U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB No. 17-0510 BLA

CLIMOUTH D. COLEMAN	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
SCOTTS BRANCH COMPANY,	)	
Self-insured through MAPCO	)	DATE ISSUED: 07/23/2018
	)	
Employer/Carrier-Petitioners	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order of Alan L. Bergstrom, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe, Brad A. Austin, and M. Rachel Wolfe (Wolfe, Williams, & Reynolds), Norton, Virginia, for claimant.

Paul E. Jones and Denise Hall Scarberry (Jones & Walters PLLC), Pikeville, Kentucky, for employer/carrier.

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

PER CURIAM:

Employer/carrier (Employer) appeals the Decision and Order (2012-BLA-06081) of Administrative Law Judge Alan L. Bergstrom, awarding benefits on a claim filed pursuant to the provisions of the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2012) (the Act). This case involves a subsequent claim filed on April 22, 2011.[1]

The administrative law judge credited claimant with 15.25 years of coal mine employment,[2] 11.48 years of which occurred either in underground coal mines or in substantially similar conditions. He therefore found that claimant did not have sufficient qualifying coal mine employment to invoke the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.[3] 30 U.S.C. §921(c)(4) (2012). Turning to whether claimant could establish his entitlement to benefits under 20 C.F.R. Part 718, the administrative law judge found that the new evidence established total disability pursuant to 20 C.F.R. §718.204(b)(2) and a change in an applicable condition of entitlement pursuant to 20 C.F.R. §725.309(c). He further found that the evidence established the existence of both clinical and legal pneumoconiosis[4] pursuant to 20 C.F.R. §718.202(a), and that claimant's clinical pneumoconiosis arose out of coal mine

[1] Claimant filed three prior claims for benefits, two of which were finally denied, Director's Exhibits 1, 3, and one of which was withdrawn. Director's Exhibit 2. Claimant's most recent prior claim, filed on June 24, 2008, was denied by the district director on February 3, 2009, because the evidence did not establish any element of entitlement. Director's Exhibit 3.

[2] The record reflects that claimant's last coal mine employment was in Kentucky. Director's Exhibit 6. Accordingly, the Board will apply the law of the United States Court of Appeals for the Sixth Circuit. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc).

[3] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis in cases where fifteen 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) (2012); *see* 20 C.F.R. §718.305.

[4] "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." 20 C.F.R. §718.201(a)(1). "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).

employment pursuant to 20 C.F.R. §718.203(b). Additionally, without making a specific finding, the administrative law judge concluded that claimant is totally disabled due to pneumoconiosis pursuant 20 C.F.R. §718.204(c). Accordingly, he awarded benefits.

On appeal, employer contends that the administrative law judge erred in finding that claimant has 15.25 years of coal mine employment. Employer further asserts that the administrative law judge erred in finding that the evidence established the existence of pneumoconiosis and total disability. Additionally, employer argues that the administrative law judge erred in failing to address whether the medical evidence established that claimant is totally disabled due to pneumoconiosis. Employer further challenges the administrative law judge's determination regarding the commencement date for benefits. Claimant responds in support of the award of benefits. The Director, Office of Workers' Compensation Programs, has not filed a response brief.

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. 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).

Length of Coal Mine Employment

Claimant bears the burden of proof to establish the number of years he worked in coal mine employment. *Kephart v. Director, OWCP*, 8 BLR 1-185, 1-186 (1985); *Hunt v. Director, OWCP*, 7 BLR 1-709, 1-710-11 (1985). As the regulations provide only limited guidance for the computation of time spent in coal mine employment, the Board will uphold the administrative law judge's determination if it is based on a reasonable method and supported by substantial evidence in the record. *Muncy v. Elkay Mining Co.*, 25 BLR 1-21, 1-27 (2011).

Employer first argues that the administrative law judge was bound by the district director's finding of twelve years of coal mine employment in claimant's 2008 denied claim. Employer's Brief at 7. This argument lacks merit. The district director's previous finding of twelve years of coal mine employment is not binding in this case because it was not "a critical and necessary part" of the judgment in claimant's prior claim. *Hughes v. Clinchfield Coal Co.*, 21 BLR 1-134, 1-138 (1999) (en banc). The district director denied the 2008 claim because the evidence did not establish any element of entitlement. Director's Exhibit 3. The finding of twelve years of coal mine employment was not essential to the decision denying benefits. Employer's argument is therefore rejected.

Employer next argues that the administrative law judge did not explain the basis for his finding on the length of claimant's coal mine employment. Employer's Brief at 8. We disagree.

Relying on claimant's Social Security Administration (SSA) earnings record for the years 1973 through 1989, the administrative law judge applied the formula at 20 C.F.R. §725.101(a)(32)(iii)[5] and, using Exhibit 610 of the *Coal Mine (Black Lung Benefits Act) Procedure Manual*, calculated the number of days that claimant worked in coal mine employment in each year. Decision and Order at 20-23. Using this method, the administrative law judge credited claimant with a total of 15.25 years of coal mine employment. *Id*. at 23. We therefore reject employer's argument that the administrative law judge did not explain his calculation method.

Employer contends that the administrative law judge erred in applying the formula at 20 C.F.R. §725.101(a)(32)(iii) because he failed to account for claimant's overtime when he worked for employer from 1978 through 1988. Employer's Brief at 9. Specifically, employer notes claimant's hearing testimony that once he began working solely for employer he often worked overtime, sometimes seven days a week. Employer's Brief at 9, *citing* Hearing Tr. at 28. It argues that since a "typical shift is eight (8) hours," the administrative law judge needs to account for overtime to avoid crediting claimant "with more than one day of coal mine employment in one day." Employer's Brief at 9.

On the facts of this case, we disagree with employer. As summarized by the administrative law judge, claimant testified without contradiction that when he worked for employer, he was a "regular, steady worker" until employer shut down the mine. Decision and Order at 7; Hearing Tr. at 28. The record reflects claimant's additional testimony that he never missed work for any reason until employer shut down the mine. Hearing Tr. at 28. Given this uncontradicted testimony of steady employment, employer has not explained why it believes claimant had less than a year of coal mine employment in any of the years he worked for employer, even if the coal mine employment calculation were adjusted to account for overtime.[6]

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[5] 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 administrative law judge may 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).

[6] Using the formula at 20 C.F.R. §725.101(a)(32)(iii), the administrative law judge determined that claimant had the following number of working days with employer starting with 1978, when he began working solely for employer:

1978 194.54

Employer argues further that substantial evidence does not support the finding of 15.25 years of coal mine employment because the administrative law judge included in his calculations for the years 1974, and 1980 through 1982, earnings which, employer contends, were not shown to be from coal mine employment. Employer's Brief at 7-9. Specifically, employer argues that the administrative law judge should not have included claimant's income of $3,438.02 from Chloe Creek Development Corporation (Chloe Creek) in 1974, or his income of $1,353.81 in 1980, $233.92 in 1981, and $97.32 in 1982, from the United Mine Workers of America (UMWA). *Id*. at 8-9.

We need not resolve this issue. Even if the income from Chloe Creek and the UMWA is excluded for the years 1974, 1980, 1981, and 1982, claimant's reported earnings in coal mine employment with other employers in the same four years would still establish a year of coal mine employment for each year under the administrative law judge's calculation method.[7] Thus, any error by the administrative law judge in including the Chloe

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1979	263.12
1980	296.27
1981	259.02
1982	315.07
1983	295.47
1984	264.56
1985	252.71
1986	276.40
1987	311.21
1988	130.96

The administrative law judge then divided the working days obtained for each year by 125 to determine whether claimant had at least one year of coal mine employment. Decision and Order at 21-22; Employer's Brief at 8. Employer has not challenged that aspect of the administrative law judge's calculation.

[7] Employer argues that, excluding the income from Chloe Creek Development Corporation and the United Mine Workers of America, claimant's earnings from coal mine employment were $8,059.10 in 1974, $25,900.00 in 1980, $25,073.46 in 1981, and $32,008.44 in 1982. Using these amounts in the formula applied by the administrative law judge yields 165.69 working days in 1974, 296.27 working days in 1980, 259.02 working days in 1981, and 315.07 working days in 1982. As employer acknowledges, the administrative law judge then divided the working days obtained for each year by 125 to determine the amount of coal mine employment with which to credit claimant. Decision

Creek and UMWA income would be harmless. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009); *Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984). Apart from its argument regarding overtime, which we have rejected, employer has not alleged any error in the administrative law judge's method of calculating claimant's coal mine employment in 1974, 1980, 1981, and 1982 based on claimant's reported earnings from his other coal mine employers. Those findings are therefore affirmed. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983). Therefore, we affirm the administrative law judge's finding of 15.25 years of coal mine employment.

Entitlement Under 20 C.F.R. Part 718

To be entitled to benefits under the Act, claimant must establish the existence of pneumoconiosis, that the pneumoconiosis arose out of coal mine employment, a totally disabling respiratory or pulmonary impairment, and that the totally disabling respiratory or pulmonary impairment is due to pneumoconiosis. 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 an award of benefits. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (en banc).

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(c); *White v. New White Coal Co.*, 23 BLR 1-1, 1-3 (2004). The "applicable conditions of entitlement" are "those conditions upon which the prior denial was based." 20 C.F.R. §725.309(c)(3). Claimant's prior claim was denied because he did not establish any element of entitlement. Director's Exhibit 3. Consequently, to obtain review of the merits of his current claim, claimant had to submit new evidence establishing at least one of the elements of entitlement. 20 C.F.R. §725.309(c)(3); *see Buck Creek Coal Co. v. Sexton*, 706 F.3d 756, 758-59, 25 BLR 2-221, 2-227-28 (6th Cir. 2013).

The Existence of Pneumoconiosis

Clinical Pneumoconiosis

To establish the existence of clinical pneumoconiosis, claimant must establish that he has any of the "diseases recognized by the medical community as pneumoconioses, *i.e.*,

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and Order at 21-22; Employer's Brief at 8. This calculation method, which employer has not challenged, yields one year of coal mine employment for each of the four years at issue.

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." 20 C.F.R. §718.201(a)(1). Pursuant to 20 C.F.R. §718.202(a)(1), the administrative law judge considered seven readings of five new x-rays. Dr. DePonte, a Board-certified radiologist and B reader, read a June 11, 2011 x-ray as negative for pneumoconiosis. Director's Exhibit 11. Dr. Broudy, a B reader, read the December 13, 2011 x-ray as negative for pneumoconiosis, and Dr. Alexander, a Board-certified radiologist and B reader, read the same x-ray as positive for pneumoconiosis. Employer's Exhibit 1, Claimant's Exhibit 2. Dr. Poulos, whose radiological qualifications are not of record, read the March 1, 2012 x-ray as negative for pneumoconiosis; Dr. Alexander read the same x-ray as positive. Employer's Exhibit 3; Claimant's Exhibit 1. Finally, Dr. Crum, a Board-certified radiologist and B reader, read both the June 24, 2016 and June 28, 2016 x-rays as positive for pneumoconiosis. Claimant's Exhibits 3, 4.

According greater weight to the readings by physicians with superior radiological qualifications, the administrative law judge found that the June 11, 2011 x-ray was negative for pneumoconiosis, and that the remaining four x-rays were positive. Decision and Order at 32. He specifically noted that "employer did not submit rebuttal readings of the June 2016 chest x-rays." *Id*. Because they were the two most recent x-rays of record, he accorded them greater weight than the older x-rays. *Id*. The administrative law judge therefore found that the x-ray evidence established the existence of clinical pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(1).

Employer contends that the administrative law judge erred by failing to consider negative readings of the June 24, 2016 and June 28, 2016 x-rays, which it states it timely submitted on August 15, 2016, pursuant to the administrative law judge's instructions at the hearing.[8] Employer's Brief at 12. Claimant responds that any error by the administrative law judge in not considering employer's rebuttal readings was harmless,

[8] The administrative law judge held the record open until October 17, 2016, for employer to submit Dr. Wolfe's rebuttal readings of claimant's affirmative readings of the June 24, 2016 and June 28, 2016 x-rays, and to submit supplemental medical reports of Drs. Broudy and Rosenberg. Hearing Tr. at 10-11, 36. In his Decision and Order, the administrative law judge stated that employer submitted only the supplemental medical reports of Drs. Broudy and Rosenberg. Decision and Order at 3. Employer, however, states that it submitted Dr. Wolfe's negative rebuttal readings to the administrative law judge as Employer's Exhibits 5 and 6, and notes that both claimant and employer discussed Dr. Wolfe's rebuttal readings in their closing briefs. Employer's Brief at 12; *see* Claimant's Closing Argument at 4-5; Brief of Employer at 7. In its closing brief, employer described Dr. Wolfe as a Board-certified radiologist and B reader. Brief of Employer at 7.

because claimant also established the existence of legal pneumoconiosis. Claimant's Brief at 14.

Upon review of the administrative law judge's Decision and Order in light of the parties' arguments, it is unclear whether the administrative law judge considered all of the relevant x-ray evidence. *See* 30 U.S.C. §923(b). Therefore, we are unable to determine whether substantial evidence supports his finding at 20 C.F.R. §718.202(a)(1). Further, as we will discuss, although claimant also established the existence of legal pneumoconiosis, we must remand this case for the administrative law judge to reconsider the issues of total disability and disability causation. Therefore, we will vacate the administrative law judge's finding that the x-ray evidence established clinical pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(1), and instruct the administrative law judge to reconsider that issue.

On remand, the administrative law judge must determine whether employer submitted its post-hearing rebuttal readings and, if so, must consider them and determine whether the x-ray evidence establishes the existence of clinical pneumoconiosis at 20 C.F.R. §718.202(a)(1). The administrative law judge should also consider whether the medical opinion evidence establishes the existence of clinical pneumoconiosis at 20 C.F.R. §718.202(a)(4), and then weigh the x-ray and medical opinion evidence together to determine if clinical pneumoconiosis is established pursuant to 20 C.F.R. §718.202(a). *See Dixie Fuel Co. v. Director, OWCP* [*Hensley*], 700 F.3d 878, 881, 25 BLR 2-213, 2-218 (6th Cir. 2012).

Legal Pneumoconiosis

To establish that he has legal pneumoconiosis, claimant must prove that he has a chronic lung disease or impairment "significantly related to, or substantially aggravated by," coal mine dust exposure. 20 C.F.R. §718.201(a)(2), (b). Pursuant to 20 C.F.R. §718.202(a)(4), the administrative law judge considered the new medical opinions of Drs. Baker, Green, Broudy, and Rosenberg. Decision and Order at 33-35. Dr. Baker opined that claimant has legal pneumoconiosis, in the form of chronic obstructive pulmonary disease (COPD) and chronic bronchitis due to both cigarette smoking and coal mine dust exposure. Director's Exhibit 11. Similarly, Dr. Green opined that claimant suffers from COPD due to both coal mine dust exposure and cigarette smoking. Claimant's Exhibits 3, 4. Conversely, Dr. Broudy opined that claimant has COPD due solely to smoking, and Dr. Rosenberg opined that he has COPD due to smoking and asthma. Employer's Exhibits 1, 3, 4, 7.

The administrative law judge found that the opinions of Drs. Baker and Green were well-reasoned and documented. Decision and Order at 33, 35. In contrast, he found that the opinions of Drs. Broudy and Rosenberg were not well-reasoned. Specifically, he found

Dr. Broudy's opinion that the pattern of claimant's impairment is not characteristic of one related to coal mine dust exposure to be inconsistent with medical literature accepted by the Department of Labor (DOL), in the preamble to the 2001 regulatory revisions. Decision and Order at 33-34. He further found that part of Dr. Rosenberg's reasoning for concluding that claimant's COPD did not arise out of coal mine employment was "in direct conflict with [the regulation] defin[ing] pneumoconiosis as 'a latent and progressive disease which may first become detectable only after [the] cessation of coal mine dust exposure.'" Decision and Order at 34, *quoting* 20 C.F.R. §718.201(c). Additionally, he found that neither physician adequately explained why claimant's coal mine dust exposure did not contribute to, or aggravate, his COPD. Decision and Order at 34. Therefore, the administrative law judge found that the medical opinion evidence established the existence of legal pneumoconiosis. *Id*. at 35.

Employer contends that the administrative law judge erred by "not specifically address[ing]" the existence of legal pneumoconiosis. Employer's Brief at 13. Employer states that the administrative law judge discredited the opinions of Drs. Broudy and Rosenberg "under the heading of total disability" only and thus, did not address whether their opinions were well-reasoned on the issue of legal pneumoconiosis. *Id*. As just summarized, however, the administrative law judge specifically addressed the medical opinion evidence and found that the better reasoned opinions established that claimant has legal pneumoconiosis. Decision and Order at 33-35. Employer has not challenged the administrative law judge's findings regarding the credibility of the opinions of Drs. Baker, Green, Broudy, and Rosenberg. They are therefore affirmed. *See Skrack*, 6 BLR at 1-711.

Employer asserts that the administrative law judge's erroneous finding of the existence of clinical pneumoconiosis based on the x-ray evidence "affected the decision" on the issue of legal pneumoconiosis. Employer's Brief at 13. Employer, however, has not explained this assertion, nor is any effect apparent upon review of the administrative law judge's decision. Employer's argument is therefore rejected. Accordingly, we affirm the administrative law judge's finding that the new medical opinion evidence established the existence of legal pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(4).[9]

Total Disability

A miner is considered totally disabled if his pulmonary or respiratory impairment, standing alone, prevents him from performing his usual coal mine work. *See* 20 C.F.R.

[9] Because claimant established the existence of legal pneumoconiosis with new evidence, we affirm the administrative law judge's determination that claimant established a change in an applicable condition of entitlement at 20 C.F.R. §725.309(c).

§718.204(b)(1). Claimant may establish total disability based on pulmonary function studies, arterial blood gas studies, evidence of cor pulmonale with right-sided congestive heart failure, or medical opinions. 20 C.F.R. §718.204(b)(2)(i)-(iv). The administrative law judge must consider all of the relevant evidence and weigh the evidence supporting a finding of total disability against the contrary evidence. *See Rafferty v. Jones & Laughlin Steel Corp.*, 9 BLR 1-231, 1-232 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195, 1-198 (1986), *aff'd on recon.*, 9 BLR 1-236 (1987) (en banc).

The administrative law judge found that the preponderance of the pulmonary function study evidence established total disability pursuant to 20 C.F.R. §718.204(b)(2)(i). Decision and Order at 27. He further found that the blood gas study evidence did not establish total disability pursuant to 20 C.F.R. §718.204(b)(2)(ii), and that there was no evidence of cor pulmonale with right-sided congestive heart failure pursuant to 20 C.F.R. §718.204(b)(2)(iii). Decision and Order at 28.

The administrative law judge then considered the medical opinions of Drs. Baker, Green, Broudy, and Rosenberg. Drs. Baker and Green opined that claimant is totally disabled based upon his pulmonary function studies. Director's Exhibit 11; Claimant's Exhibits 3, 4; Employer's Exhibit 2. Dr. Broudy opined that claimant has a moderate obstructive defect, but did not specifically state whether claimant is totally disabled. Employer's Exhibits 1, 4. Dr. Rosenberg opined that claimant has moderate airflow obstruction but is not disabled from a pulmonary perspective. Employer's Exhibit 3. After reviewing the two most recent pulmonary function studies, dated June 24, 2016 and June 28, 2016, Dr. Rosenberg opined that claimant's pulmonary function worsened, but that the studies were non-qualifying[10] after the administration of bronchodilators. Employer's Exhibit 7.

The administrative law judge found that the opinions of Drs. Baker and Green were reasoned and documented. Decision and Order at 30. He accorded little weight to Dr. Broudy's opinion, because he found that the physician failed to specifically address whether claimant is totally disabled. *Id*. at 30-31. The administrative law judge summarized Dr. Rosenberg's reasoning that claimant's impairment is not related to coal mine dust exposure because claimant's FEV1/FVC ratio is reduced rather than preserved, as Dr. Rosenberg would expect if the impairment were caused by coal dust exposure. *Id*. at 30. The administrative law judge found Dr. Rosenberg's opinion to be "hostile to the [Act]" because it was "inconsistent with the DOL position that coal dust exposure may

[10] A qualifying pulmonary function study yields values that are equal to or less than the values specified in the tables at 20 C.F.R. Part 718, Appendix B. A non-qualifying study exceeds those values. *See* 20 C.F.R. §718.204(b)(2)(i).

cause COPD with associated decrements in FEV1/FVC." Decision and Order at 30. The administrative law judge therefore found that the medical opinion evidence established total disability pursuant to 20 C.F.R §718.204(b)(2)(iv).

Employer contends that the administrative law judge erred in discrediting Dr. Rosenberg's opinion on the existence of total disability for a reason related to the separate issue of whether claimant's impairment is related to coal mine dust exposure.[11] Employer's Brief at 10-11. We agree. In discrediting Dr. Rosenberg's opinion that claimant is not totally disabled, the administrative law judge combined the issue of the presence of a totally disabling respiratory or pulmonary impairment at 20 C.F.R. §718.204(b)(2) with the separate issue of whether claimant's impairment arose out of coal mine employment at 20 C.F.R. §§718.201(a)(2), 718.204(a)(4). As the administrative law judge provided no other reason for discrediting Dr. Rosenberg's opinion that claimant is not totally disabled, we must vacate the finding that the medical opinion evidence established total disability pursuant to 20 C.F.R. §718.204(b)(2)(iv), and remand this case for the administrative law judge to reconsider that issue. If the administrative law judge finds that the medical opinion evidence establishes total disability pursuant to 20 C.F.R. §718.204(b)(2)(iv), he must weigh all the relevant evidence together, both like and unlike, to determine whether claimant has established the existence of a totally disabling respiratory impairment pursuant to 20 C.F.R. §718.204(b)(2). *See Shedlock*, 9 BLR at 1-198.

Disability Causation

To establish that he is totally disabled due to pneumoconiosis, claimant must prove that pneumoconiosis is a "substantially contributing cause" of his totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c)(1). Pneumoconiosis is a "substantially contributing cause" of a miner's total disability if it has "a material adverse effect on the miner's respiratory or pulmonary condition," or if it "[m]aterially 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)(i), (ii); *Cumberland River Coal Co. v. Banks*, 690 F.3d 477, 489, 25 BLR 2-135, 2-153 (6th Cir. 2012).

[11] We affirm, as unchallenged, the administrative law judge's finding that the preponderance of the pulmonary function study evidence established total disability pursuant to 20 C.F.R. §718.204(b)(2)(i). *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983). We also affirm the unchallenged findings that the disability opinions of Drs. Baker and Green are reasoned and documented, and that Dr. Broudy did not specifically address total disability at 20 C.F.R. §718.204(b)(2)(iv). *Id*.

Employer argues that the administrative law judge's conclusory statement that claimant's totally disabling respiratory impairment is due to pneumoconiosis was inadequately explained. Employer's Brief at 13-14; Decision and Order at 37. We agree. On remand, the administrative law judge must consider the evidence to determine whether claimant has established that pneumoconiosis is a "substantially contributing cause of his totally disabling respiratory or pulmonary impairment." 20 C.F.R. §718.204(c)(1). The administrative law judge must set forth his finding on remand in detail, including the underlying rationales, as required by the Administrative Procedure Act. 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a); *see Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989).

Commencement Date for Benefits

The date for the commencement of benefits is the month in which the miner became totally disabled due to pneumoconiosis. 20 C.F.R. §725.503; *see Rochester & Pittsburgh Coal Co. v. Krecota*, 868 F.2d 600, 12 BLR 2-178 (3d Cir. 1989); *Lykins v. Director, OWCP*, 12 BLR 1-181 (1989). If the date is not ascertainable from the record, benefits will commence the month the claim was filed, unless evidence establishes that the miner was not totally disabled due to pneumoconiosis at any subsequent time. 20 C.F.R. §725.503(b); *Green v. Director, OWCP*, 790 F.2d 1118, 9 BLR 2-32 (4th Cir. 1986); *Owens v. Jewell Smokeless Coal Corp.*, 14 BLR 1-47 (1990).

Because we have vacated the award of benefits, we vacate the administrative law judge's finding that claimant is entitled to benefits commencing as of April 2011, the month in which claimant filed this claim. Additionally, we agree with employer that the administrative law judge erred in ordering that benefits should commence as of the claim filing date, without first attempting to ascertain whether the evidence established the onset date of total disability due to pneumoconiosis. Employer's Brief at 14.

On remand, if the administrative law judge finds that claimant is entitled to benefits, he must determine if the evidence establishes the onset date of claimant's total disability due to pneumoconiosis. 20 C.F.R. §725.503(b); *Krecota*, 868 F.2d at 603, 12 BLR at 2-184; *Owens*, 14 BLR at 1-50. If the evidence does not establish this date, then benefits shall commence as of the date of filing, unless the evidence affirmatively establishes that claimant was not totally disabled due to pneumoconiosis for any period subsequent to the date of filing. *Id*.

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

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge