U.S. Department of Labor

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

BRB No. 18-0099 BLA

HENRY C. BOLLING	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
RHINO TRUCKING, LLC	)	DATE ISSUED: 07/26/2019
	)	
and	)	
	)	
KENTUCKY EMPLOYERS MUTUAL INSURANCE	)	
	)	
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 Awarding Benefits of William T. Barto, Administrative Law Judge, United States Department of Labor.

Stephen A. Sanders (Appalachian Citizens' Law Center), Whitesburg, Kentucky, for claimant.

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

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

PER CURIAM:

Employer/carrier (employer) appeals the Decision and Order Awarding Benefits (2012-BLA-05705) of Administrative Law Judge William T. Barto, rendered pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2012) (the Act). This case involves a miner's claim filed on April 22, 2011.

The administrative law judge found claimant established twenty-seven years of coal mine employment underground or in conditions substantially similar to those underground, and is totally disabled by a respiratory or pulmonary impairment pursuant to 20 C.F.R. §718.204(b)(2). He therefore found claimant invoked the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4) (2012).[1] He further found employer did not rebut the presumption and awarded benefits.

On appeal, employer contends the administrative law judge erred in finding that claimant established total disability and invoked the Section 411(c)(4) presumption, and that employer did not rebut the presumption. Claimant responds, urging affirmance of the award of benefits. The Director, Office of Workers' Compensation Programs, did not file a response brief in this appeal.[2]

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.[3] 33 U.S.C. §921(b)(3), as incorporated into the Act

[1] Under Section 411(c)(4) of the Act, claimant is entitled to a rebuttable presumption that he is totally disabled due to pneumoconiosis if he 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) (2012); *see* 20 C.F.R. §718.305.

[2] We affirm, as unchallenged on appeal, the administrative law judge's finding that claimant has twenty-seven years of qualifying coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

[3] This case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit, as claimant's coal mine employment was in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 3.

by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc*., 380 U.S. 359 (1965).

Invocation of the Section 411(c)(4) Presumption – Total Disability

A miner is totally disabled if his pulmonary or respiratory impairment, standing alone, prevents him from performing his usual coal mine work and comparable gainful work. *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on qualifying[4] pulmonary function or arterial blood gas studies, evidence of pneumoconiosis and 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 weigh all relevant supporting evidence against all relevant 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 the weight of the pulmonary function studies and medical opinions established total disability pursuant to 20 C.F.R. §718.204(b)(2)(i) and (iv).[5] Employer's challenges to these determinations lack merit.

Pulmonary Function Studies

The administrative law judge considered the results of three pulmonary function studies dated July 18, 2011, October 21, 2011 and March 29, 2012, each performed before and after the administration of bronchodilators.[6] Decision and Order at 9-10; Director's

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

[5] The administrative law judge found the blood gas study evidence insufficient to establish total disability as none of the blood gas studies yielded qualifying values. 20 C.F.R. §718.204(b)(2)(ii); Decision and Order at 10. As the record contains no evidence of complicated pneumoconiosis, pursuant to 20 C.F.R. §718.304, or cor pulmonale with right-sided congestive heart failure, he found claimant could not establish total disability pursuant to 20 C.F.R. §718.204(b)(1), (2)(iii). Decision and Order at 9.

[6] The administrative law judge resolved the height discrepancy recorded on the pulmonary function studies, finding that claimant's height is 72 inches. Decision and Order at 9; Hearing Transcript at 47. He further noted that 20 C.F.R. Part 718, Appendix B

Exhibits 10, 11; Employer's Exhibit 2. Dr. Alam's July 18, 2011 and Dr. Jarboe's March 29, 2012 studies yielded qualifying values before bronchodilation, but non-qualifying values after administering bronchodilators. Director's Exhibit 10; Employer's Exhibit 2. Dr. Dahhan's October 21, 2011 study yielded non-qualifying values both before and after bronchodilators. Director's Exhibit 11.

The administrative law judge gave determinative weight to the pre-bronchodilator studies and noted that two of three are qualifying. Decision and Order at 9; Director's Exhibit 10; Employer's Exhibit 2. He also gave greatest weight to the qualifying, March 29, 2012 pre-bronchodilator value as the most recent. Decision and Order at 9; Employer's Exhibit 2. Noting that "even the non-qualifying October 21, 2011 [study] was interpreted as demonstrating a moderate obstructive impairment," the administrative law judge found the preponderance of the pulmonary function studies supports a finding of total disability.[7] Decision and Order at 10; Director's Exhibit 11.

We reject employer's contention that because four of the six studies reflect non-qualifying values, the administrative law judge erred in finding the preponderance of the pulmonary function studies support total disability. Employer's Brief at 5. The administrative law judge considered all of the pulmonary function study results and permissibly found the pre-bronchodilator studies more probative. *See* 45 Fed. Reg. 13,682 (Feb. 29, 1980) (use of a bronchodilator does not provide an adequate assessment of the miner's disability, although it may aid in determining the presence or absence of pneumoconiosis); *see Jericol Mining, Inc. v. Napier*, 301 F.3d 703, 713-14, 22 BLR 2-537, 2-553 (6th Cir. 2002); *Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185, 12 BLR 2-121, 2-129 (6th Cir. 1989); Decision and Order at 9-10. In finding the preponderance of the pre-bronchodilator studies qualifying, the administrative law judge did not, as employer contends, consider the October 21, 2011 study to be qualifying. Rather, he found the July 2011 and March 2012 studies qualifying and the October 2011 study non-qualifying. Decision and Order at 10. While he also noted that "even the non-qualifying October 2011 exam showed a moderate obstructive impairment," employer has not explained how that statement conflicts with his finding that a preponderance of the studies is qualifying or

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provides table values for that height. *See Protopappas v. Director, OWCP*, 6 BLR 1-221, 1-223 (1983); Decision and Order at 9 n.68.

[7] The administrative law judge attributed this interpretation to Dr. Vuskovich. Decision and Order at 9. It appears, however, that Dr. Sood interpreted the October 21, 2011 pulmonary function study as valid and consistent with "moderately severe airflow obstruction." Claimant's Exhibit 6 at 4. He also correctly observed the pre-bronchodilator FEV1 value is qualifying. *Id.*

undermines his decision to give greatest weight to the most recent study from March 2012. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009) (holding that the appellant must explain how the "error to which [it] points could have made any difference"). We thus affirm the administrative law judge's finding that the weight of the pulmonary function studies supports a finding of a totally disabling respiratory or pulmonary impairment. *See Napier*, 301 F.3d at 713-14, 22 BLR at 2-553; *Crisp*, 866 F.2d at 185, 12 BLR at 2-129; Decision and Order at 11.

Medical Opinions

Before addressing the conflicting medical opinion evidence, the administrative law judge considered the exertional requirements of claimant's usual coal mine work as a sweeper truck and/or water truck driver. Decision and Order at 4, 18. Employer contends the administrative law judge failed to make specific findings regarding claimant's exact job requirements. Employer's Brief at 7-8. We disagree.

The administrative law judge noted claimant's job regularly required dragging a forty pound water hose and carrying containers filled with gallons of oil, and also required changing seventy to eighty pound tires monthly.[8] Decision and Order at 4, 18; Hearing Transcript at 31-38, 62. Based on these factors, he found claimant's usual coal mine employment as a sweeper or water truck driver required, on average, a moderate level of exertion, and involved heavy lifting once a month when he had to change tires. Decision and Order at 4, 18. As this finding is supported by substantial evidence, it is affirmed. *See Martin v. Ligon Preparation Co*., 400 F.3d 302, 305, 23 BLR 2-261, 2-283 (6th Cir. 2005).

The administrative law judge next considered the medical opinions of Drs. Sood, Alam, Fino, Jarboe, and Dahhan.[9] Decision and Order at 11-17. Drs. Sood and Alam opined claimant suffers from a totally disabling respiratory or pulmonary impairment.

[8] At the hearing claimant testified that he "had help" changing flat tires, and estimated that because one tire weighed about 70-80 pounds, he'd "probably have to lift about 40 pounds anyway." Hearing Transcript at 36.

[9] Despite employer's request to substitute the affirmative medical opinion of Dr. Fino for that of Dr. Dahhan, it appears the administrative law judge admitted both opinions, resulting in employer having three affirmative medical opinions, in excess of the evidentiary limitations. *See* 20 C.F.R. §725.414(a)(3)(i); Decision and Order at 3 n.12; Hearing Transcript at 16-18. Because the administrative law judge discredited Dr. Dahhan's opinion as not well-reasoned or well-documented, however, a finding employer does not challenge, error, if any, in the administrative law judge's weighing of this opinion is harmless. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

Director's Exhibit 10; Claimant's Exhibits 4, 5, 7. Drs. Fino, Jarboe, and Dahhan opined claimant is capable of performing his usual coal mine employment. Director's Exhibit 11; Employer's Exhibits 2, 4, 5, 6. The administrative law judge accorded greatest weight to Dr. Sood's opinion as well-documented and well-reasoned, and found it supported by Dr. Alam's opinion which he gave "some weight." Decision and Order at 15-16. In contrast, he discredited the opinions of Drs. Fino, Jarboe, and Dahhan as unsupported, inadequately explained, and/or not well-reasoned, and found the weight of the medical opinions supports a finding of total respiratory disability pursuant to 20 C.F.R. §718.204(b)(2)(iv). *Id*. at 17-18. Finally, weighing all of the relevant evidence together, the administrative law judge concluded claimant established total disability by a preponderance of the evidence, pursuant to 20 C.F.R. §718.204(b)(2). *Id*. at 18.

We reject employer's contention that the administrative law judge erred in relying on Dr. Sood's opinion because he did not examine claimant and lacked an adequate understanding of claimant's exertional requirements. Employer's Brief at 6-7. There is no requirement that a non-examining physician's opinion be given less weight than an examining physician's opinion. *See Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441, 21 BLR 2-269, 2-275 (4th Cir. 1997); *Collins v. J&L Steel* (*LTV Steel*), 21 BLR 1-181, 1-189 (1999). Rather, the determination of whether a medical opinion is adequately reasoned and documented is reserved for the administrative law judge as the factfinder. *Cumberland River Coal Co. v. Banks*, 690 F.3d 477, 489, 25 BLR 2-135, 2-152-53 (6th Cir. 2012); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-155 (1989) (en banc). In crediting Dr. Sood's opinion that claimant is totally disabled, the administrative law judge noted he based his opinion on a thorough review of the entire medical record. Decision and Order at 11-13, 15. He also found Dr. Sood provided a detailed analysis of claimant's FEV1 values and explained, with references to claimant's specific medical conditions and the specific requirements of claimant's last coal mine employment why he could not perform his job. *Id.* Contrary to employer's assertion, Drs. Sood did not simply opine claimant "could perform light and moderate work duties," but "may have difficulty changing a flat tire." Employer's Brief at 6. He specifically stated claimant's pre-bronchodilator FEV1 values, which "reflect the real world situation better," demonstrate he was likely able to "work light and limited moderate and unlikely to be able to work all moderate, heavy, very heavy, and arduous work." Claimant's Exhibit 6 at 11-12. Further, Dr. Sood concluded that claimant could "sit in a truck and drive" but could no longer perform the hardest parts of his job including "lifting a heavy water hose and changing a flat tire."[10] Decision and Order at 15; Claimant's Exhibit 6 at 12.

[10] We reject employer's assertion that Dr. Sood's opinion is not credible because the physician stated he was unaware of the specific metabolic requirements of claimant's job and overstated the exertion required of claimant when changing tires. Employer's Brief

It is the province of the finder-of-fact to evaluate and assess conflicting medical evidence, draw inferences, and assess probative value. *See Napier*, 301 F.3d at 713-714, 22 BLR at 2-553; *Crisp*, 866 F.2d at 185, 12 BLR at 2-129; *Director, OWCP v. Rowe*, 710 F.2d 251, 255, 5 BLR 2-99, 2-103 (6th Cir. 1983); *Clark*, 12 BLR at 1-155. In light of the administrative law judge's finding that claimant's job required moderate manual labor, including regularly dragging water hoses weighing forty pounds, he permissibly found Dr. Sood's opinion sufficiently reasoned and documented to support a finding of total disability. *See Moseley v. Peabody Coal Co.*, 769 F.2d 357, 360, 8 BLR 2-22, 2-25 (6th Cir. 1985).

Nor is there merit to employer's contention that the administrative law judge erred in evaluating Dr. Alam's opinion. Employer's Brief at 7. The administrative law judge noted Dr. Alam examined claimant in 2011 on behalf of the Department of Labor, subsequently became his treating physician, and also reviewed all of the evidence of record. Decision and Order at 11, 15-16. The administrative law judge acknowledged, however, that while Dr. Alam supported his conclusion that claimant is disabled by reference to his qualifying FEV1 values, his opinion was otherwise conclusory. *Id.* at 16. Because Dr. Alam's opinion was well-documented but less well-reasoned, the administrative law judge permissibly found it entitled to "some weight." *See Napier*, 301 F.3d at 713-714, 22 BLR at 2-553; *Crisp*, 866 F.2d at 185, 12 BLR at 2-129; *Rowe*, 710 F.2d at 255, 5 BLR at 2-103; *Clark*, 12 BLR at 1-155; Decision and Order at 16. In challenging that determination, employer is asking for a reweighing of the evidence, which the Board cannot do. *See Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989).

We further reject employer's contention that the administrative law judge erred in discrediting the opinions of Drs. Fino and Jarboe.[11] Employer's Brief at 7-8. Although claimant's pre-bronchodilator pulmonary function studies qualified for total disability, Dr. Fino opined claimant is not totally disabled based, in part, on his non-qualifying post-

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at 6-7, *referencing* claimant's Exhibit 6 at 11; Hearing Transcript at 36. Given Dr. Sood's opinion that claimant's FEV1 values prevent him from performing more than limited moderate labor or lifting the heavy water hose, which the administrative law judge found he was required to do, employer has not shown how these other factors undermine Dr. Sood's conclusion that claimant is totally disabled from his usual coal mine work. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009); *Larioni*, 6 BLR at 1-1278; Claimant's Exhibit 6 at12.

[11] As employer raises no specific challenge to the administrative law judge's determination to discredit Dr. Dahhan's opinion on the issue of disability, it is affirmed. *See Skrack*, 6 BLR 1-711; Decision and Order at 17.

bronchodilator values. Employer's Exhibit 4. The administrative law judge permissibly discredited Dr. Fino's opinion as contrary to his determination that the non-qualifying post-bronchodilator studies are not reliable indicators of whether claimant has a totally disabling respiratory or pulmonary impairment. *See* 45 Fed. Reg. at 13,682; *Rowe,* 710 F. 2d at 255, 5 BLR at 2-103; Decision and Order at 17. The administrative law judge also considered Dr. Fino's additional statement that, "forgetting about the [pulmonary function study] tables," claimant is still not sufficiently impaired to prevent him from performing his usual coal mine work. Employer's Exhibit 4. He permissibly found Dr. Fino did not adequately explain his opinion in view of the fact that qualifying pulmonary function studies may independently establish total disability, regardless of claimant's job requirements. 20 C.F.R. §718.204(b)(2)(i), (ii); *Crisp,* 866 F.2d at 185, 12 BLR at 2-129; *Rowe,* 710 F.2d at 255, 5 BLR at 2-103; Decision and Order at 18; Employer's Exhibit 4. Moreover, employer does not challenge these findings. *See Skrack v. Island Creek Coal Co.,* 6 BLR 1-710, 1-711 (1983).

The administrative law judge also permissibly discredited Dr. Jarboe's opinion because he relied, in part, on his mistaken belief that claimant's FEV1 values exceed the federal disability standards, when in fact all of claimant's pre-bronchodilator FEV1 values are qualifying, including Dr. Jarboe's own, and two of his three pulmonary function studies are qualifying overall. *Napier,* 301 F.3d at 713-714; *Sellards v. Director, OWCP*, 17 BLR 1-77, 1-80-81 (1993) (administrative law judge may discredit a physician's opinion that is based on an inaccurate or incomplete picture of the miner's health); Decision and Order at 17. We affirm this determination as both supported by substantial evidence and unchallenged on appeal. *See Martin*, 400 F.3d at 305, 23 BLR at 2-283; *Skrack*, 6 BLR at 1-711.

Because employer has not shown error in the administrative law judge's weighing of the medical opinions, we affirm his finding that claimant established total disability pursuant to 20 C.F.R. §718.204(b)(2)(iv). Decision and Order at 18. Further, contrary to employer's contention, the administrative law judge considered the evidence as a whole and permissibly found the weight of the pulmonary function studies and medical opinions establishes total disability pursuant to 20 C.F.R. §718.204(b)(2). *See Rafferty*, 9 BLR at 1-232; *Shedlock*, 9 BLR at 1-198; Decision and Order at 18; Employer's Brief at 8. We therefore affirm the administrative law judge's determination that claimant invoked the Section 411(c)(4) presumption. Decision and Order at 18.

Rebuttal of the Section 411(c)(4) Presumption

Because claimant invoked the Section 411(c)(4) presumption, the burden shifted to employer to establish that claimant has neither legal nor clinical pneumoconiosis,[12] or that "no part of [claimant's] respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] §718.201." 20 C.F.R. §718.305(d)(1)(i), (ii); *see Morrison v. Tenn. Consol. Coal Co.*, 644 F.3d 473, 480, 25 BLR 2-1, 2-9 (6th Cir. 2011). The administrative law judge found employer failed to establish rebuttal by either method.[13]

Legal Pneumoconiosis

To disprove legal pneumoconiosis, employer must establish claimant does not have a chronic lung disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §§718.201(a)(2), (b), 718.305(d)(1)(i)(A); *see Minich v. Keystone Coal Mining Co.*, 25 BLR 1-149, 1-155 n.8 (2015) (Boggs, J., concurring and dissenting). Drs. Fino, Jarboe, and Dahann opined claimant does not have legal pneumoconiosis but has an obstructive impairment due to the effects of cigarette smoking, asthma, or a combination of the two.[14] Decision and Order at 22-30. The administrative law judge discredited their opinions as not well-reasoned.

[12] "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). "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).

[13] Pursuant to 20 C.F.R. §718.305(d)(1)(i), the administrative law judge determined that employer rebutted clinical pneumoconiosis, but did not rebut legal pneumoconiosis. Decision and Order at 19-32.

[14] The administrative law judge also considered the medical opinions of Drs. Alam and Sood, both of whom diagnosed legal pneumoconiosis. Decision and Order at 26-30; Director's Exhibit 10; Claimant's Exhibits 4, 5, 6.

We reject employer's contention that the administrative law judge erred in discrediting the opinions of Drs. Fino and Jarboe.[15] Employer's Brief at 9. Dr. Fino stated that, taking into account claimant's lack of oxygen transfer abnormality, his normal diffusing capacity, and his significant improvement with bronchodilators, he "suspect[ed]" claimant's obstructive impairment is related to asthma. Employer's Exhibit 4 at 5-6. While he acknowledged claimant's minimally abnormal FEV1/FVC ratio "is consistent with asthma but . . . could also be consistent with coal mine dust related disease," he concluded he "[did] not believe that [claimant] has a coal dust related condition" but "instead believe[d] he has asthma (as stated above)." *Id.* at 6.

The administrative law judge accurately observed that legal pneumoconiosis includes, but is not limited to, any chronic restrictive or obstructive pulmonary disease arising out of coal mine dust exposure. Decision and Order at 24 n.174, *citing* 20 C.F.R. §718.201(a)(2). Thus, contrary to employer's argument, he permissibly discredited Dr. Fino's opinion, in part, because he failed to explain, or even address, whether claimant's asthma was caused by coal mine dust exposure. *Brandywine Explosives & Supply v. Director, OWCP* [*Kennard*], 790 F.3d 657, 668, 25 BLR 2-725, 2-739-40 (6th Cir. 2015); *Crisp*, 866 F.2d at 185, 12 BLR at 2-129; *Rowe*, 710 F.2d at 255, 5 BLR at 2-103; Decision and Order at 24.

Dr. Jarboe diagnosed an obstructive impairment due to the combined effects of cigarette smoking and asthma. Employer's Exhibits 2, 6. He opined that coal mine dust exposure was not a causative factor for claimant's asthma because medical literature indicates that asthma is a disease of the general public. Employer's Exhibits 2 at 9-10; 6 at 6-7. In rejecting Dr. Jarboe's opinion, the administrative law judge permissibly found he did not adequately explain why claimant's asthma was not substantially aggravated by coal mine dust exposure. *See* 20 C.F.R. §§718.201(a)(2), (b); *Crockett Collieries, Inc. v. Barrett*, 478 F.3d 350, 356, 23 BLR 2-472, 2-483 (6th Cir. 2007); *Napier*, 301 F.3d at 713-14; *Crisp*, 866 F.2d at 185; Decision and Order at 25-26. Moreover, employer raises no specific challenge to this determination. *See Skrack*, 6 BLR at 1-711; Employer's Brief at 9.

Substantial evidence supports the administrative law judge's credibility determinations; the Board is not empowered to reweigh the evidence. *See Martin*, 400 F.3d at 305, 23 BLR at 2-283); *Anderson*, 12 BLR at 1-113. As the administrative law judge permissibly discredited the only opinions supportive of a finding claimant does not

[15] As employer raises no specific challenge to the administrative law judge's determination to discredit Dr. Dahhan's opinion as to the existence legal pneumoconiosis, it is affirmed. *See Skrack*, 6 BLR 1-711; Decision and Order at 23.

have legal pneumoconiosis, we affirm his finding employer failed to rebut the Section 411(c)(4) presumption by establishing claimant does not have pneumoconiosis.[16] 20 C.F.R. §718.305(d)(1)(i).

Disability Causation

The administrative law judge next addressed whether employer established rebuttal by proving "no part of the miner's respiratory or pulmonary total disability was caused by pneumoconiosis as defined in [20 C.F.R.] § 718.201." 20 C.F.R. §718.305(d)(1)(ii). The administrative law judge rationally found that the same reasons undercutting the opinions of Drs. Fino, Jarboe, and Dahhan on the issue of legal pneumoconiosis also undercut their opinions that claimant's disabling respiratory impairment is not caused by the disease. *See Kennard*, 790 F.3d at 668, 25 BLR at 2-739-40; *Island Creek Kentucky Mining v. Ramage*, 737 F.3d 1050, 25 BLR 2-453 (6th Cir. 2013); Decision and Order at 40.

Employer raises no separate causation argument not previously addressed with regard to the administrative law judge's finding of legal pneumoconiosis. We, therefore, affirm the administrative law judge's determination that employer failed to rebut disability causation. *See* 20 C.F.R. §718.305(d)(1)(ii).

[16] Because the administrative law judge provided valid reasons for discrediting the opinions of Drs. Fino and Jarboe, we need not address employer's remaining arguments regarding the weight accorded to their opinions. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983).

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

SO ORDERED.

JUDITH S. BOGGS, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge