cause of the miner's death "was acute bronchopneumonia with abscess formation with the clinical diagnosis of sepsis." *Id.* Dr. Caffrey stated that Dr. Smith's listing of acute respiratory failure due to coal workers' pneumoconiosis on the miner's death certificate was "absolutely in error" as "[t]he amount of coal workers' pneumoconiosis definitely would not have caused the patient respiratory failure." *Id.* Dr. Caffrey specifically opined that the miner's coal mine employment did not cause, contribute to, or hasten his death. *Id.* In his deposition testimony, Dr. Caffrey reiterated his finding that the coal workers' pneumoconiosis played no role in the miner's death. Employer's Exhibit 17 at 13, 16, 19.

Dr. Stefanini submitted a report on May 21, 2006, based on a review of medical evidence, including the miner's death certificate, the examination report of Dr. Mullins, a surgical pathology report signed by Dr. Huang, and thirteen lung tissue slides. *See* Claimant's Exhibit 1. Acknowledging that it was more difficult to assess the impact of coal workers' pneumoconiosis on the miner's death, Dr. Stefanini found that "[i]t would appear to have been a contributory factor by decreasing his ability to stand the increased respiratory distress cause[d] by the presence of malignancy." *Id.*

The administrative law judge credited Dr. Caffrey's opinion that coal workers' pneumoconiosis did not cause or contribute to the miner's death and that the cause of death was acute bronchopneumonia with abscess formation and sepsis. Decision and Order at 7. The administrative law judge further observed that Dr. Weiss agreed with Dr. Caffrey's opinion and stated that the miner's pneumoconiosis did not cause his death. *Id.* Concerning Dr. Stefanini's opinion, that pneumoconiosis "appear[ed] to have been a contributory factor" in the miner's death, the administrative law judge found that it is "equivocal, unreasoned, and unsupported by the medical evidence." *Id.*; Claimant's Exhibit 1.

The administrative law judge also determined that Dr. Gaziano's opinion, that the miner had recovered from lung cancer so it was not a primary cause of his death and that, therefore, pneumoconiosis was a significant contributory factor "is illogical and

unsupported by the medical evidence.” Decision and Order at 8. The administrative law judge concluded that the miner had several other health problems and that there is no evidence that pneumoconiosis caused or contributed to his death. *Id.* Further, the administrative law judge found that Dr. Smith’s conclusions on the death certificate regarding the cause of the miner’s death are not reasoned and do not carry any weight. *Id.* In contrast, the administrative law judge stated that Dr. Caffrey’s opinion, that pneumonia was the cause of the miner’s death and that the miner’s pneumoconiosis was too minimal to have contributed to his death, was “far more logical and well reasoned than the vague and unsupported conclusions of Dr. Stefanini and Dr. Gaziano.” *Id.*

As a result, the administrative law judge found that the evidence failed to prove that pneumoconiosis caused, contributed to, or hastened the miner’s death. Consequently, he denied benefits in the survivor’s claim. Decision and Order at 8.

We affirm the administrative law judge determination pursuant to 20 C.F.R. §718.205(c)(3), that the irrebuttable presumption at 20 C.F.R. §718.304 does not apply because the weight of the evidence does not support a finding of complicated pneumoconiosis. *See Lester*, 993 F.2d at 1145-46, 17 BLR at 2-117-18; *Gollie*, 22 BLR at 1-311; Decision and Order at 7. The administrative law judge also properly found that the statement by Dr. Smith on the death certificate, that the miner’s death was due, in part, to pneumoconiosis, was not a reasoned medical opinion and “does not carry any weight.” Decision and Order at 8; *see Bill Branch Coal Corp. v. Sparks*, 213 F.3d 186, 22 BLR 2-251 (4th Cir. 2000). The administrative law judge rationally considered Dr. Stefanini’s opinion that “[i]t would appear” that coal workers’ pneumoconiosis contributed to the miner’s death to be equivocal and therefore insufficient to satisfy claimant’s burden of proof. Decision and Order at 7; *see Griffith v. Director, OWCP*, 49 F.3d 184 (6th Cir. 1995); *Clark*, 12 BLR at 1-155. The administrative law judge also permissibly found that the opinions of Drs. Gaziano and Steffani were outweighed by the contrary opinion of Dr. Caffrey that the miner’s death was not hastened by pneumoconiosis since “Dr. Caffrey’s explanation of how pneumonia caused the miner’s death and his conclusion that his pneumoconiosis was too minimal to have played any role in his death is far more logical and well reasoned” Decision and Order at 8; *see Tennessee Consol. Coal Co. v. Crisp*, 866 F.2d 179, 12 BLR 2-121 (6th Cir. 1989); *Duke v. Director, OWCP*, 6 BLR 1-673 (1983).

The administrative law judge has exclusive power to make credibility determinations and resolve inconsistencies in the evidence. *Grizzle v. Pickands Mather & Co./Chisolm Mines*, 994 F.2d 1093, 17 BLR 2-123 (4th Cir. 1993). As a result, we will not substitute our inferences for those of the administrative law judge. *Mays*, 176 F.3d at 756, 21 BLR at 2-591. We therefore affirm, as supported by substantial evidence, the administrative law judge’s finding that claimant failed to establish that the miner’s death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c). We further affirm

the administrative law judge's denial of benefits in the survivor's claim. *See Mays*, 176 F.3d at 757, 21 BLR at 2-592-2-593; *Neeley*, 11 BLR at 1-86.

Accordingly, the administrative law judge's Decision and Order – Denying Benefits is affirmed.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

BETTY JEAN HALL
Administrative Appeals Judge