

BRB No. 02-0751 BLA

EVELYN LESTER)	
(Widow of BILLY LESTER))	
)	
Claimant-Petitioner)	
)	
v.)	
)	
KRISTI ANN COAL COMPANY,)	DATE ISSUED:
)	
INCORPORATED)	
)	
and)	
)	
WEST VIRGINIA COAL WORKERS')	
PNEUMOCONIOSIS FUND)	
)	
Employer/Carrier-)	
Respondents)	
)	
DIRECTOR, OFFICE OF WORKERS')	
COMPENSATION PROGRAMS, UNITED)	
STATES DEPARTMENT OF LABOR)	
)	
Party-in-Interest)	DECISION and ORDER

Appeal of the Decision and Order - Denying Benefits of Daniel L. Leland, Administrative Law Judge, United States Department of Labor.

S. F. Raymond Smith (Rundle & Rundle, L.C.), Pineville, West Virginia, for claimant.

Robert Weinberger (West Virginia Coal-Workers' Pneumoconiosis Fund), Charleston, West Virginia, for carrier.

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

Claimant, the miner's widow, appeals the Decision and Order - Denying Benefits (00-BLA-1063) of Administrative Law Judge Daniel L. Leland rendered 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).¹ The administrative law judge found twenty years of coal mine employment and based on the date of filing, adjudicated the claim pursuant to 20 C.F.R. Part 718.² The administrative law judge found that the evidence was insufficient to establish that the miner's death was due to pneumoconiosis pursuant to Section 718.205(c). Accordingly, benefits were denied.

On appeal, claimant contends that the administrative law judge erred in finding that the evidence was insufficient to establish that the miner's death was due to pneumoconiosis. Carrier responds, urging affirmance of the denial of benefits. The Director, Office of Workers' Compensation Programs (the Director), is not participating in this appeal.

The Board's scope of review is defined by statute. If the administrative law judge's findings of fact and conclusions of law are supported by substantial evidence, are rational, and are consistent with applicable law, they are binding upon this Board and may not be disturbed. 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keefe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

To establish entitlement to survivor's benefits, claimant must establish that the miner suffered from pneumoconiosis, that the pneumoconiosis arose out of coal mine employment, and that the miner's death was due to pneumoconiosis. 20 C.F.R. §§718.3, 718.202, 718.203, 718.205(a); see *Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85 (1993); *Haduck v. Director, OWCP*, 14 BLR 1-29 (1990); *Boyd v. Director, OWCP*, 11 BLR 1-39 (1988). For survivors' claims filed on or after January 1, 1982, death will be considered to be due to pneumoconiosis if pneumoconiosis was the cause of the miner's death, pneumoconiosis was a substantially contributing cause or factor leading to the miner's death, death was caused by complications of pneumoconiosis, or the presumption, relating to complicated pneumoconiosis, set forth at Section 718.304, is applicable. 20 C.F.R. §718.205(c)(1)-(4). Pneumoconiosis is a substantially contributing cause of the miner's death if it hastens the miner's death. 20 C.F.R. §718.205(c)(5); see *Shuff v. Cedar Coal Co.*, 969 F.2d 911-80, 16 BLR 2-90, 2-92-93 (4th Cir. 1992), *cert denied*, 506 U.S. 1050

¹ The Department of Labor has amended the regulations implementing the Federal Coal Mine Health and Safety Act of 1969, as amended. These regulations became effective on January 19, 2001 and are found at 20 C.F.R. Parts 718, 722, 725 and 726 (2002). All citations to the regulations, unless otherwise noted, refer to the amended regulations.

² The miner was awarded benefits on a claim filed November 21, 1984. Director's Exhibit 14-22. The miner died on April 24, 2000. Director's Exhibit 5. Based on the filing date of the miner's claim, claimant is not entitled to derivative benefits. *Neeley v. Director, OWCP*, 11 BLR 1-85 (1987). Claimant filed the instant survivor's claim for benefits on May 18, 2000.

(1993).

Claimant contends that the administrative law judge erred in rejecting Dr. Mamidi's opinion and crediting the opinions of Drs. Hansbarger, Gaziano, and Delara. Contrary to claimant's contention, the administrative law judge is not required to accord greater weight to the opinion of a treating physician solely because he is the treating physician, when the administrative law judge finds the treating physician's opinion is unreasoned. See *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 21 BLR 2-323 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 21 BLR 2-269 (4th Cir. 1997); *Tedesco v. Director, OWCP*, 18 BLR 1-103 (1994). In considering the medical opinions in this case, the administrative law judge, while noting that Dr. Mamidi treated the miner for eight years before his death, accorded Dr. Mamidi's opinion little weight because he did not offer a basis for finding that coal workers' pneumoconiosis contributed to the miner's death. Dr. Mamidi listed brain tumor as the cause of death, with coal workers' pneumoconiosis and hypertension contributing to death, on the death certificate. Director's Exhibit 5. In addition, the administrative law judge noted that, while Dr. Mamidi, in his September 20, 2000 report, stated that the miner's "coal workers' pneumoconiosis contributed to his morbidity with shortness of breath," based on the history given him by the miner and his family, Dr. Mamidi did not explain how pneumoconiosis was a factor in the miner's death due to brain tumor. Claimant's Exhibit 1. The administrative law judge, therefore, found that the opinion was poorly reasoned. This was rational. Claimant's Exhibit 1; see *Bill Branch Coal Co. v. Sparks*, 213 F.3d 186, 22 BLR 2-251 (4th Cir. 2000); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987). Because the administrative law judge rationally rejected the only opinion supportive of a finding of death due to pneumoconiosis, claimant has failed to establish entitlement in this survivor's claim, see *Director, OWCP v. Greenwich Collieries [Ondecko]*, 114 S.Ct. 2251, 18 BLR 2A-1 (1994), *aff'g sub nom. Greenwich Collieries v. Director, OWCP*, 990 F.2d 730, 17 BLR 2-64 (3d Cir. 1993), and we need not consider claimant's arguments concerning the contrary opinions of Drs. Hansbarger, Gaziano, and Delara. See *Larioni v. Director, OWCP*, 6 BLR 1-1276 (1984). We, therefore, affirm the administrative law judge's finding that the evidence is insufficient to establish death due to pneumoconiosis.

Accordingly, the administrative law judge's Decision and Order - Denying Benefits in this survivor claim is affirmed.

SO ORDERED.

NANCY S. DOLDER, Chief
Administrative Appeals Judge

ROY P. SMITH
Administrative Appeals Judge

PETER A. GABAUER, Jr.
Administrative Appeals Judge