U.S. Department of Labor

Benefits Review Board
P.O. Box 37601
Washington, DC 20013-7601

BRB No. 15-0131 BLA

HAROLD RICHARD WRIGHT	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
WEBSTER COUNTY COAL CORPORATION	)	DATE ISSUED: 02/25/2016
	)	
Employer-Petitioner	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order of Peter B. Silvain, Jr., Administrative Law Judge, United States Department of Labor.

Brent Yonts, Greenville, Kentucky, for claimant.

Carl M. Brashear (Hoskins Law Offices, PLLC), Lexington, Kentucky, for employer.

Before: HALL, Chief Administrative Appeals Judge, BOGGS and GILLIGAN, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order (2011-BLA-5747) of Administrative Law Judge Peter B. Silvain, Jr., awarding benefits on a claim filed on June 7, 2010, pursuant to provisions of the Black Lung Benefits Act, 30 U.S.C. §§901-944 (2012) (the Act). The administrative law judge credited claimant with 36 years in underground coal mine employment, and adjudicated this claim pursuant to the regulations contained in 20 C.F.R. Parts 718 and 725. The administrative law judge found that the evidence did not establish the presence of complicated pneumoconiosis pursuant to 20 C.F.R. §718.304.

The administrative law judge also found that the evidence did not establish total respiratory disability pursuant to 20 C.F.R. §718.204(b)(2)(ii) and (iii). However, the administrative law judge found that the evidence established total respiratory disability pursuant to 20 C.F.R. §§718.204(b)(2)(i), (iv) and 718.204(b)(2) overall. The administrative law judge therefore found that claimant established invocation of the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4). Further, the administrative law judge found that employer failed to establish rebuttal of the presumption. Accordingly, the administrative law judge awarded benefits to commence as of June 2010, the month in which this claim was filed.

On appeal, employer challenges the administrative law judge's finding that claimant established invocation of the presumption at Section 411(c)(4). Employer also challenges the administrative law judge's finding that it failed to establish rebuttal of the presumption. Claimant responds, urging affirmance of the administrative law judge's award of benefits. The Director, Office of Workers' Compensation Programs, has not filed a brief in this appeal.[1]

The Board's scope of review is defined by statute. The administrative law judge's Decision and Order must be affirmed 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 and Grylls Associates, Inc.*, 380 U.S. 359 (1965).

In order to establish entitlement to benefits in a living miner's claim filed pursuant to 20 C.F.R. Part 718, claimant must establish that he is totally disabled due to pneumoconiosis arising out of coal mine employment. 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes entitlement. *Anderson v. Valley Camp of Utah, Inc*., 12 BLR 1-111 (1989).

[1] Because the administrative law judge's length of coal mine employment finding and his findings that the evidence did not establish the presence of complicated pneumoconiosis pursuant to 20 C.F.R. §718.304, and that the evidence did not establish total respiratory disability pursuant to 20 C.F.R. §718.204(b)(2)(ii) and (iii), are not challenged on appeal, we affirm these findings. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710 (1983).

[2] The record reflects that claimant's coal mine employment was in Kentucky. Director's Exhibit 3. Accordingly, the law of the United States Court of Appeals for the Sixth Circuit is applicable. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989)(en banc).

In 2010, Congress enacted amendments to the Act, which apply to claims filed after January 1, 2005 that were pending on or after March 23, 2010. Relevant to this living miner's claim, Congress reinstated Section 411(c)(4) of the Act, which provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis in cases where 15 or more years of underground coal mine employment, or coal mine employment in conditions substantially similar to those in an underground mine, and a totally disabling respiratory impairment are established. 30 U.S.C. §921(c)(4), as implemented by 20 C.F.R. §718.305.

Initially, we will address employer's contention that the administrative law judge erred in finding that claimant established invocation of the presumption at Section 411(c)(4). Employer asserts that the administrative law judge erred in finding that the pulmonary function study evidence established total respiratory disability at 20 C.F.R. §718.204(b)(2)(i). The record consists of four pulmonary function studies dated July 8, 2010, November 9, 2010, July 21, 2011 and May 7, 2012. The July 8, 2010 and May 7, 2012 studies administered by Dr. Chavda yielded qualifying values, whereas the November 9, 2010 study administered by Dr. Repsher and the July 21, 2011 study administered by Dr. Chavda yielded non-qualifying values. The administrative law judge gave dispositive weight to the most recent qualifying study dated May 7, 2012 because it "is more probative with regard to [claimant's] condition at the time of his claim." Decision and Order at 20. The administrative law judge therefore found that the pulmonary function study evidence established total respiratory disability at 20 C.F.R. §718.204(b)(2)(i).

Employer argues that the administrative law judge erred in giving greatest weight to the May 7, 2012 pulmonary function study based on the "later evidence rule." Employer maintains that "[the administrative law judge] offered no discussion as to his reasoning for finding that a 10[-]month interval would justify affording the later pulmonary function study greater weight." Employer's Brief at 3. Contrary to employer's assertion, the administrative law judge permissibly accorded dispositive weight to the May 7, 2012 pulmonary function study because it was more probative of claimant's pulmonary condition than the older studies, and noted that the second most recent study was close to qualifying.[3] *See Cooley v. Island Creek Coal Co.*, 845 F.2d 622, 11 BLR 2-147 (6th Cir. 1988); *Wilt v. Wolverine Mining Co.*, 14 BLR 1-70 (1990);

[3] The administrative law judge noted that the FEV1 of the July 21, 2011 pulmonary function study produced qualifying values. The administrative law judge also noted that, although the FVC and FEV1/FVC ratio of the July 21, 2011 pulmonary function study produced non-qualifying values, "the [FEV1/FVC ratio] … was one point above the qualifying value of 55." Decision and Order at 20 n.61. Further, the administrative law judge noted that the FEV1 and FEV1/FVC ratio of the May 7, 2012 pulmonary function study produced qualifying values.

Casella v. Kaiser Steel Corp., 9 BLR 1-131 (1986); *Sexton v. Southern Ohio Coal Co.*, 7 BLR 1-411 (1984); *see also Tokarcik v. Consolidation Coal Co.*, 6 BLR 1-666, 1-668 (1983) (holding that the administrative law judge permissibly applied the later evidence rule where x-rays were seven months apart); *cf. Stanley Director, OWCP*, 7 BLR 1-386, 1-389 (1984) (holding that the administrative law judge impermissibly applied the later evidence rule where x-rays were less than five and one-half months apart). Thus, we reject employer's assertion that the administrative law judge erred in failing to explain why he gave greatest weight to the May 7, 2012 pulmonary function study.

Employer also argues that "[the administrative law judge erroneously] failed to note that Dr. Chavda's first study [dated July 8, 2010] does not meet the quality standards because three MVV tracings were not present." Employer's Brief at 3. In view of our holding that the administrative law judge permissibly accorded greater weight to the May 7, 2012 pulmonary function study because it was more probative of claimant's pulmonary condition than the older studies, *see Cooley*, 845 F.2d at 624, 11 BLR at 2-149, we hold that any error by the administrative law judge in failing to consider whether the July 8, 2010 pulmonary function study was in compliance with the quality standards set forth at 20 C.F.R. §718.103, when weighing the pulmonary function study evidence at 20 C.F.R. §718.204(b)(2)(i), was harmless, *see Larioni v. Director, OWCP*, 6 BLR 1-1276 (1984).

Because it is supported by substantial evidence, we affirm the administrative law judge's finding that the pulmonary function study evidence established total respiratory disability at 20 C.F.R. §718.204(b)(2)(i).

Employer further asserts that the administrative law judge erred in finding that the medical opinion evidence established total respiratory disability at 20 C.F.R. §718.204(b)(2)(iv). The administrative law judge noted that, "[o]f the medical opinions, Drs. Chavda and Castle believe the [c]laimant is totally disabled from a respiratory standpoint,[4] while Dr. Repsher does not believe the [c]laimant is totally disabled."

[4] In a report dated July 13, 2010, Dr. Chavda opined that claimant has a totally disabling pulmonary impairment. Director's Exhibit 10. During a deposition dated November 11, 2011, Dr. Chavda opined that claimant has a disabling pulmonary impairment. Employer's Exhibit 5 (Dr. Chavda's Depo. at 19-20).

In a report dated September 5, 2012, Dr. Castle opined that "[claimant] is very likely disabled as a result of tobacco smoke induced airway obstruction." Employer's Exhibit 7.

Decision and Order at 20.[5] Based on the medical opinions, the objective tests and his determination that claimant's last coal mine job required medium to heavy exertion, the administrative law judge concluded that "[claimant] has an obstructive pulmonary impairment that is sufficiently severe to prevent him from performing his last coal mine employment." *Id*. at 22. The administrative law judge further found that the opinions of Drs. Chavda and Castle outweighed Dr. Repsher's contrary opinion. Hence, the administrative law judge found that the medical opinion evidence established total respiratory disability at 20 C.F.R. §718.204(b)(2)(iv).

Employer argues that the administrative law judge erred by crediting Dr. Chavda's opinion. Specifically, employer avers that "Dr. Chavda's opinion is nothing more than a reiteration of his pulmonary function studies [dated July 8, 2010 and July 21, 2011], one of which was non-qualifying and the other of which failed to meet quality standards." Employer's Brief at 4. The administrative law judge acted within his discretion in determining that, contrary to employer's assertion, "Dr. Chavda based his opinion that the [c]laimant has a disabling pulmonary impairment upon relevant [smoking, coal mine employment and medical] histories, physical examination, and objective testing."[6] Decision and Order at 21; Director's Exhibit 10. Dr. Chavda offered his opinion after having conducted the review cited by the administrative law judge and did not parrot the qualifying results of the pulmonary function study, as employer suggests. Director's Exhibit 10. Rather, Dr. Chavda interpreted the study results, explaining that the FEV1, in particular, demonstrated a lack of the lung capacity required to perform the miner's work. *Id*. Further, employer does not explain how the administrative law judge's weighing of the medical opinion evidence was affected by his failure to consider whether the July 8, 2010 pulmonary function study was in compliance with the quality standards based on a

[5] During a deposition taken on October 14, 2011, Dr. Repsher opined that claimant was not capable of performing his usual work or similar work in a non-coal mine environment because of his severe peripheral vascular disease. Employer's Exhibit 4 (Dr. Repsher's Depo. at 16). However, Dr. Repsher opined that claimant's pulmonary function study results were above the federal standard for disability and "would mean that he could do sustained moderate work." *Id.*

[6] In the July 13, 2010 report, Dr. Chavda relied on the July 8, 2010 pulmonary function study in opining that "[claimant] is totally disabled from the FEV1 point of view." Director's Exhibit 10. Dr. Chavda stated that "[claimant] meets the criteria for total pulmonary disability on the basis of significantly low FEV1." *Id.* Dr. Chavda further stated, "With this low of [an FEV1,] he does not have enough lung capacity to work in the coal mines." *Id.* Further, during a November 11, 2011 deposition, Dr. Chavda indicated that his opinion that claimant has a disabling pulmonary impairment was based on the reduced FEV1 results of the July 8, 2010 and July 21, 2011 pulmonary function studies. Employer's Exhibit 5 (Dr. Chavda's Depo. at 19-20, 25, 28, 29).

lack of MVV tracings.[7] *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."). Consequently, we hold that the administrative law judge's failure to consider the reliability of the July 8, 2010 pulmonary function study in weighing Dr. Chavda's opinion was harmless error. *See Larioni*, 6 BLR at 1-1278. The administrative law judge permissibly gave greater weight to Dr. Chavda's opinion because "it contains a more accurate evaluation of the [c]laimant's current condition."[8] Decision and Order at 21; *see Cooley*, 845 F.2d at 624, 11 BLR at 2-149; *Wetzel v. Director, OWCP*, 8 BLR 1-139 (1985); *Gillespie v. Badger Coal Co.*, 7 BLR 1-839 (1985). The administrative law judge also permissibly gave great weight to Dr. Castle's opinion because it is supported by more extensive documentation.[9] *See Sabett v. Director, OWCP*, 7 BLR 1-299 (1984). In addition, the administrative law judge permissibly gave less weight to Dr. Repsher's opinion because Dr. Repsher did not have a complete picture of claimant's current condition.[10] *See Stark v. Director, OWCP*, 9 BLR 1-36 (1986). Thus, we reject employer's assertion that the administrative law judge erred by crediting Dr. Chavda's opinion. We, therefore, affirm the administrative law judge's finding that the medical opinion evidence established total respiratory disability at 20 C.F.R. §718.204(b)(2)(iv).

Consequently, we affirm the administrative law judge's finding that the evidence overall established total respiratory disability at 20 C.F.R. §718.204(b)(2), and we therefore affirm the administrative law judge's finding that claimant is entitled to invocation of the presumption of total disability due to pneumoconiosis at Section 411(c)(4).

Employer next contends that the administrative law judge erred in finding that it failed to establish rebuttal of the presumption at Section 411(c)(4). Because claimant

[7] We note that Dr. Chavda focused his opinion on the FEV1, and that the administrative law judge found that the pulmonary test results are qualifying based on the FEV1 and FEV1/FVC ratio in the most recent pulmonary function study.

[8] The administrative law judge stated that "Dr. Chavda's medical report contains the most recent physical examination of the miner." Decision and Order at 21.

[9] The administrative law judge noted that "[Dr. Castle] based his opinion upon relevant histories, [and] Dr. Chavda's and Dr. Repsher's medical reports and objective testing." Decision and Order at 21. The administrative law judge also noted that "Dr. Castle integrated all of the objective evidence into his opinion, including Dr. Chavda's most recent PFT." *Id.*

[10] The administrative law judge noted that "Dr. Repsher did not have the benefit of reviewing Dr. Chavda's most recent and qualifying PFT." Decision and Order at 21.

invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4), the burden of proof shifted to employer to establish rebuttal by disproving the existence of pneumoconiosis, or by proving that no part of claimant's total disability was caused by pneumoconiosis. 20 C.F.R. §718.305(d). The administrative law judge found that employer failed to establish rebuttal of the presumption at Section 411(c)(4) by either method.

Employer asserts that the administrative law judge erred in finding that it failed to disprove the existence of legal pneumoconiosis.[11] The administrative law judge considered the opinions of Drs. Repsher and Castle that claimant does not have legal pneumoconiosis.[12] Director's Exhibit 24; Employer's Exhibits 4, 7. The administrative law judge gave no probative weight to the opinions of Drs. Repsher and Castle because he found that they were not well-reasoned. Hence, the administrative law judge found that employer failed to establish the absence of legal pneumoconiosis.

Employer argues that the administrative law judge erred in discrediting the opinions of Drs. Repsher and Castle on the ground that they are not reasoned. Specifically, employer argues that the administrative law judge improperly "ignore[d] large portions of the opinions of Dr. Repsher and Dr. Castle in favor of broad generalizations based on assertions made in the preamble to the regulations." Employer's Brief at 6. We disagree.

It is the province of the administrative law judge to assess the evidence of record and determine if a medical opinion is sufficiently documented and reasoned to satisfy a party's burden of proof. *Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 22 BLR 2-537 (6th Cir. 2002); *Wolf Creek Collieries v. Director, OWCP* [*Stephens*], 298 F.3d 511, 22 BLR 2-495 (6th Cir. 2002); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(en banc).

[11] Although the administrative law judge found that employer failed to establish the absence of legal pneumoconiosis, he found that employer established the absence of clinical pneumoconiosis. Hence, the administrative law judge found that employer failed to disprove the existence of pneumoconiosis under the first prong of rebuttal at 20 C.F.R. §718.305(d)(2)(i). Nevertheless, employer's argument regarding the administrative law judge's weighing of the evidence on the issue of legal pneumoconiosis is relevant to the issue of disability causation under the second prong of rebuttal at 20 C.F.R. §718.305(d)(2)(ii). Consequently, we will address it.

[12] Employer asserts that "[the administrative law judge] also failed to note the degree to which the opinions of Dr. Baker and Dr. Gallai differ from assertions made in the preamble to the regulations." Employer's Brief at 5. Contrary to employer's assertion, the record does not contain the opinions of Drs. Baker and Gallai. We, therefore, reject employer's assertion regarding these opinions.

In this case, the administrative law judge permissibly found that "[Drs. Repsher and Castle] did not offer any credible explanation as to why [they] excluded coal dust as a contributing factor to the [c]laimant's obstructive disease."[13] Decision and Order at 27, 28; *see Napier*, 301 F.3d at 713-14, 22 BLR at 2-547; *Stephens*, 298 F.3d at 522, 22 BLR at 2-512; *Clark*, 12 BLR at 1-155. In addition, the administrative law judge permissibly found that Dr. Repsher's opinion is inconsistent with the Department of Labor's (the Department's) recognition of pneumoconiosis as "a latent and progressive disease which may first become detectable only after the cessation of coal mine dust exposure."[14] 65 Fed. Reg. 79,920, 79,971 (Dec. 20, 2000); 20 C.F.R. §718.201(c); *see Mullins Coal Co. of Va. v. Director, OWCP*, 484 U.S. 135, 151, 11 BLR 2-1, 2-9 (1987), *reh'g denied* 484 U.S. 1047 (1988). The administrative law judge also permissibly found that "[Dr. Repsher's] view that coal dust exposure does not cause centrilobular emphysema" is inconsistent with the view accepted by the Department in the preamble to the revised 2001 regulations. Decision and Order at 27; *see* 65 Fed. Reg. at 79,941-79,943; *J.O.* [*Obush*] *v. Helen Mining Co.*, 24 BLR 1-117, 1-125-26 (2009). Further, the administrative law judge permissibly found that "Dr. Repsher's statement that the [c]laimant's 'spirometry shows a markedly disproportionate decrease in FEV1 as compared with his decrease in FVC, which is characteristic of cigarette smoking-induced COPD and not seen with legal CWP,'" is "unpersuasive," and "implies that the effects of smoking and coal dust exposure are not additive, which is contrary to the Department's finding."[15] Decision and Order at 27; *see* 65 Fed. Reg. at 79,940; *A & E Coal Co. v. Adams*, 694 F.3d 798, 801-02, 25 BLR 2-203, 2-210-11 (6th Cir. 2012). Moreover, the administrative law judge permissibly found that Dr. Repsher improperly focused on

[13] The administrative law judge stated: "Dr. Castle has not adequately explained his exclusion of all thirty-six years of coal mine employment he considered. Additionally, he has failed to explain why he believes that thirty-six years of coal dust exposure did not exacerbate the [c]laimant's 'tobacco smoke induced airway obstruction.'" Decision and Order at 28.

[14] The administrative law judge stated that "Dr. Repsher's assertion that the [c]laimant's cessation of exposure to coal mine dust allowed for sole attribution of his impairment to smoking is inconsistent with the regulations." Decision and Order at 27.

[15] The administrative law judge permissibly considered that the Department of Labor found credible studies showing that the effects of cigarette smoking and coal dust exposure are additive. Dr. Repsher did not cite, and employer did not place into evidence, any studies to the contrary. *Central Ohio Coal Co. v. Director, OWCP* [*Sterling*], 762 F.3d 483, 491, 25 BLR 2-633, 2-645 (6th Cir. 2014).

generalities, rather than claimant's specific condition.[16] *See* 65 Fed. Reg. at 79,941; *Consolidation Coal Co. v. Director, OWCP* [*Beeler*], 521 F.3d 723, 726, 24 BLR 2-97, 2-103 (7th Cir. 2008); *Knizner v. Bethlehem Mines Corp.*, 8 BLR 1-5, 1-7 (1985). Thus, we reject employer's assertion that the administrative law judge erred in discrediting the opinions of Drs. Repsher and Castle on the ground that they are not reasoned.

Employer also asserts that the administrative law judge erred in discrediting Dr. Repsher's opinion on the ground that Dr. Repsher relied on a smoking history that was different from the smoking history found by the administrative law judge. Employer argues that "[n]one of the medical evidence indicates that the difference in smoking histories assumed by Dr. Repsher from the 44 pack-year history found by [the administrative law judge] would impact the reliability of his opinion." Employer's Brief at 7. As asserted by employer, the administrative law judge found that claimant has a smoking history of 44 pack years. Although Dr. Repsher noted that claimant reported a smoking history of 29 pack years, on claimant's carboxyhemoglobin test, the doctor suggested that claimant has a minimum smoking history of 66 pack years to a maximum smoking history of 88 pack years. In considering the issue of pneumoconiosis, the administrative law judge stated, "Given his inaccurate smoking history, Dr. Repsher found no evidence of medical or legal coal workers[']pneumoconiosis." Decision and Order at 26. The administrative law judge permissibly discredited Dr. Repsher's opinion because "[n]either Dr. Repsher's reported [nor] suggested smoking histories are similar to [the administrative law judge's] findings, and the differences, ranging between fifteen and forty-four years, are great enough so as to decrease the reliability of his opinion." Decision and Order at 26; *see Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85, 1-89 (1993); *Sellards v. Director, OWCP*, 17 BLR 1-77, 1-81 (1993); *Bobick v. Saginaw Mining Co.*, 13 BLR 1-52, 1-54 (1988). Thus, we reject employer's assertion that the administrative law judge erred in discrediting Dr. Repsher's opinion on the ground that it was based on an inaccurate smoking history. The Board cannot reweigh the evidence or substitute its inferences for those of the administrative law judge. *Anderson*, 12 BLR at 1-113; *Fagg v. Amax Coal Co.*, 12 BLR 1-77 (1988); *Worley v. Blue Diamond Coal Co.*, 12 BLR 1-20 (1988).

Because it is supported by substantial evidence, we affirm the administrative law judge's finding that employer failed to disprove the existence of legal pneumoconiosis.

[16] The administrative law judge noted that "Dr. Repsher attributed the [c]laimant's impairment solely to smoking and 'the normal aging process[,]' based on an epidemiological study[,] rather than any of the thirty-six years of coal mine employment he considered." Decision and Order at 27.

Finally, we address the administrative law judge's finding that employer failed to carry its burden of proving that pneumoconiosis did not contribute to claimant's total disability. In considering the opinions of Drs. Repsher and Castle, the administrative law judge noted, "I can find no specific and persuasive reasons for concluding that Drs. Repsher and Castle's judgment that exposure to coal dust did not cause or contribute to the [c]laimant's disability did not rest upon their disagreement with my finding that the [c]laimant had legal pneumoconiosis." Decision and Order at 29-30. Thus, the administrative law judge permissibly discredited the disability causation opinions of Drs. Repsher and Castle because the doctors opined that claimant does not suffer from legal pneumoconiosis, contrary to the administrative law judge's finding on this issue. *See Trujillo v. Kaiser Steel Corp.*, 8 BLR 1-472 (1986). We, therefore, affirm the administrative law judge's finding that employer failed to prove that pneumoconiosis played no part in claimant's totally disabling pulmonary impairment.[17] Furthermore, we affirm the administrative law judge's finding that employer failed to establish rebuttal of the presumption at Section 411(c)(4).[18]

[17] Employer additionally asserts that the administrative law judge erred in selectively analyzing Dr. Chavda's opinion. Dr. Chavda diagnosed clinical and legal pneumoconiosis, and opined that pneumoconiosis substantially caused claimant's disabling pulmonary impairment. Director's Exhibit 10; Employer's Exhibit 5. In light of our affirmance of the administrative law judge's findings that employer failed to disprove the existence of clinical and legal pneumoconiosis, and that employer failed to prove that pneumoconiosis played no part in claimant's totally disabling respiratory impairment, we need not address employer's assertions regarding Dr. Chavda's opinion.

[18] No party challenges the administrative law judge's finding that, "Because the evidence does not establish the month of onset of total disability due to pneumoconiosis, … the [c]laimant is entitled to benefits commencing in June 2010, the month in which he filed his claim." Decision and Order at 30. We, therefore, affirm this finding. *See Skrack*, 6 BLR at 1-711.

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

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge