BRB No. 06-0758 BLA

EDDIE HURLEY	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
BLAZING SADDLES COAL CORPORATION	)	DATE ISSUED: 07/27/2007
	)	
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 Daniel F. Solomon, Administrative Law Judge, United States Department of Labor.

James D. Holliday, Hazard, Kentucky, for claimant.

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

Rita Roppolo (Jonathan L. Snare, Acting Solicitor of Labor; Allen H. Feldman, 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 HALL, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order (04-BLA-5245) of Administrative Law Judge Daniel F. Solomon awarding 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 January 3, 2002.[1] Because the administrative law judge found that claimant's initial claim was denied by reason of abandonment and included no findings on any applicable element of entitlement, he considered claimant's 2002 claim as an initial claim for benefits. The administrative law judge accepted employer's stipulations that claimant worked for thirteen years in coal mine employment and suffers from pneumoconiosis arising out of his coal mine employment. In his consideration of the remaining elements of entitlement, the administrative law judge found that the evidence established total disability pursuant to 20 C.F.R. §718.204(b)(2)(i) and (iv). The administrative law judge also found that the evidence established that claimant's total disability is due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). Accordingly, the administrative law judge awarded benefits.

On appeal, employer argues that the administrative law judge erred in not addressing whether it was properly designated as the responsible operator. Employer also contends that the administrative law judge erred in determining that claimant's 2002 claim was an initial claim. Employer also argues that the administrative law judge erred in finding that the evidence established that claimant's total disability is due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). Finally, employer contends that the administrative law judge erred in awarding claimant augmented benefits on behalf of his stepchild. Claimant responds in support of the administrative law judge's award of benefits. The Director, Office of Workers' Compensation Programs, has filed a limited response, contending that the administrative law judge erred in not addressing whether employer was properly designated the responsible operator. In a reply brief, employer reiterates its previous contentions.

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).

In order to establish entitlement to benefits under 20 C.F.R. Part 718 in a living miner's claim, a claimant must establish the existence of pneumoconiosis, that the pneumoconiosis arose out of coal mine employment, and that the pneumoconiosis is totally disabling. 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes entitlement. *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*).

[1] Claimant filed a previous claim on December 1, 1993. Director's Exhibit 40. The district director denied the claim by reason of abandonment on April 4, 1994. *Id.*

Employer initially argues that the administrative law judge erred in not addressing whether it was properly designated as the responsible operator. We agree. When the case was before the district director, employer contested its identity as the responsible operator.[2] Director's Exhibits 21, 28. When the case was forwarded to the Office of Administrative Law Judges, the identity of the responsible operator was listed as a contested issue. Director's Exhibit 37. In an Order dated April 21, 2005, the administrative law judge advised employer:

> The identified responsible operator shall serve notice upon all parties not less than thirty (30) days prior to the scheduled hearing date, with a copy to the Administrative Law Judge, if it intends to allege that it was improperly identified as the responsible operator, including a brief statement of the particulars setting forth their reasons and copies of documents relied upon, if not already part of the file.

Order dated April 21, 2005.

At the November 1, 2005 hearing, employer indicated that it continued to contest its designation as the responsible operator. Transcript at 8. The administrative law judge reminded employer that he had previously requested that employer inform him, not less than thirty days prior to the hearing, whether it intended to allege that it was improperly identified as the responsible operator. *Id.* at 9. Employer responded that it had contested its identification throughout the entire claim and had never stipulated to its designation as the responsible operator. *Id.* Although the administrative law judge indicated that he would "come back to that issue," he did not subsequently make a finding regarding the responsible operator issue at the hearing. *Id.* The administrative law judge also did not

[2] Although employer concedes that it employed claimant for at least one year, it contends that it was not the last coal mine operator to employ the miner for at least one year. *See* 20 C.F.R. §§725.494(c), 725.495(a)(1). Employer argues that claimant's last coal mine employment for one cumulative year was with Jent & Franks Coal Company (Jent). Director's Exhibit 21; Employer's Response Brief at 9. Claimant's Social Security Earnings Record documents claimant's employment with Jent in 1988, his last year of employment with employer. Director's Exhibit 5. The record indicates that claimant also received wages from Jent in 1990. *Id.* During an April 18, 2002 deposition, claimant testified that he worked "off and on for three years" for Jent. Director's Exhibit 15 at 10. Putting together all of his coal mine employment with Jent, claimant estimated that it would total "about a year or maybe a year and a half." *Id.* At the hearing, claimant testified that he did not know whether he worked over a year for Jent. Transcript at 24-25.

address whether employer was properly designated as the responsible operator in his Decision and Order.

Because the administrative law judge did not address the issue of the responsible operator, we remand the case to the administrative law judge for his consideration of this issue.

Status of Claimant's 2002 Claim

Employer next argues that the administrative law judge erred in determining that claimant's 2002 claim was an initial claim for benefits. Because the administrative law judge found that claimant's abandoned 1993 claim did not include any findings on any of the applicable conditions of entitlement, the administrative law judge considered claimant's 2002 claim as "an initial claim for benefits." Decision and Order at 2.

Claimant's 2002 claim is considered a "subsequent" claim under the amended regulations because it was filed more than one year after the date that claimant's prior 1993 claim was finally denied. 20 C.F.R. §725.309(d). The regulations provide that a subsequent claim "shall be denied unless the claimant demonstrates that one of the applicable conditions of entitlement . . . has changed since the date upon which the order denying the prior claim became final." *Id.* The district director denied claimant's 1993 claim by reason of abandonment. Director's Exhibit 40. The regulations provide that, "[f]or purposes of §725.309, a denial by reason of abandonment shall be deemed a finding that the claimant has not established any applicable condition of entitlement." 20 C.F.R. §725.409(c). Consequently, the administrative law judge erred in treating claimant's 2002 claim as an initial claim.

However, under the facts of this case, the administrative law judge's error is harmless. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984). Because employer conceded that claimant suffers from coal workers' pneumoconiosis, claimant established that an applicable condition of entitlement has changed since the denial of his previous claim pursuant to 20 C.F.R. §725.309.[3] Therefore, the administrative law judge

[3] Revised 20 C.F.R. §725.309 does not require that an administrative law judge conduct a qualitative analysis between the newly submitted evidence and the previously submitted evidence. Accordingly, we reject employer's contention that the administrative law judge was required to conduct a qualitative comparison of the evidence pursuant to 20 C.F.R. §725.309.

properly considered claimant's 2002 claim on the merits, based on a weighing of all of the evidence of record.[4] *See Shupink v. LTV Steel Corp.*, 17 BLR 1-24 (1992).

Total Disability Due to Pneumoconiosis

Employer also argues that the administrative law judge erred in finding that the evidence established that claimant's total disability was due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c). The United States Court of Appeals for the Sixth Circuit, within whose jurisdiction this case arises, has held that a claimant must establish that his totally disabling respiratory impairment is due "at least in part" to his pneumoconiosis. *Adams v. Director, OWCP*, 886 F.2d 818, 13 BLR 2-52 (6th Cir. 1989); *Peabody Coal Co. v. Smith*, 127 F.3d 504, 21 BLR 2-180 (6th Cir. 1997).

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.

20 C.F.R. §718.204(c)(1).[5]

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[4] Claimant did not submit any medical evidence in connection with his prior 1993 claim. Director's Exhibit 40.

[5] In enacting this revised regulation, the Department of Labor explained:

> The Department did not mean to alter the current law through its proposals, however, or to suggest that *any* adverse effect, no matter how limited, was sufficient to establish total disability due to pneumoconiosis. Rather, the Department meant only to codify the numerous decisions of the courts of appeals which, in the process of deciding when a miner is totally disabled due to pneumoconiosis, have also ruled on what evidence is legally sufficient to establish that element of entitlement. In order to clarify this

In considering whether the evidence established that claimant's totally disabling respiratory impairment is due to pneumoconiosis, the administrative law judge considered the opinions of Drs. Alam and Rosenberg. The administrative law judge noted that while Dr. Alam opined that claimant's disability is due, at least in part, to coal dust exposure and pneumoconiosis, Director's Exhibit 12; Claimant's Exhibit 3, Dr. Rosenberg attributed claimant's disability to chronic obstructive pulmonary disease due to cigarette smoking. Decision and Order at 7-8; Employer's Exhibits 1, 3. The administrative law judge credited Dr. Alam's opinion over that of Dr. Rosenberg based upon Dr. Alam's status as claimant's treating physician and because he found that Dr. Alam's findings were well supported by the medical evidence. Decision and Order at 8. The administrative law judge accorded less weight to Dr. Rosenberg's opinion because he found that the doctor's conclusions were based on "questionable assumptions" and because his opinions were "antithetical to the Act." *Id.* The administrative law judge, therefore, found that the evidence established that claimant's total disability is due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c).

Before discussing employer's specific contentions of error, we find it necessary to first address the effect of employer's concession of pneumoconiosis in this case. In its post-hearing brief, employer conceded that simple coal workers' pneumoconiosis was established by the x-ray evidence at 20 C.F.R. §718.202(a)(1) and by the medical opinion evidence at 20 C.F.R. §718.202(a)(4). Employer's Post-hearing Brief at 10-13. Ordinarily, this concession would obviate the need for the administrative law judge to render a separate finding regarding whether the medical opinion evidence establishes the existence of legal pneumoconiosis at 20 C.F.R. §718.202(a)(4).[6] *See Dixon v. North*

> consistent intent, the Department has added the word "material" to §718.204(c)(i) and "materially" to §718.204(c)(ii). In so doing, the Department intends merely to implement the holdings of the courts of appeals. Thus, evidence that pneumoconiosis makes only a negligible, inconsequential, or insignificant contribution to the miner's total disability is insufficient to establish that pneumoconiosis is a substantially contributing cause of that disability.

65 Fed. Reg. 79,946 (2000) (emphasis in original).

[6] This case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit because claimant's most recent coal mine employment occurred in Kentucky. *Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989)(*en banc*); Director's Exhibit 2. Consequently, the holdings in *Penn Allegheny Coal Co. v. Williams*, 114 F.3d 22, 21 BLR 2-104 (3d Cir. 1997) and *Island Creek Coal Co. v. Compton*, 211 F.3d 203, 22 BLR 2-162 (4th Cir. 2000), that an administrative law judge must weigh all of the relevant evidence together pursuant to 20 C.F.R. §718.202(a), are not applicable.

Camp Coal Co., 8 BLR 1-344, 1-345 (1985). However, in this case, the administrative law judge credited medical opinion evidence attributing claimant's total disability in part to "legal" pneumoconiosis, in the form of emphysema and chronic bronchitis due in part to coal mine dust exposure, pursuant to 20 C.F.R. §718.204(c). Decision and Order 7-8. Before addressing whether the evidence established that claimant's total disability is due to "legal" pneumoconiosis pursuant to 20 C.F.R. §718.204(c), the administrative law judge should have determined first whether the medical opinion evidence established the existence of "legal" pneumoconiosis at 20 C.F.R. §718.202(a)(4). *See* 20 C.F.R. §§718.201(a)(2), 718.204(c)(1). Consequently, we remand the case to the administrative law judge for his consideration of whether the medical opinion evidence establishes the existence of "legal" pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(4).[7]

Employer also contends that the administrative law judge committed numerous errors in finding that the evidence established that claimant's total disability was due to pneumoconiosis. Employer initially argues that the administrative law judge failed to properly consider whether Dr. Alam's opinion was sufficiently reasoned. We agree. The administrative law judge found that Dr. Alam's report and conclusions were "well supported by his examination findings, his documented history of treatment of [c]laimant's pulmonary condition as well as the results of laboratory testing including chest x-ray, CT scan, pulmonary function study and blood gas study results." Decision and Order at 8. The administrative law judge, however, did not explain his basis for finding that Dr. Alam's disability causation opinion was well reasoned. Thus, the administrative law judge's analysis of Dr. Alam's opinion does not comport with the requirements of the Administrative Procedure Act (APA), specifically 5 U.S.C. §557(c)(3)(A), which provides that every adjudicatory decision must be accompanied by a statement of "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record." 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 5 U.S.C. §554(c)(2), 33 U.S.C. §919(d) and 30 U.S.C. §932(a); *see Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162 (1989). On remand, the administrative law judge is instructed to explain whether Dr. Alam's opinion regarding the cause of claimant's totally disabling respiratory impairment is sufficiently reasoned.

We also agree with employer's contention that the administrative law judge erred in according greater weight to Dr. Alam's opinion based upon his status as claimant's treating physician. Section 718.104(d) provides that the weight given to the opinion of a treating physician shall "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

[7] "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).

C.F.R. §718.104(d)(5); *see Eastover Mining Co. v. Williams*, 338 F.3d 501, 22 BLR 2-625 (6th Cir. 2003). Here, once the administrative law judge determined that Dr. Alam was a treating physician, he concluded, incorrectly, that Dr. Alam's opinion had to be accepted absent contrary probative evidence. Decision and Order at 8. Before according additional weight to Dr. Alam's opinion based upon his status as claimant's treating physician, the administrative law judge on remand should initially address whether the opinion is sufficiently reasoned, then should weigh Dr. Alam's opinion consistent with 20 C.F.R. §718.104(d) and *Williams*.

Employer also argues that the administrative law judge erred in his consideration of Dr. Rosenberg's opinion. The administrative law judge initially discredited Dr. Rosenberg's disability causation opinion because it was based in part on a reduction in claimant's FEV1/FVC ratio. The administrative law judge noted that "the regulations include a reduction in this value as one alternative way a [c]laimant can establish total disability due to pneumoconiosis under subsection 718.204(b)(2)(i)." Decision and Order at 8. A reduced FEV1 value, coupled with a reduced FEV1/FVC ratio, can support a finding of total disability pursuant to 20 C.F.R. §718.204(b)(2). *See* 20 C.F.R. §718.204(b)(2)(i)(C). However, a physician is not precluded from using a reduced FEV1/FVC ratio as a tool in determining the separate issue of the etiology of a miner's totally disabling respiratory impairment. *Compare* 20 C.F.R. §718.204(b)(2) *with* 20 C.F.R. §718.204(c). Consequently, the administrative law judge erred in discrediting Dr. Rosenberg's opinion on this basis.

The administrative law judge also questioned Dr. Rosenberg's reliance upon the fact that claimant's pulmonary impairment improved after the administration of a bronchodilator. The administrative law judge noted that, despite the improvement, claimant's post-bronchodilator results remained qualifying under the regulations. Decision and Order at 8. The significance of claimant's post-bronchodilator results is a medical determination. By independently assessing the significance of the post-bronchodilator results, the administrative law judge improperly substituted his opinion for that of Dr. Rosenberg. *See Marcum v. Director, OWCP*, 11 BLR 1-23 (1987).

The administrative law judge also discredited Dr. Rosenberg's conclusions because they were based on questionable assumptions. The administrative law judge found that Dr. Rosenberg stated that a disability from obstruction due to coal dust exposure would occur only if progressive massive fibrosis was present. Decision and Order at 8. The administrative law judge found that this assumption was contrary to the regulations that do not require that progressive massive fibrosis be present before a finding of total disability due to pneumoconiosis can be made. *Id.* Contrary to the administrative law judge's characterization, Dr. Rosenberg did not state that a disability from obstruction due to coal dust exposure would occur only if progressive massive fibrosis was present. In his June 29, 2004 report, Dr. Rosenberg stated that:

> With respect to [claimant], his markedly reduced FEV1% (FEV1/FVC) combined with air trapping (199% predicted) and bronchodilator response are not consistent with obstruction related to coal dust exposure. Rather, his physiologic findings are totally characteristic of cigarette related COPD. It should be appreciated that increasing grades of CWP are not associated with increasing impairment, and specifically COPD. This was demonstrated in the article by Morgan as noted above. Also Cohrane and Higgins (Brit. J. Prev. Soc. Med. 15:1-11; 1961) demonstrated increasing categories of simple CWP were not associated with ventilatory impairment. Impairment only occurred with the onset of PMF.

Employer's Exhibit 1.

In a report dated October 10, 2005, Dr. Rosenberg further clarified his opinion, stating that:

> First, there is no question that coal mine dust exposure can cause airflow obstruction, which can be disabling. However, despite what Dr. Alam has stated, this airflow obstruction can be differentiated from that related to cigarette smoking. As I have noted in my previous report, as defined by Pauwels in the Global Initiative for Chronic Obstructive Pulmonary Disease . . . and supported by the American Thoracic Society . . . the definition of chronic obstructive pulmonary disease (COPD) rests on a reduction of the FEV1 divided by the FVC, a measurement termed the FEV1%. When the relationship between this measurement and coal mine dust exposure has been assessed, it has been determined that that the FEV1% does not generally fall to any clinically significant extent. In contrast, with cigarette related COPD, one would expect a decrease in the FEV1%, often being associated with marked air trapping (increased RV/TLC). Also, one would expect the impairments related to CWP to be fixed in nature, not improving after the administration of bronchodilators. With respect to [claimant], he had a markedly decreased FEV1%, combined with airtrapping and a bronchodilator response. These findings are characteristic of smoking-related COPD, as opposed to the obstruction related to past coal mine dust exposure. Consequently, my previously reached conclusions remain intact ([Claimant] has smoking-related COPD), despite Dr. Alam's opinion that [claimant] has legal CWP.

Employer's Exhibit 3.

Thus, Dr. Rosenberg did not exclude coal dust exposure as a cause of claimant's pulmonary impairment because claimant does not suffer from progressive massive

fibrosis. In fact, Dr. Rosenberg acknowledged that coal dust exposure can cause airflow obstruction. Employer's Exhibit 1. Instead, Dr. Rosenberg opined that, in this particular case, claimant's markedly reduced FEV1%, *when combined with* air trapping (199% of predicted) and a significant bronchodilator response, was consistent with an obstruction caused by cigarette smoking, not coal dust exposure. Employer's Exhibits 1, 3. Thus, given the totality of the circumstances, Dr. Rosenberg opined that claimant's pulmonary impairment was caused by cigarette smoking, not coal dust exposure. Accordingly, on remand the administrative law judge should properly characterize Dr. Rosenberg's opinion in this respect.

The administrative law judge found that Dr. Rosenberg's opinions were "antithetical to the Act." Decision and Order at 8. The administrative law judge did not explain how Dr. Rosenberg's opinions were antithetical to the Act. An administrative law judge may discount a medical opinion predicated on a tenet that is inimical to the Act, *e.g.*, that pneumoconiosis does not progress after cessation of a miner's coal mine employment, or that obstructive disorders cannot be caused by coal mine employment, because such an opinion is hostile to the Act, and therefore, is not entitled to much, if any, weight. *See Consolidation Coal Co. v. Kramer*, 305 F.3d 203, 22 BLR 2-467 (3d Cir. 2002); *Stiltner v. Island Creek Coal Co.*, 86 F.3d 337, 20 BLR 2-246 (4th Cir. 1996); *Labelle Processing Co. v. Swarrow*, 72 F.3d 308, 20 BLR 2-76 (3d Cir. 1995); *Warth v. Southern Ohio Coal Co.*, 60 F.3d 173, 19 BLR 2-265 (4th Cir. 1995); *Penn Allegheny Coal Co. v. Mercatell*, 878 F.2d 106, 12 BLR 2-305 (3d Cir. 1989). However, Dr. Rosenberg did not assume that coal dust exposure can never cause chronic obstructive pulmonary disease; he opined that in this case, claimant's chronic obstructive pulmonary disease was not caused by his coal mine employment but rather was caused by his cigarette smoking. *See Stiltner*, 86 F.3d at 341, 20 BLR at 2-254; Employer's Exhibits 1, 3. Thus, Dr. Rosenberg did not render a conclusion based on a premise that is fundamentally at odds with the statutory and regulatory scheme of the Act.

In light of the above-referenced errors, we vacate the administrative law judge's finding that the evidence established that claimant's total disability is due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c) and remand the case for further consideration. On remand, when considering whether the medical opinion evidence establishes total disability due to pneumoconiosis pursuant to 20 C.F.R. §718.204(c), the administrative law judge should address the comparative credentials of the respective physicians, the explanations for their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their diagnoses. *See Director, OWCP v. Rowe*, 710 F.2d 251, 5 BLR 2-99 (6th Cir. 1983).

Augmented Benefits

Finally, we reject employer's contention that the administrative law judge erred in awarding augmented benefits on behalf of claimant's stepchild, Alexas Joe Adams. The regulations provide that an individual will be considered to be the child of a beneficiary if the individual is the stepchild of such beneficiary by reason of a valid marriage of the individual's parent and the beneficiary. 20 C.F.R. §725.208(c). Claimant married Maggie Joe Adams on July 27, 2002. Director's Exhibit 9. At the time of the marriage, Maggie Joe Adams had a daughter, Alexas Joe Adams, who was born on August 3, 2001. Director's Exhibit 10. Thus, Alexas Joe Adams is considered claimant's child under the regulations.

The regulations provide that an individual who is the beneficiary's child will be determined to be dependent on the beneficiary if the child is unmarried and under eighteen years of age. 20 C.F.R. §725.209(a)(1), (2)(i). The record reflects that Alexas Joe Adams is unmarried and under eighteen years of age. Director's Exhibit 8. Because claimant's stepchild satisfies both the relationship and dependency tests, we affirm the finding that claimant is entitled to augmented benefits on behalf of his stepchild, Alexas Joe Adams, if benefits are again awarded on remand.

Accordingly, the administrative law judge's Decision and Order awarding benefits is affirmed in part and vacated in part, and the case is remanded for further consideration consistent with this opinion.

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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BETTY JEAN HALL
Administrative Appeals Judge