BRB No. 12-0444 BLA

LAWRENCE HUSTON SIMMS	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
MARFORK COAL COMPANY, INCORPORATED	)	DATE ISSUED: 06/18/2013
	)	
and	)	
	)	
A.T. MASSEY	)	
	)	
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 Michael P. Lesniak, Administrative Law Judge, United States Department of Labor.

John Cline, Piney View, West Virginia, for claimant.

William S. Mattingly and Tiffany B. Davis (Jackson Kelly PLLC), Morgantown, West Virginia, for employer.

Emily Goldberg-Kraft (M. Patricia Smith, Solicitor of Labor; Rae Ellen James, Associate Solicitor; Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Employer appeals the Decision and Order - Awarding Benefits (2011-BLA-5110) of Administrative Law Judge Michael P. Lesniak rendered on a claim filed on December 10, 2009, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (Supp. 2011) (the Act). The administrative law judge credited claimant with thirty-four years of coal mine employment, with thirty of those years spent working underground, and adjudicated this claim under 20 C.F.R. Part 718. The administrative law judge found that claimant established total respiratory disability pursuant to 20 C.F.R. §718.204(b). Based on this finding, and claimant's thirty year history of underground coal mine employment, the administrative law judge found that claimant invoked the rebuttable presumption of total disability due to pneumoconiosis set forth in amended Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4).[1] The administrative law judge further found that employer failed to establish rebuttal of the presumption. Accordingly, the administrative law judge awarded benefits.

On appeal, employer asserts that retroactive application of amended Section 411(c)(4) is unconstitutional. Employer contends that the administrative law judge erred in finding that claimant established a totally disabling respiratory or pulmonary impairment for invocation of the amended Section 411(c)(4) presumption. Employer also contends that the administrative law judge did not properly weigh the relevant evidence in determining that employer did not rebut the presumption. Claimant responds in support of the award of benefits. The Director, Office of Workers' Compensation Programs, has filed a limited brief, urging the Board to reject employer's arguments concerning the constitutionality and applicability of amended Section 411(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,

[1] Congress enacted amendments to the Black Lung Benefits Act, which apply to claims filed after January 1, 2005, that were pending on or after March 23, 2010. Relevant to this case, amended Section 411(c)(4) provides a rebuttable presumption of total disability due to pneumoconiosis if claimant establishes that he worked at least fifteen years in underground coal mine employment, or in conditions substantially similar to those of an underground mine, and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4), *amended by* Pub. L. No. 111-148, §1556(a), 124 Stat. 119, 260 (2010).

and is in accordance with applicable law.[2] 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

I. Application of the Section 411(c)(4) Presumption

We reject employer's argument that retroactive application of amended Section 411(c)(4) is a violation of due process and results in an unconstitutional taking of private property. *See W. Va. CWP Fund v. Stacy*, 671 F.3d 378, 25 BLR 2-65 (4th Cir. 2011), *cert. denied*, 568 U.S. (2012); *see also Keene v. Consolidation Coal Co.*, 645 F.3d 844, 24 BLR 2-385 (7th Cir. 2011); *B & G Constr. Co. v. Director, OWCP* [*Campbell*], 662 F.3d 233, 25 BLR 2-13 (3d Cir. 2011). We also reject employer's allegation that the rebuttal provisions of amended Section 411(c)(4) do not apply to a claim brought against a responsible operator. The courts have consistently ruled that amended Section 411(c)(4), including the language pertaining to rebuttal, applies to operators, despite the reference therein to "the Secretary." 30 U.S.C. §921(c)(4); *see Usery v. Turner Elkhorn Mining Co*., 428 U.S. 1, 37-38, 3 BLR 2-36, 2-58-59 (1975); *Morrison v. Tenn. Consol. Coal Co.*, 644 F.3d 473, 25 BLR 2-1 (6th Cir. 2011); *Rose v. Clinchfield Coal Co.*, 614 F.2d 936, 2 BLR 2-38 (4th Cir. 1980); *see Owens v. Mingo Logan Coal Co.*, 25 BLR 1-1, 1-4 (2011), *appeal docketed*, No. 11-2418 (4th Cir. Dec. 29, 2011).

Further, we reject employer's assertion that it was premature for the administrative law judge to find that employer failed to rebut the amended Section 411(c)(4) presumption when neither the administrative law judge, nor the parties, had the benefit of guidance from the Department of Labor (DOL), in the form of implementing regulations concerning the standard required to establish rebuttal. The mandatory language of the amended portions of the Act supports the conclusion that their provisions are self-executing. *Mathews v. United Pocahontas Coal Co.*, 24 BLR 1-193, 1-201 (2010), *recon. denied*, BRB No. 09-0666 BLA (Apr. 14, 2011) (Order), *appeal docketed*, No. 11-1620 (4th Cir. June 13, 2011); *see also Hanson v. Marine Terminals Corp.*, 307 F.3d 1139, 1141-42 (9th Cir. 2002); *Ala. Power Co. v. FERC*, 160 F.3d 7, 12-14 (D.C. Cir. 1998).

Accordingly, we affirm the administrative law judge's consideration of the present claim, which was filed after January 1, 2005, and was pending on March 23, 2010, pursuant to amended Section 411(c)(4).

[2] Because claimant's coal mine employment was in West Virginia, 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, 1-202 (1989) (en banc); Director's Exhibits 7, 9, 10.

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

A. Claimant's Usual Coal Mine Work

Pursuant to 20 C.F.R. §718.204(b), the administrative law judge first considered the evidence relevant to claimant's usual coal mine work.[3] The administrative law judge noted that claimant spent thirty years underground as a shuttle car operator before switching to an aboveground position for four years as a purchasing clerk/utility man. Decision and Order at 11. The administrative law judge further noted that claimant requested to be transferred from his job as a shuttle car operator, "specifically because he was having difficulty breathing underground, especially when hanging the miner cable." *Id*.; *see* Hearing Transcript at 11-12. The administrative law judge concluded that claimant's testimony was sufficient to establish that he was "physically unable to perform his customary duties as a shuttle car operator, which required him to manipulate the miner cable multiple times per shift." Decision and Order at 11. The administrative law judge concluded, therefore, that claimant's usual coal mine employment was as a shuttle car operator, rather than a clerk/utility man. *Id*.

The administrative law judge then found that there was no evidence of complicated pneumoconiosis, *see* 20 C.F.R. §718.304, that the pulmonary function studies produced non-qualifying[4] values, *see* 20 C.F.R. §718.204(b)(2)(i), and that there was no evidence that claimant suffers from cor pulmonale with right-sided congestive heart failure, *see* 20 C.F.R. §718.204(b)(2)(iii). Decision and Order at 4, 12; Director's Exhibit 12; Claimant's Exhibit 5; Employer's Exhibit 2. Pursuant to 20 C.F.R. §718.204(b)(2)(ii), the administrative law judge weighed blood gas studies dated January 12, 2010 and July 26, 2010. Decision and Order at 4, 12; Claimant's Exhibit 12; Employer's Exhibit 2. The administrative law judge credited Dr. Rasmussen's January 12, 2010 study, which produced qualifying values after exercise, and concluded that

[3] In pertinent part, the regulations provide that "a miner shall be considered totally disabled if the miner has a pulmonary or respiratory impairment which, standing alone, prevents or prevented the miner . . . [f]rom performing his or her usual coal mine work." 20 C.F.R. §718.204(b)(1)(i). The Board has interpreted "usual coal mine work" to mean the most recent job the miner performed regularly and over a substantial period of time. *See Pifer v. Florence Mining Co.*, 8 BLR 1-153, 1-155 (1985); *Shortridge v. Beatrice Pocahontas Coal Co.*, 4 BLR 1-534, 1-539 (1982).

[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 and C. A "non-qualifying" pulmonary function test or arterial blood gas study yields values that exceed those values. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

claimant established total disability under 20 C.F.R. §718.204(b)(2)(ii). Decision and Order at 12; Claimant's Exhibit 12. In considering the medical opinion evidence at 20 C.F.R. §718.204(b)(2)(iv), the administrative law judge found that the opinions of Drs. Rasmussen, Cohen and Crisalli were sufficient to establish that claimant is totally disabled. Decision and Order at 12-14; Director's Exhibit 12; Claimant's Exhibits 5, 10; Employer's Exhibits 2, 3. Weighing all of the evidence together, the administrative law judge concluded that claimant satisfied his burden to establish that he is totally disabled and, thus, invoked the amended Section 411(c)(4) rebuttable presumption. Decision and Order at 14.

Employer contends initially that the administrative law judge erred in finding that claimant's usual coal mine work was as a shuttle car operator, as there is no evidence establishing that claimant was transferred to the lighter duty position of purchasing clerk/utility man because he was physically incapable of performing his job as a shuttle car operator. This contention lacks merit. Claimant testified that, as a shuttle car operator, he was required to haul coal from the continuous miner to the feeder, help move the miner cable at least eight times a shift and hang ventilation curtains, in addition to operating the shuttle car. Hearing Transcript at 12. He further stated that he requested to be switched to the aboveground position of purchasing clerk/utility man because he was having difficulty breathing underground; specifically, that he would "get winded and I couldn't breathe" when helping to hang the miner cable or doing other work. *Id*. Claimant also testified that he could not perform that job now because he "would be too winded." *Id*. at 14.

The administrative law judge rationally relied on this testimony to find that claimant was transferred from his job as a shuttle car operator to a lighter duty position, based on his inability to perform the duties of a shuttle car operator, from a respiratory standpoint. *See Underwood v. Elkay Mining, Inc.*, 105 F.3d 946, 951, 21 BLR 2-23, 2-31-32 (4th Cir. 1997); *Grizzle v. Pickands Mather & Co.*, 994 F.2d 1093, 1096, 17 BLR 2-123, 2-127 (4th Cir. 1993); *Piney Mountain Coal Co. v. Mays*, 176 F.3d, 21 BLR 2-587 (4th Cir. 1999). Thus, we affirm, as being within his discretion as trier-of-fact, the administrative law judge's determination that claimant's usual coal mine work was as a shuttle car operator, rather than as a purchasing clerk/utility man. *See Mazgaj v. Valley Camp Coal Co.*, 9 BLR 1-201 (1986); *Pifer v. Florence Mining Co.*, 8 BLR 1-153, 1-155 (1985); *Daft v. Badger Coal Co.*, 7 BLR 1-124, 1-127 (1984). We also affirm, as supported by substantial evidence, the administrative law judge's finding that the exertional requirements of claimant's usual coal mine employment as a shuttle car operator were "more strenuous than [claimant's] aboveground position" and required moderate to heavy labor. Decision and Order at 11 n.14, 13; *see Bartley v. L & M Coal Co.*, 7 BLR 1-243 (1984).

B. 20 C.F.R. §718.204(b)(2)(ii)

Employer also alleges that the administrative law judge erred in finding that claimant established total disability pursuant to 20 C.F.R. §718.204(b)(2)(ii), as he did not weigh all of the arterial blood gas studies of record. This contention has merit. In his Decision and Order, the administrative law judge listed results from studies dated January 12, 2010 and July 26, 2010. Decision and Order at 4; Claimant's Exhibit 12; Employer's Exhibit 2. However, claimant's treatment records, which were admitted into evidence, contain blood gas studies administered on March 29, 2002 and January 3, 2010, both of which yielded non-qualifying values at rest and during exercise.[5] Claimant's Exhibit 2 at 1-2; Hearing Transcript at 5-6. Claimant acknowledges that the administrative law judge did not consider the latter study, but argues that the omission was justified, as claimant's exercise level was submaximal and the complete results of the test are not in the record. Claimant further asserts that substantial evidence supports the administrative law judge's finding that the evidence of record, as a whole, supported a finding of total disability.

The Administrative Procedure Act (APA), 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), requires that an administrative law judge weigh all relevant evidence of record and provide an explanation for his findings of fact and conclusions of law. *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162 (1989). Because the administrative law judge did not specifically identify and render findings with respect to all of the blood gas study evidence, we must vacate his determination that claimant established total disability at 20 C.F.R. §718.204(b)(2)(ii). *See Wojtowicz*, 12 BLR at 1-165; *Brewster v. Director, OWCP*, 7 BLR 1-120, 1-123 (1984). Furthermore, because the Board cannot engage in the initial consideration of evidence, we cannot do as claimant urges and determine that the January 3, 2010 blood gas study is nonconforming and, therefore, of insufficient probative value to change the administrative law judge's finding that claimant established total disability at 20 C.F.R. §718.204(b)(2). *See Anderson Valley Camp of Utah, Inc.*, 12 BLR 1-111 (1989); *Worley v. Blue Diamond Coal Co.*, 12 BLR 1-20 (1988). We, therefore, remand

[5] In a progress note dictated on January 3, 2010, Dr. Figueroa indicated that claimant was seen in his office for a cardiopulmonary examination and stated, "[claimant's] arterial gasses did reveal a resting pH of 10.41, pCO2 82 with a carboxyhemoglobin of 1.0. His bicarbonate was 22.5. At maximal effort [claimant's] pH was 7.44, pCO2 of 33, pO_2 of 77 with a bicarbonate of 22.7." Claimant's Exhibit 2 at 2. Dr. Figueroa also indicated that claimant's "stress test" was "submaximal" due to poor effort. *Id*. Claimant's treatment records contain a report of a March 29, 2002 blood gas study, indicating that a test performed at 9:45 a.m. produced a pH of 7.44, a pO2 of 79.4 and a pCO2 of 39, while a test performed at 10:00 a.m. produced a pH of 7.34, a pO2 of 103.4 and a pCO2 of 30.5. Claimant's Exhibit 7 at 12. The report does not indicate whether the second test was performed after exercise. *Id*.

the case to the administrative law judge for consideration of all of the blood gas study evidence under 20 C.F.R. §718.204(b)(2)(ii).

On remand, the administrative law judge should consider whether the March 29, 2002 and January 3, 2010 blood gas studies are qualifying for total disability pursuant to Appendix C to 20 C.F.R. Part 718, and further determine if they are reliable for reaching a determination as to whether claimant is totally disabled.[6] If the administrative law judge concludes that these studies are entitled to weight, he must consider them with the other blood gas studies of record, to determine whether total disability is established under 20 C.F.R. §718.204(b)(2)(ii).[7]

C. 20 C.F.R. §718.204(b)(2)(iv)

Pursuant to 20 C.F.R. §718.204(b)(2)(iv), the administrative law judge considered the reports of Drs. Crisalli, Spagnolo, Rasmussen and Cohen, as well as claimant's treatment records. Decision and Order at 13-14. In an October 26, 2010 report, Dr. Crisalli opined that, from a pulmonary standpoint, claimant is not capable of performing medium work, but could perform light work. Employer's Exhibit 2. In a May 30, 2011 consultative report, Dr. Spagnolo attributed claimant's pulmonary condition to asthma and cardiac disease and stated that claimant's decreased pO_2 on exercise was likely an

---

[6] The quality standards set forth in 20 C.F.R. §718.105 are not applicable to the March 29, 2002 and January 3, 2010 studies, as those standards apply only to evidence developed in connection with a claim for benefits. *See* 20 C.F.R. §718.101(b); *J.V.S.* [*Stowers*] *v. Arch of W. Va.*, 24 BLR 1-78, 1-89, 1-92 (2008). The comments to the revised regulations explain that evidence not subject to the quality standards must still be assessed for reliability by the fact finder:

> The Department note[s] that [20 C.F.R.] §718.101 limits the applicability of the quality standards to evidence "developed * * * in connection with a claim for benefits" governed by 20 CFR [P]arts 718, 725, or 727. Despite the inapplicability of the quality standards to certain categories of evidence, the adjudicator still must be persuaded that the evidence is reliable in order for it to form the basis for a finding of fact on an entitlement issue.

65 Fed. Reg. 79,928 (Dec. 20, 2000).

[7] The administrative law judge made findings at 20 C.F.R. §718.204(b)(2)(ii) that were relevant to the cause of the impairment revealed on claimant's blood gas studies. Decision and Order at 12-13; *see* discussion *infra*. On remand, the administrative law judge should determine only whether the blood gas studies of record establish the presence of a totally disabling impairment under the criteria set forth in Appendix C to 20 C.F.R. Part 718.

effect of Terazosin, one of claimant's medications, but he did not indicate whether claimant is able to perform his usual coal mine employment. Employer's Exhibit 3. In reports dated January 12, 2010 and May 9, 2011, Dr. Rasmussen opined that claimant has "marked loss of lung function" and "does not retain the pulmonary capacity to perform his regular coal mine employment." Director's Exhibit 12; Claimant's Exhibit 10. In a consultative report dated June 15, 2011, Dr. Cohen opined that claimant had a significant gas exchange abnormality with exercise and could not perform his last coal mining job. Claimant's Exhibit 11.

The administrative law judge gave "significant weight" to the opinions of Drs. Rasmussen and Cohen, while noting that they were based on a consideration of the less strenuous exertional requirements of claimant's aboveground work as a clerk/utility man. Decision and Order at 13. The administrative law judge also found that Dr. Crisalli's opinion, that claimant's pulmonary impairment would prevent him from performing moderate labor, supported a finding of total disability, based on the administrative law judge's determination that claimant's job as a shuttle car operator "required continual moderate if not heavy labor." *Id*. The administrative law judge noted that Dr. Spagnolo did not offer an opinion as to whether claimant is totally disabled. *Id*. The administrative law judge concluded, based upon the opinions of Drs. Rasmussen, Cohen and Crisalli, that claimant established that he is totally disabled pursuant to 20 C.F.R. §718.204(b)(2)(iv). *Id*. at 13-14.

Employer argues that the administrative law judge erred in determining that Dr. Crisalli's opinion supported a finding of total disability, as claimant's usual coal mine work was that of a clerk, which required only light labor. Based on our affirmance of the administrative law judge's finding that claimant's usual coal mine work was as a shuttle car operator, which required moderate to heavy labor, we hold that the administrative law judge rationally found that Dr. Crisalli's statement that claimant is unable to perform medium or moderate labor supported a finding of total disability. *See Underwood*, 105 F.3d at 951, 21 BLR at 2-31-32; *Lane v. Union Carbide Corp.*, 105 F.3d 166, 21 BLR 2-34 (4th Cir. 1997).

However, because we have vacated the administrative law judge's determination that the blood gas study evidence was sufficient to establish total disability pursuant to 20 C.F.R. §718.204(b)(2)(ii), we must also vacate his finding that the medical opinion evidence was sufficient to establish total disability at 20 C.F.R. §718.204(b)(2)(iv), as it was based, in part, upon the his incomplete consideration of the blood gas studies of record. On remand, after determining whether the blood gas study evidence is sufficient to establish total disability at 20 C.F.R. §718.204(b)(2)(ii), the administrative law judge must reconsider the medical opinion evidence at 20 C.F.R. §718.204(b)(2)(iv). In weighing the medical opinion evidence, the administrative law judge must specifically address the comparative credentials of the respective physicians, the explanations for

their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their opinions. *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).

D. Weighing the Contrary Probative Evidence

In light of the foregoing, we must vacate the administrative law judge's determination that the evidence supportive of a finding of total disability at 20 C.F.R. §718.204(b)(2) outweighed the contrary probative evidence and, therefore, claimant established total disability and invocation of the amended Section 411(c)(4) presumption. Decision and Order at 14. On remand, the administrative law judge must reassess these issues, based on his findings at 20 C.F.R. §718.204(b)(2)(ii) and (iv). If the administrative law judge determines that claimant has not established total disability and is not entitled to invocation of the amended Section 411(c)(4) presumption, an award of benefits under 20 C.F.R. Part 718 is precluded. *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (en banc).

III. Rebuttal of the Amended Section 411(c)(4) Presumption

Although the administrative law judge may not reach the issue of rebuttal on remand, in the interest of promoting judicial efficiency, we also address employer's assertion that the administrative law judge erred in finding that it did not rebut the amended Section 411(c)(4) presumption. When addressing the blood gas studies at 20 C.F.R. §718.204(b)(2)(ii), the administrative law judge observed that there was a conflict in the medical opinions of Drs. Spagnolo, Crisalli and Rasmussen as to whether the cause of claimant's gas exchange impairment was due to pulmonary disease or cardiac disease. The administrative law judge specifically assigned controlling weight to Dr. Rasmussen's opinion that coal dust exposure was a contributing cause of claimant's disabling respiratory or pulmonary impairment.[8] Decision and Order at 12-13; Director's Exhibit

---

[8] Dr. Spagnolo attributed the exercise blood gas anomalies to cardiac disease and claimant's use of Terazosin, stating:

> Terazosin is an alpha-blocker and works by relaxing the smooth muscle (vasodilator) in blood vessels and [the] smooth muscle of the urinary bladder. It is used to treat benign prostatic hyperplasia in men and to treat high blood pressure in both men and women. Terazosin has an effect on the blood vessels of the lung and can produce alteration of ventilation/perfusion ratios.

12; Claimant's Exhibit 10; Employer's Exhibits 2, 3. The administrative law judge also gave weight to Dr. Karam's opinion, over that of Dr. Spagnolo, to find that claimant does not have cardiac disease. Decision and Order at 13; Claimant's Exhibit 4 at 7. In determining whether employer rebutted the amended Section 411(c)(4) presumption, the administrative law judge relied, in part, upon his credibility determinations at 20 C.F.R. §718.204(b)(2)(ii) to find that employer failed to prove that claimant's total disability did not arise out of, or in connection with, his coal mine employment.[9] *Id*. at 14-15.

Employer argues that the administrative law judge erred in discrediting Dr. Spagnolo's opinion without considering his explanation of how claimant's use of Terazosin caused the abnormalities shown on claimant's exercise blood gas study. Employer further contends that the administrative law judge erred in finding that Dr. Rasmussen's qualifications are essentially equal to those of Dr. Crisalli, based on his years of experience in treating miners.[10] These contentions have merit.

Employer's Exhibit 3 at 4-5. Dr. Crisalli identified the cause of the abnormal blood gas results as pulmonary hypertension. Employer's Exhibit 3.

[9] We affirm the administrative law judge's finding that employer failed to rebut the amended Section 411(c)(4) presumption by proving that claimant is not suffering from pneumoconiosis, as it is unchallenged on appeal. *See Skrack v. Island Creek Coal Co*., 6 BLR 1-710 (1983); Decision and Order at 16-17.

[10] The administrative law judge observed that "[t]he record contains [claimant's] actual stress and echocardiogram results" and noted that "Dr. Karam, who is board certified in internal medicine and cardiology, stated, that, based on these tests, he did not believe that [claimant's symptoms were cardiac in nature." Decision and Order at 9 n. 12; *see* Claimant's Exhibit 4. We reject employer's contention that the administrative law judge erred in finding Dr. Karam "to be the most qualified to address whether the miner's cardiac condition contributed to his dyspnea." Decision and Order at 14. Contrary to employer's assertion, the administrative law judge permissibly relied on Dr. Karam's letterhead to find that he is Board-certified in cardiology. Employer sets forth no evidence refuting the accuracy of this information. *See Worhach v. Director, OWCP*, 17 BLR 1-105, 1-108 (1983). We also reject employer's assertion that the administrative law judge did not properly apply 20 C.F.R. §718.104(d) in considering the weight to accord Dr. Karam's opinion, as the administrative law judge's credibility determination with respect to Dr. Karam did not pertain to his status as a treating physician. Decision and Order at 13. Because the administrative law judge found that Dr. Karam's opinion was supported by the objective testing he reviewed, we affirm the administrative law judge's credibility determination. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533, 21 BLR 2-323, 2-335 (4th Cir. 1998).

In assessing the probative value of Dr. Spagnolo's opinion, the administrative law judge stated, "I give little weight to Dr. Spagnolo's suggestion that [claimant's] medication caused his breathing impairment, as there is no evidence of this phenomenon elsewhere in the record. Therefore, I find his opinion speculative and poorly reasoned." Decision and Order at 13. As employer contends, however, the fact that Dr. Spagnolo was the only physician who discussed the effect of claimant's medication on his gas exchange values does not, per se, render his opinion speculative or unreasoned. *See Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987); *Fuller v. Gibraltar Coal Corp.*, 6 BLR 1-1291 (1984). The administrative law judge should have determined whether Dr. Spagnolo's opinion was adequately reasoned by addressing the extent to which his explanation of the process by which Terazosin decreased claimant's exercise pO2 was supported by underlying documentation. *See Hicks*, 138 F.3d at 533, 21 BLR at 2-335; *Akers*, 131 F.3d at 441, 21 BLR at 2-275-76. Accordingly, we vacate the administrative law judge's discrediting of Dr. Spagnolo's opinion regarding the cause of claimant's blood gas study results.

We also agree with employer that the administrative law judge did not adequately explain his determination that Dr. Rasmussen's status as a Board-certified internist was equivalent to Dr. Crisalli's status as a Board-certified pulmonologist. Decision and Order at 13. Although the administrative law judge acted within his discretion in finding that a physician's experience in examining and treating miners is a relevant factor, he did not explain why Dr. Crisalli's experience, in addition to his certification in pulmonary medicine, did not merit additional weight. In addition, the administrative law judge erred by not addressing whether Dr. Crisalli's positions as an associate professor of medicine at West Virginia University and chief of pulmonology medicine at Charleston Area Medical Center entitle his opinion to additional weight. Employer's Exhibit 3. Accordingly, because the administrative law judge did not set forth a sufficient rationale for his finding that the qualifications of Drs. Rasmussen and Crisalli are essentially equal, we must vacate his finding that the evidence is insufficient to establish that claimant's respiratory disability was unrelated to his coal dust exposure. *See Hicks*, 138 F.3d at 536, 21 BLR at 2-337.

Based on the foregoing, we vacate the administrative law judge's finding that employer did not rebut the amended Section 411(c)(4) presumption. If, on remand, the administrative law judge again determines that claimant has established total disability and is entitled to invocation of the amended Section 411(c)(4) presumption, he must reconsider the relevant evidence to determine whether employer has established that claimant's totally disabling impairment did not arise out of, or in connection with, his coal mine employment. *See Barber v. Director, OWCP*, 43 F.3d 899, 901, 19 BLR 2-61, 2-67 (4th Cir. 1995); *Rose*, 614 F.2d at 939, 2 BLR at 2-43-44. The administrative law judge is required to consider all relevant evidence of record, resolve any conflicts, and set

forth his findings of fact in detail, including the underlying rationales.[11] *See Wojtowicz*, 12 BLR at 1-165. When weighing the medical opinion evidence on remand, 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 diagnoses. *See Hicks*, 138 F.3d at 533, 21 BLR at 2-335; *Akers*, 131 F.3d at 441, 21 BLR at 2-275-76.

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.

_____
NANCY S. DOLDER, Chief
Administrative Appeals Judge

_____
ROY P. SMITH
Administrative Appeals Judge

_____
BETTY JEAN HALL
Administrative Appeals Judge

[11] On remand, the administrative law judge should consider employer's contention that there is evidence in the treatment records to establish that the miner has asthma, thereby lending support to Dr. Spagnolo's opinion that claimant's respiratory impairment is not due to coal dust exposure. Employer notes that, contrary to the administrative law judge's findings, Dr. Porterfield, a treating physician, explicitly stated that he would continue to treat claimant for asthma, despite a negative methacholine challenge test, because pulmonary function studies results were consistent with a diagnosis of asthma and claimant reported a positive response to bronchodilator therapy. *See* Employer's Brief at 29; Claimant's Exhibits 4 (at 6), 7 (at 3), 6, 9 (at 1-4).