BRB No. 12-0570 BLA

DONALD RICHARDSON	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
JEWELL RIDGE MINING CORPORATION	)	DATE ISSUED: 07/17/2013
	)	
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 on Remand – Award of Benefits of William S. Colwell, Associate Chief Administrative Law Judge, United States Department of Labor.

Timothy W. Gresham (Penn, Stuart & Eskridge), Abingdon, Virginia, for employer.

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

PER CURIAM:

Employer appeals the Decision and Order on Remand – Award of Benefits (2006-BLA-05631) of Associate Chief Administrative Law Judge William S. Colwell with respect to a subsequent claim filed on March 9, 2005, pursuant to the provisions of the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Supp. 2011) (the Act).[1]

[1] Claimant filed his initial claim on January 8, 1981, and it was denied by Administrative Law Judge V.M. McElroy on April 27, 1987, because employer rebutted the presumption that claimant's pneumoconiosis arose out of coal mine employment at 20 C.F.R. §718.203(b). Director's Exhibit 1. The record does not reflect that any further action was taken until claimant filed a second claim for benefits on June 27, 2002, which was denied by the district director on May 6, 2003, for not establishing any element of

Director's Exhibit 4. This case is before the Board for a second time. In its previous decision, the Board affirmed, as unchallenged on appeal, Administrative Law Judge Edward Terhune Miller's finding that claimant established a totally disabling respiratory impairment under 20 C.F.R. §718.204(b)(2) and, therefore, established a change in an applicable condition of entitlement at 20 C.F.R. §725.309(d). *D.R.* [*Richardson*] *v. Jewell Ridge Mining Corp.*, BRB No. 08-0661 BLA, slip op. at 3 n.3 (May 27, 2009)(unpub.). However, the Board vacated Judge Miller's determination that employer had stipulated to the existence of pneumoconiosis in the prior claim, and his finding that claimant's disabling respiratory impairment was due to pneumoconiosis at 20 C.F.R. §718.204(c). *Id*. at 3-5. Judge Miller was instructed to reconsider his previous decision awarding benefits and to make a specific determination as to the length of claimant's coal mine employment. *Id*. at 5-7. Because Judge Miller was unavailable, the case was reassigned to Judge Colwell (the administrative law judge).

On remand, the administrative law judge determined that claimant established 19.5 years of underground coal mine employment and twenty-two years of employment as a mine inspector for Virginia. Applying amended Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4), the administrative law judge determined that claimant invoked the rebuttable presumption of total disability due to pneumoconiosis and that employer did not rebut the presumption.[2] Accordingly, the administrative law judge awarded benefits.

On appeal, employer argues that the administrative law judge erred in finding that claimant established 19.5 years of underground coal mine employment and, therefore, erred in determining that claimant invoked the amended Section 411(c)(4) presumption. In addition, employer contends that, when evaluating rebuttal of the presumption, the administrative law judge did not properly consider the x-ray evidence and erred in discrediting the opinions of Drs. Fino and Castle, that the miner's respiratory impairment was not due to pneumoconiosis. Claimant and the Director, Office of Workers' Compensation Programs, have not filed response briefs in this appeal.

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entitlement. Director's Exhibit 2. No further action was taken by claimant until he filed the current subsequent claim. Director's Exhibit 4.

[2] Relevant to this claim, Section 1556 of Public Law No. 111-148 reinstated the presumption of Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4). Under amended Section 411(c)(4), a miner is presumed to be totally disabled due to pneumoconiosis if he or she establishes at least fifteen 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 or pulmonary impairment. 30 U.S.C. §921(c)(4).

The Board's scope of review is defined by statute. The administrative law judge's Decision and Order must be affirmed if it is supported by substantial evidence, is rational, and is in accordance with applicable law.[3] 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).

I. Invocation of the Amended Section 411(c)(4) Presumption – Length of Coal Mine Employment

In considering whether claimant established at least fifteen years of underground coal mine employment, or coal mine employment in conditions substantially similar to those in an underground mine, the administrative law judge reviewed claimant's Social Security Administration (SSA) Statement of Earnings, claimant's hearing testimony, and the coal mine employment histories reported by Drs. Rasmussen, Fino, and Castle. Decision and Order on Remand at 5-9; *see* Director's Exhibits 7, 11, 16; Employer's Exhibits 5, 8-10; Hearing Transcript at 19, 36-37. The administrative law judge noted that claimant testified that his first coal mine job was with his father in 1953 for a short period of time and that those earnings were not reported to the SSA. Decision and Order on Remand at 6; Hearing Transcript at 19. The administrative law judge stated that "[i]ncluding that job, [c]laimant confirmed having worked for [twenty-five] companies, with a few repeats, and for some coal mining companies for only short working periods, with a variety of payment methods, all underground, ending with his extended underground employment by [e]mployer." Decision and Order on Remand at 6. The administrative law judge found that claimant's testimony regarding his length of coal mine employment was corroborated by his SSA Statement of Earnings and the employment histories set forth in the medical opinion evidence. *Id.*

The administrative law judge then indicated that he was going to utilize the method set forth in *Tackett v. Director, OWCP*, 6 BLR 1-839 (1984), to calculate claimant's length of coal mine employment. Decision and Order on Remand at 8. The administrative law judge stated that "[c]alendar quarters are tallied in which [c]laimant is recorded as having earned at least $50 in coal mine work based on the Social Security Earnings Statement of record, as permitted by *Tackett*, and this yields a finding of 78 quarters, or 19.5 years of coal mine employment." *Id*. Citing the holdings in *Kopp v. Director, OWCP*, 877 F.2d 307, 12 BLR 2-299 (4th Cir. 1989) and *Breeding v. Colley & Colley Coal Co.*, BRB No. 88-1072 BLA (Oct. 13, 1994)(en banc recon.)(unpub.), that

[3] The record reflects that claimant's coal mine employment was in Virginia. Director's Exhibit 5. Accordingly, this case 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).

work as a state mine inspector cannot be counted as coal mine employment, the administrative law judge credited claimant with 19.5 years of coal mine employment. *Id*. Based on this finding, and the prior finding that claimant established that he is totally disabled, the administrative law judge found that claimant invoked the presumption at amended Section 411(c)(4). *Id*. at 9.

Employer argues that the administrative law judge erred in using the quarter method to calculate the length of claimant's coal mine employment, as the administrative law judge did not provide a reasoned explanation for rejecting the method contained in 20 C.F.R. §725.101(a)(32)(iii).[4] Employer states that the average daily wage method is the most reasonable way to calculate claimant's coal mine employment, as the quarter method was based on SSA regulations and limited to the years before 1978, and is appropriate when the beginning date of a miner's coal mine employment is unknown, as is the situation in this case. In addition, employer asserts that the administrative law judge did not adequately explain how he arrived at a total of seventy-eight quarters, as there was no evidence that every quarter of claimant's employment from the second quarter of 1966 until the third quarter of 1972 was coal mine employment and not all of the companies on the SSA Statement of Earnings were coal companies. Employer contends that, if the administrative law judge opts to use a method other than the average daily wage, he must explain why that method is more reasonable. Employer maintains that, using the average daily wage method, claimant would have 5.6 years of coal mine employment, prior to employment with employer, and five years with employer, for a total of 10.6 years of coal mine employment. Further, employer argues that claimant's work as a mine inspector is not qualifying coal mine employment and cannot be included in calculating claimant's total number of years as a coal miner. Accordingly, employer asserts that claimant does not have the fifteen years of qualifying coal mine employment necessary to invoke the presumption at amended Section 411(c)(4).

Contrary to employer's argument, there is no regulatory requirement that an administrative law judge apply the formula at 20 C.F.R. §725.101(a)(32)(iii) to determine the length of a miner's coal mine employment. 20 C.F.R. §725.101(a)(32)(ii); *see Muncy v. Elkay Mining Co.*, 25 BLR 1-21, 1-27 (2011); *Vickery v. Director, OWCP*, 8 BLR 1-430 (1986). Rather, the use of the formula is discretionary, such that an administrative law judge may rely on any credible evidence to determine the dates and length of coal

[4] Section 725.101(a)(32)(iii) provides that, if the beginning and ending dates of the miner's coal mine employment cannot be ascertained, or the miner's coal mine employment lasted less than a calendar year, the finder-of-fact may, in his discretion, determine the length of the miner's work history by dividing the miner's yearly income from work as a miner by the coal mine industry's average daily earnings for that year, as reported by the Bureau of Labor Statistics. 20 C.F.R. §725.101(a)(32)(iii).

mine employment, and any reasonable method of computation will be upheld, if it is supported by substantial evidence in the record as a whole. *See Muncy*, 25 BLR at 1-27. Relevant to this case, the Board has recognized that it is reasonable for an administrative law judge to credit a miner with one-quarter of coal mine employment for every quarter in which his or her Social Security records reflect earnings of at least $50.00 for such employment. *See Clark v. Barnwell Coal Co.*, 22 BLR 1-275, 1-280-81 (2003).

However, employer is correct in maintaining that, in the present case, the administrative law judge's use of this method cannot be affirmed, as he did not adequately identify the evidence on which he relied and did not set forth his findings in adequate detail, including the underlying rationale, as required by the Administrative Procedure Act (APA).[5] *See Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162 (1989). In determining that claimant had seventy-eight quarters of coal mine employment between 1953 and 1977, the administrative law judge did not identify which quarters he credited as coal mine employment in each calendar year, based on the SSA Statement of Earnings. The Board cannot discern, therefore, whether the administrative law judge's finding is rational and supported by substantial evidence, as it is not clear from claimant's SSA Statement of Earnings that his employment from the second quarter of 1966 until the third quarter of 1972 was coal mine employment, as not all of the companies are identified as coal mining companies. *See* Director's Exhibit 7. Further, although the administrative law judge stated that he rendered his finding of 19.5 years of coal mine employment "[w]ith the Board's holding in *Breeding* and the Fourth Circuit's holding in *Kopp* in mind," he did not clearly indicate whether claimant's twenty-two years as a Virginia mine inspector would be qualifying coal mine employment. The administrative law judge also noted the existence of case law holding that work as a mine inspector is the work of a miner. Decision and Order on Remand at 8-9. Because the administrative law judge did not adequately explain how he arrived at his finding of 19.5 years of underground coal mine employment and did not conclusively determine whether claimant's work as a mine inspector constituted coal mine employment, we vacate his finding. *See Wojtowicz*, 12 BLR at 1-165. We further vacate, therefore, the administrative law judge's determination that claimant invoked the presumption at amended Section 411(c)(4).

On remand, the administrative law judge must select a reasonable method by which to calculate the length of claimant's underground coal mine employment, weigh all

[5] The Administrative Procedure Act requires that every adjudicatory decision be accompanied by a statement of "findings and conclusions, and the reasons or basis therefor, on all 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).

relevant evidence and explain the bases for his findings in accordance with the APA. If the administrative law judge finds that claimant has established fifteen years of qualifying coal mine employment, he may reinstate his finding that claimant invoked the amended Section 411(c)(4) presumption. If claimant is unable to establish that he had at least fifteen years of qualifying coal mine employment, the administrative law judge must render findings as to whether claimant established entitlement pursuant to 20 C.F.R. Part 718 of the regulations without benefit of the presumption.[6]

II. Rebuttal of the Presumption

In the interest of judicial economy, and to avoid the repetition of any error on remand, we will also address employer's contentions concerning the administrative law judge's finding that it did not rebut the amended Section 411(c)(4) presumption. Employer initially asserts that if the administrative law judge had properly considered the x-ray evidence, he would have determined that it, as a whole, was negative, thereby establishing rebuttal of the presumed existence of clinical pneumoconiosis.[7] Employer contends specifically that the administrative law judge impermissibly "count[ed] heads," in determining that the June 9, 2005 x-ray was positive for clinical pneumoconiosis. Employer's Brief at 9; *quoting Adkins v. Director, OWCP*, 958 F.2d 49, 16 BLR 2-61 (4th Cir. 1992). Employer's allegations of error are without merit.

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[6] To establish entitlement to benefits pursuant to 20 C.F.R. Part 718, claimant must prove that he suffers from pneumoconiosis, that the pneumoconiosis arose out of coal mine employment, that he is totally disabled and that his disability is due to pneumoconiosis. *See* 20 C.F.R. §§718.3, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes a finding of entitlement. *See Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26 (1987).

[7] Pursuant to 20 C.F.R. §718.201(a)(1):

> "Clinical pneumoconiosis" consists of those diseases recognized by the medical community as pneumoconioses, *i.e.*, the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment. This definition includes, but is not limited to, coal workers' pneumoconiosis, anthracosilicosis, anthracosis, anthrosilicosis, massive pulmonary fibrosis, silicosis or silicotuberculosis, arising out of coal mine employment.

20 C.F.R. §718.201(a)(1).

In weighing the x-ray evidence, the administrative law judge considered seven interpretations of three x-rays, dated June 9, 2005, October 18, 2005, and August 31, 2006. Decision and Order on Remand at 27-28. We affirm, as supported by substantial evidence, the administrative law judge's determination that the October 18, 2005 x-ray is in equipoise regarding the existence of clinical pneumoconiosis and that the August 31, 2006 x-ray is negative.[8] *Id*. at 28. Turning to the remaining x-ray of record dated June 9, 2005, it was interpreted as positive for clinical pneumoconiosis by Dr. Alexander, a B reader and Board-certified radiologist, and Dr. Rasmussen, a B-reader, and as negative by Dr. Scott, a B reader and Board-certified radiologist.[9] *See* Director's Exhibits 11, 13-15. The administrative law judge found this x-ray to be positive for pneumoconiosis and stated, "Dr. Alexander's interpretation is supported by the interpretation of Dr. Rasmussen and together, their findings outweigh the contrary findings by Dr. Scott." Decision and Order on Remand at 28. We affirm this finding as, contrary to employer's contention, the administrative law judge did not engage in a simple head count, but rather permissibly determined that Dr. Alexander's positive interpretation, as bolstered by that of Dr. Rasmussen, outweighed Dr. Scott's negative interpretation. *See Edmiston v. F & R Coal Co.*, 14 BLR 1-65 (1990). In light of the administrative law judge's finding that one x-ray was positive, one x-ray was negative, and one x-ray was in equipoise, we further affirm the administrative law judge's conclusion that employer failed to demonstrate that claimant does not suffer from clinical pneumoconiosis by a preponderance of the evidence. *See Adkins*, 958 F.2d at 52, 16 BLR at 2-66.

As to the existence of legal pneumoconiosis,[10] employer argues that the administrative law judge did not discuss the cause of claimant's restrictive and obstructive impairments or determine whether the blood gas studies established a respiratory impairment caused by coal dust exposure. Employer states that the

[8] The October 18, 2005 x-ray was interpreted as positive by Dr. Alexander and as negative by Dr. Wheeler, both of whom are Board-certified radiologists and B readers. Director's Exhibit 16; Claimant's Exhibit 1. The August 31, 2006 x-ray was interpreted as negative by Dr. Scatarige, a Board-certified radiologist and B reader. Employer's Exhibit 5.

[9] The June 9, 2005 x-ray was also interpreted by Dr. Barrett, a B-reader and Board-certified radiologist, for quality purposes only. *See* Director's Exhibit 12.

[10] Pursuant to 20 C.F.R. §718.201(a)(2), "legal pneumoconiosis" is defined as including "any chronic lung disease or impairment and its sequelae arising out of coal mine employment. This definition includes, but is not limited to, any chronic restrictive or obstructive pulmonary disease arising out of coal mine employment." 20 C.F.R. §718.201(a)(2).

administrative law judge did not provide a valid reason for discrediting Dr. Castle's opinion that claimant's impairments are unrelated to coal dust exposure. Employer contends that, contrary to the administrative law judge's finding, Dr. Castle adequately addressed the significance of the variation in claimant's resting blood gas values. In addition, employer asserts that the administrative law judge erred in determining that Dr. Castle's opinion is inconsistent with the regulatory definition of legal pneumoconiosis, as he merely indicated that he had never seen a case where a miner with a negative x-ray had a totally disabling pulmonary impairment caused by coal dust exposure. Employer also maintains that Dr. Fino adequately explained that claimant's impairment was not due to coal dust inhalation because the improvement seen on claimant's exercise blood gas studies is inconsistent with the irreversible and progressive nature of pneumoconiosis. Further, employer contends that the administrative law judge erred in requiring independent confirmation that Dr. Fino was correct in attributing claimant's impairment to a paralyzed diaphragm. Finally, employer argues that the opinion of Dr. Fino was entitled to more weight than the opinion of Dr. Rasmussen as he is a Board-certified pulmonologist, and Dr. Rasmussen's diagnosis of a coal dust-related impairment was not reasoned.

Employer's allegation that the administrative law judge did not address the cause of claimant's impairment is without merit, as the administrative law judge did so when he considered the evidence of record to determine whether employer rebutted the presumed fact that claimant has legal pneumoconiosis, i.e., "any chronic restrictive or obstructive pulmonary disease arising out of coal mine employment." 20 C.F.R. §718.201(a)(2); Decision and Order on Remand at 28-35. Moreover, the administrative law judge rationally accorded less weight to Dr. Castle's opinion because his views – that coal dust exposure causes only a mixed obstructive and restrictive impairment and that the absence of clinical pneumoconiosis on an x-ray excludes coal dust exposure as a cause of any pulmonary impairment – conflict with the definition of legal pneumoconiosis set forth in 20 C.F.R. §718.201(a)(2).[11] 20 C.F.R. §718.201(a)(2); 65 Fed. Reg. at 79,937 (Dec. 20,

[11] Dr. Castle stated, "[w]hen coal workers' pneumoconiosis causes impairment, it generally does so by causing a mixed, irreversible obstructive and restrictive ventilatory impairment. Those were not the findings in this case." Employer's Exhibit 10. Employer suggests that Dr. Castle's use of the word "and" instead of "or" does not mean that his views are contrary to the regulations. Employer also points to Dr. Castle's deposition testimony that he has "never seen . . . where you have nothing on the x-ray and have a totally disabling pulmonary impairment due to coal workers' pneumoconiosis," as evidence that Dr. Castle acknowledged that coal dust exposure can cause a disabling obstructive impairment. Employer's Exhibit 9 at 25. However, these statements do not counter the administrative law judge's permissible finding that, contrary to the regulatory definition of legal pneumoconiosis, Dr. Castle did not acknowledge that coal dust exposure can cause a purely obstructive or restrictive impairment and that legal

2000); *see Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 25 BLR 2-115 (4th Cir. 2012); *Helen Mining Co. v. Director, OWCP* [*Obush*], 650 F.3d 248, 24 BLR 2-369 (3d Cir. 2011), *aff'g J.O.* [*Obush*] *v. Helen Mining Co.*, 24 BLR 1-117 (2009).

We also hold that employer is incorrect in maintaining that the administrative law judge erred in discrediting Dr. Fino's attribution of claimant's restrictive impairment to the effects of a paralyzed diaphragm. The administrative law judge acted within his discretion as fact-finder in determining that the probative value of Dr. Fino's statement that left-sided diaphragmatic paralysis caused a twenty-percent loss in claimant's FVC was diminished by Dr. Castle's conflicting statement that complete paralysis of the diaphragm would cause a twenty-percent loss in FVC. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533, 21 BLR 2-323, 2-335 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441, 21 BLR 2-269, 2-275-76 (4th Cir. 1997); Employer's Exhibits 8 at 27-31, 9 at 13. The administrative law judge also rationally found that Dr. Fino's failure to identify the source of the decrement in claimant's FVC that exceeded twenty-percent detracted from the credibility of his opinion that claimant's restrictive impairment is attributable to diaphragmatic paralysis. *See Underwood v. Elkay Mining, Inc.*, 105 F.3d 946, 949, 21 BLR 2-23, 2-28 (4th Cir. 1997); *Lane v. Union Carbide*, 105 F.3d 166, 21 BLR 2-34 (4th Cir. 1997).

There is merit, however, to employer's allegations that, in evaluating the significance of the variability observed in claimant's exercise blood gas study results, the administrative law judge substituted his opinion for that of the medical experts and did not accurately characterize the evidence. After reviewing the exercise studies performed by Drs. Fino and Rasmussen, the administrative law judge concluded that "Dr. Rasmussen exercised the miner to a greater extent than Dr. Fino and [claimant] developed an inability to adequately oxygenate his blood, which was disabling." Decision and Order on Remand at 30. The administrative law judge then discredited Dr. Fino's opinion to the extent that it was based on variable blood gas results and because he did not "adequately account for the qualifying exercise testing obtained by Dr. Rasmussen, particularly in light of the variable methods of testing."[12] *Id*. at 32. The

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pneumoconiosis can be diagnosed in the absence of an x-ray that is positive for clinical pneumoconiosis. *See Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 314-16 (4th Cir. 2012); *Helen Mining Co. v. Director, OWCP* [*Obush*], 650 F.3d 248, 256-57, 24 BLR 2-369, 2-383 (3d Cir. 2011).

[12] Employer also challenges the administrative law judge's similar findings regarding Dr. Castle's opinion, including Dr. Castle's reference to claimant's paralyzed diaphragm. We decline to address these arguments, as the administrative law judge

record does not reflect that Dr. Fino relied on the variability in claimant's blood gas study values to exclude coal dust exposure as a cause of claimant's pulmonary impairment. In his written report, Dr. Fino commented that claimant's blood gas studies reflected a "slight drop in pO2 with exercise." Employer's Exhibit 5. During his deposition, Dr. Fino further commented that the blood gas studies may show "a drop in the pO2 with exercise" but "when you consider the abnormal diaphragm, the lack of an abnormality in diffusion, the overinflation on the lung volumes, it would be difficult to attribute this man's slight drop in pO2 with exercise to . . . coal dust." Employer's Exhibit 8 at 21-22. In addition, whether the mode of exercise used by Dr. Rasmussen meant that he "exercised [claimant] to a greater extent than Dr. Fino" is not apparent from the record[13] and is a question that calls for the application of medical expertise, which the administrative law judge is not empowered to do. *Id*.; *see Marcum v. Director, OWCP*, 11 BLR 1-23 (1987). Thus, we must vacate the administrative law judge's discrediting of Dr. Fino's opinion on the issue of the existence of legal pneumoconiosis. We must further vacate, therefore, the administrative law judge's findings that employer did not rebut the presumed facts that claimant has legal pneumoconiosis and is totally disabled by it.

On remand, if the administrative law judge again finds that claimant has invoked the amended Section 411(c)(4) presumption, he must reconsider whether employer has established that claimant does not have legal pneumoconiosis and that his totally disabling impairment did not arise out of, or in connection with, his coal mine employment. *Rose v. Clinchfield Coal Co.*, 614 F.2d 936, 939, 2 BLR 2-38, 2-43 (4th Cir. 1980); *see also Owens v. Mingo Logan Coal Co.*, 25 BLR 1-1, 1-4 (2011), *appeal docketed*, No. 11-2418 (4th Cir. Dec. 29, 2011). When weighing the medical opinion evidence on rebuttal, or on the merits of entitlement, the administrative law judge must address the credentials of the physicians, the explanations for their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their respective diagnoses. *See Hicks*, 138 F.3d at 533, 21 BLR 2-335; *Akers*, 131 F.3d at 441, 21 BLR at 2-275-76. The administrative law judge must also apply the same level of scrutiny to the opinions supporting a finding of rebuttal and the contrary

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provided a valid, alternative rationale for discrediting Dr. Castle's opinion, i.e., that Dr. Castle relied on premises that conflict with the regulatory definition of legal pneumoconiosis. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983).

[13] Dr. Rasmussen indicated that claimant was "exercised for a total of 6 minutes and reach[ed] a level of 1 mph at a 6% grade." Director's Exhibit 16. The report of Dr. Fino's exercise study noted that claimant "walked 666 feet." Employer's Exhibit 5.

opinions, particularly in regard to the significance of claimant's blood gas study results and the increase or decrease in his values over time. *See Justice v. Island Creek Coal Co.*, 11 BLR 1-91 (1988); *Hess v. Clinchfield Coal Co.*, 7 BLR 1-295 (1984). Lastly, the administrative law judge must set forth his findings in detail, including the underlying rationale, as required by APA. *See Wojtowicz*, 12 BLR at 1-165.

Accordingly, the administrative law judge's Decision and Order on Remand – Award of Benefits is affirmed in part, and vacated in part, and this case is remanded to the administrative law judge for further proceedings 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