U.S. Department of Labor

Benefits Review Board
P.O. Box 37601
Washington, DC 20013-7601

BRB No. 14-0372 BLA

EMZIE COLEMAN	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
CHISHOLM COAL COMPANY, INCORPORATED	)	DATE ISSUED: 06/29/2015
	)	
Employer-Petitioner	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order of Alice M. Craft, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe (Wolfe Williams & Reynolds), Norton, Virginia, for claimant.

Lois A. Kitts and James M. Kennedy (Baird and Baird, P.S.C.), Pikeville, Kentucky, 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: HALL, Chief Administrative Appeals Judge, BOGGS and BUZZARD, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order (2011-BLA-5728) of Administrative Law Judge Alice M. Craft awarding benefits on a claim filed 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 May 24, 2010.

Applying Section 411(c)(4), 30 U.S.C. §921(c)(4),[1] the administrative law judge credited claimant with at least fifteen years of qualifying coal mine employment,[2] and found that the evidence established that claimant has a totally disabling respiratory or pulmonary impairment pursuant to 20 C.F.R. §718.204(b)(2). The administrative law judge, therefore, found that claimant invoked the rebuttable presumption of total disability due to pneumoconiosis set forth at Section 411(c)(4). The administrative law judge further found that employer did not rebut the presumption. Accordingly, the administrative law judge awarded benefits.

On appeal, employer argues that the administrative law judge erred in finding that claimant had sufficient coal mine employment to invoke the Section 411(c)(4) presumption. Employer also contends that the administrative law judge erred in finding that employer failed to establish rebuttal of the Section 411(c)(4) presumption. Claimant responds in support of the administrative law judge's award of benefits. The Director, Office of Workers' Compensation Programs (the Director), has filed a limited response, urging the Board to reject employer's contention that the administrative law judge erred in crediting claimant with at least fifteen years of coal mine employment. In a reply brief, employer reiterates its previous contentions.[3]

[1] As part of the Patient Protection and Affordable Care Act, Public Law No. 111-148, Congress enacted amendments to the Black Lung Benefits Act (the Act), which apply to claims filed after January 1, 2005, that were pending on or after March 23, 2010. Relevant to this case, Congress reinstated Section 411(c)(4) of the Act, which provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis in cases where the miner worked at least fifteen years in underground coal mine employment, or in surface mine employment in conditions substantially similar to those of an underground mine, and where a totally disabling respiratory impairment is established. 30 U.S.C. §921(c)(4). The Department of Labor revised the regulations to implement the amendments to the Act. The revised regulations became effective on October 25, 2013, and are codified at 20 C.F.R. Parts 718, 725 (2014).

[2] The record reflects that claimant's last coal mine employment was in Kentucky. Director's Exhibit 3. 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 (1989) (en banc).

[3] Because it is unchallenged on appeal, we affirm the administrative law judge's finding that the evidence established the existence of a totally disabling respiratory or

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).

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

Employer argues that the administrative law judge erred in finding that claimant established the fifteen years of qualifying coal mine employment necessary to invoke the Section 411(c)(4) presumption. Employer concedes that claimant worked in the coal mining industry for eighteen years, and that at least thirteen years of claimant's employment with Chisholm Coal Company (Chisholm) and Little Cindy Coal Company (Little Cindy) constituted covered coal mine employment under the Act. Employer's Brief at 22. Employer contends, however, that claimant's additional employment as a lab technician with Race Fork Coal Company (Race Fork), and his work as a private mine inspector with Industrial Education, was not the work of a "miner," as defined by the Act, and, therefore, cannot constitute covered coal mine employment.[4] *See* 30 U.S.C. §902(d); 20 C.F.R. §§725.101(a)(19), 725.202; Employer's Brief at 18-20. Therefore, employer asserts, the administrative law judge erred in finding that claimant established the fifteen years of coal mine employment necessary to invoke the Section 411(c)(4) presumption. Employer's Brief at 22. The Director responds, urging the Board to reject employer's contention that claimant's work as a lab technician with Race Fork did not constitute covered coal mine employment under the Act. Director's Brief at 3.

The regulations set forth two definitions of a miner. Pursuant to Section 725.101(a)(19), a miner is "any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal." 20 C.F.R. §725.101(a)(19). Under Section 725.202(a), a miner is "any person who works or has worked in or around a coal mine or coal preparation facility in the extraction, preparation, or transportation of coal, and any person who works or has worked in coal mine construction or maintenance in or around a coal mine or coal preparation facility." 20

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pulmonary impairment pursuant to 20 C.F.R. §718.204(b)(2). *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

[4] Employer also argues that claimant's employment with Virginia Energy Co. and 3D Coal cannot be counted as qualifying coal mine employment. Employer's Brief at 20-21. We need not address this argument, as the administrative law judge did not credit claimant with qualifying coal mine employment with those two companies. Decision and Order at 23.

C.F.R. §725.202(a). There is "a rebuttable presumption that any person working in or around a coal mine or coal preparation facility is a miner." 20 C.F.R. §725.202(a).

The United States Court of Appeals for the Sixth Circuit has adopted a situs-function test in determining whether an individual is a "miner" under the Act. *Navistar, Inc. v. Forester*, 767 F.3d 638, 641, 25 BLR 2-659, 2-663-64 (6th Cir. 2014); *Director, OWCP v. Consolidation Coal Co.*, [*Petracca*], 884 F.2d 926, 931, 13 BLR 2-38, 2-41-42 (6th Cir. 1989). The situs portion of the test requires that a person's work occurred in or around a coal mine or coal preparation facility. *Forester*, 767 F.3d at 641, 25 BLR at 2-663-64; *Petracca*, 884 F.2d at 931, 13 BLR at 2-41-42. An individual satisfies the function portion of the test if his or her work involved the extraction or preparation of coal or, to the extent the individual's duties were incidental to the extraction or preparation of coal, those duties were an integral or necessary part of the coal mining process. *Forester*, 767 F.3d at 641, 25 BLR at 2-664; *Petracca*, 884 F.2d at 931, 13 BLR at 2-42.

The administrative law judge found that claimant worked for Race Fork from April 8, 1977 to April 27, 1979, and summarized claimant's testimony that he worked at Race Fork sampling coal and dropping railroad cars at a tipple. Decision and Order at 4; Director's Exhibit 6 at 2; Hearing Tr. at 12, 15-16. Claimant testified that, in addition to collecting coal samples underground and at the tipple, and preparing the samples in a shack near the tipple on the mine site, he also shoveled belts, and worked at the loading dock and the tipple, and wherever he was needed. Hearing Tr. at 12, 15-16. Employer does not dispute that claimant's duties shoveling coal and working at the tipple and the loading dock constituted the work of a miner. Employer's Brief at 20-21. Rather, employer contends that claimant's time spent performing the duties of a laboratory technician, collecting and preparing coal samples, was not coal mine work. *Id*. Therefore, employer asserts, the administrative law judge erred in crediting claimant with two full years of coal mine employment at Race Fork. Employer's Brief at 20. Contrary to employer's contention, as the Director asserts, the Board has held that a laboratory technician collecting coal samples for processing and analysis is performing a function that is integral and necessary to the preparation of coal, and which, therefore, constitutes the work of a miner. *Amigo Smokeless Coal Co. v. Director, OWCP*, 642 F.2d 68, 69-71, 2 BLR 2-68, 2-73 (4th Cir. 1981), *aff'g sub. nom. Bower v. Amigo Smokeless Coal Co.*, 2 BLR 1-729, 1-738 (1979); Director's Brief at 3. Thus, as all of claimant's duties at Race Fork constituted the work of a miner, the administrative law judge properly credited claimant for his entire period of employment.[5] Based on the administrative law judge's findings that claimant established at least two years of coal mine employment at Race

[5] Employer concedes that claimant worked underground at Chisholm and Little Cindy for thirteen years. Employer's Brief at 22.

Fork, and at least thirteen years of coal mine employment at Chisholm and Little Cindy, we affirm the administrative law judge judge's determination that claimant established sufficient combined coal mine employment, either underground or in conditions substantially similar to those in an underground mine,[6] to invoke the Section 411(c)(4) presumption.[7]

In light of our affirmance of the administrative law judge's findings that claimant established at least fifteen years of qualifying coal mine employment and the existence of a totally disabling respiratory impairment pursuant to 20 C.F.R. §718.204(b)(2), we affirm the administrative law judge's determination that claimant invoked the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4). 30 U.S.C. §921(c)(4).

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

Because claimant invoked the Section 411(c)(4) presumption of total disability due to pneumoconiosis, the burden shifted to employer to rebut the presumption. 30 U.S.C. §921(c)(4). Under the implementing regulation, an employer may rebut the presumption by establishing that the claimant does not have either legal or clinical pneumoconiosis,[8] 20 C.F.R. §718.305(d)(1)(i), or by establishing that "no part of the

[6] Employer does not challenge the administrative law judge's finding that at least fifteen years of claimant's work with Chisolm, Little Cindy, and Race Fork took place either underground, or aboveground in conditions substantially similar to those in underground mines. 20 C.F.R. §718.305(b)(i); Decision and Order at 23. Therefore, this finding is affirmed. *Skrack*, 6 BLR at 1-711.

[7] We, therefore, need not address employer's additional contentions that all of claimant's work at Industrial Education, and a portion of his work at Chisholm Coal Company, did not constitute covered coal mine employment under the Act. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-278 (1984); Employer's Brief at 17-19, 21-22.

[8] "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). This definition encompasses any chronic respiratory or pulmonary disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b). "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).

miner's respiratory or pulmonary total disability was caused by pneumoconiosis as defined in §718.201." 20 C.F.R. §718.305(d)(1)(ii). The administrative law judge found that employer failed to establish rebuttal by either method. Specifically, the administrative law judge found that while employer disproved the existence of clinical pneumoconiosis, it failed to disprove the existence of legal pneumoconiosis. The administrative law judge also found that employer failed to rule out a causal relationship between the miner's total disability and his pneumoconiosis.

In evaluating whether employer established that claimant does not have legal pneumoconiosis, the administrative law judge considered the medical opinions of Drs. Jarboe, Rosenberg, Habre, and Baker. Drs. Jarboe and Rosenberg opined that claimant does not have legal pneumoconiosis, but suffers from severe chronic obstructive pulmonary disease (COPD) caused by emphysema that is due to smoking. Director's Exhibit 26; Employer's Exhibits 4-6, 8. In contrast, Drs. Habre and Baker both diagnosed legal pneumoconiosis, in the form of COPD due, in part, to coal mine dust exposure. Claimant's Exhibit 1; Director's Exhibit 1.

The administrative law judge discredited the opinions of Drs. Jarboe and Rosenberg because she found that each was inadequately explained and inconsistent with the scientific evidence credited by the Department of Labor (DOL) in the preamble to the 2001 regulatory revisions. Decision and Order at 28-29. The administrative law judge further found that the opinions of Drs. Habre and Baker, diagnosing legal pneumoconiosis, do not support employer's burden on rebuttal. Decision and Order at 29.

Employer asserts that the administrative law judge's determination to discredit the opinions of Drs. Jarboe and Rosenberg is unexplained, cursory, and does not comply with the Administrative Procedure Act, 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a). Employer's Brief at 25. Employer also contends that the administrative law judge's weighing of the evidence suggests a "mechanical" reliance on the preamble and equates to the application of a presumption that all obstructive lung disease is legal pneumoconiosis. Employer's Brief at 24-27.

Initially, to the extent employer asserts that the administrative law judge erred in relying on the preamble to the revised regulations in her assessment of the medical evidence, we reject employer's contention. The preamble sets forth how the DOL has chosen to resolve questions of scientific fact. *See A & E Coal Co. v. Adams*, 694 F.3d 798, 801, 25 BLR 2-203, 2-209-10 (6th Cir. 2012); *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 313, 25 BLR 2-115, 2-129-30 (4th Cir. 2012). Multiple circuit courts, and the Board, have held that an administrative law judge, as part of the deliberative process, may rely on the preamble as a guide in assessing the credibility of the medical evidence. *See Cent. Ohio Coal Co. v. Director, OWCP* [*Sterling*], 762 F.3d

483, 491, 25 BLR 2-633, 2-645 (6th Cir. 2014); *Looney*, 678 F.3d at 314-15, 25 BLR at 2-130; *Helen Mining Co. v. Director, OWCP* [*Obush*], 650 F.3d 248, 257, 24 BLR 2-369, 2-383 (3d Cir. 2011); *Consolidation Coal Co. v. Director, OWCP* [*Beeler*], 521 F.3d 723, 726, 24 BLR 2-97, 2-103 (7th Cir. 2008). Further, contrary to employer's contention, the administrative law judge did not utilize the preamble as a presumption that all obstructive lung disease is pneumoconiosis, but instead consulted it as a statement of credible medical research findings accepted by the DOL when it revised the definition of pneumoconiosis to include obstructive impairments arising out of coal mine employment. *See Adams*, 694 F.3d at 801-02, 25 BLR at 2-210-11; *Looney*, 678 F.3d at 314-15, 25 BLR at 2-129-32. Accordingly, we reject employer's argument that the administrative law judge erred in utilizing the preamble in her evaluation of the medical opinion evidence.

We further reject employer's contention that the administrative law judge misapplied the preamble in discrediting the opinions of Drs. Jarboe and Rosenberg as to the cause of claimant's obstructive airways disease and emphysema. Noting that the preamble to the revised regulations acknowledges the prevailing view of the medical community that the risks of smoking and coal mine dust exposure are additive, and that dust-induced emphysema and smoke-induced emphysema occur through similar mechanisms, the administrative law judge permissibly discredited, in part, the opinions of both Dr. Jarboe and Dr. Rosenberg because they did not creditably explain why claimant's more than fifteen years of coal mine dust exposure was not a contributing or aggravating factor, along with his cigarette smoking, to his obstructive pulmonary impairment with emphysema. *See Morrison v. Tenn. Consol. Coal Co*., 644 F.3d 473, 480, 25 BLR 2-1, 2-9 (6th Cir. 2011); *Crockett Colleries, Inc. v. Barrett*, 478 F.3d 350, 356, 23 BLR 2-472, 2-483 (6th Cir. 2007); 65 Fed. Reg. 79,920, 79,940 (Dec. 20, 2000); Decision and Order at 28-29.

The administrative law judge noted that Dr. Jarboe emphasized the appearance of claimant's lungs on x-ray to support his conclusion that only claimant's cigarette smoking, and not his coal mine dust exposure, contributed to his emphysema.[9] Decision and Order at 28-29; Director's Exhibit 26 at 8. The administrative law judge permissibly concluded, however, that to the extent that Dr. Jarboe relied on the absence of x-ray evidence of dust deposition in the lungs, his opinion was inconsistent with the DOL's

[9] As the administrative law judge noted, in support of his conclusion that coal mine dust did not contribute to claimant's chronic obstructive pulmonary disease with emphysema, Dr. Jarboe stated that "since [claimant] has significant emphysema radiographically and physiologically, but no evidence of a '[p]rofusion of simple dust lesions' . . . it is reasonable to assume that the emphysema has resulted from his history of heavy cigarette smoking." Director's Exhibit 26 at 8.

recognition, as set forth in the preamble, that coal mine dust can cause clinically significant obstructive lung disease, even in the absence of a positive x-ray.[10] *See* 20 C.F.R. §§718.201, 718.202(a)(4); *Adams*, 694 F.3d at 801-02, 25 BLR at 2-210-11; *Looney*, 678 F.3d at 313-16, 25 BLR at 2-127-30; Decision and Order at 28.

Additionally, to the extent that both Dr. Jarboe and Dr. Rosenberg opined that claimant's reduced FEV1/FVC ratio indicated that claimant's obstructive disease was due to cigarette smoking, rather than coal mine employment, the administrative law judge acted within her discretion in finding that their opinions conflict with the scientific premise set forth in the preamble that "coal miners have an increased risk of developing COPD . . . [that] may be detected from decrements in certain measures of lung function, especially FEV1 and the ratio of FEV1/FVC."[11] 65 Fed. Reg. at 79,943 (internal citations omitted); *see Sterling*, 762 F.3d at 491-92, 25 BLR 2-644-45; Decision and Order at 28-29; Director's Exhibit 26; Employer's Exhibits 5, 7, 8.

Employer further contends that the administrative law judge erred in finding that Dr. Habre's opinion does not assist employer in establishing rebuttal because it was not sufficiently reasoned. Employer's Brief at 23-24. Employer asserts that Dr. Habre's opinion, that coal mine dust played only a minor role in claimant's impairment, is credible and supports employer's rebuttal burden. Employer's Brief at 23-24. Employer's arguments lack merit. The administrative law judge correctly noted that Dr. Habre diagnosed "[l]egal pneumoconiosis and coal mine dust induced lung disease," and further opined that while the "primar[y] etiology" for claimant's disabling COPD is smoking, "[c]oal mine dust has a secondary role and is a minor contributing factor." Decision and Order at 16, 29; Director's Exhibit 11 at 7. Even assuming, *arguendo*, that the administrative law judge erred as employer suggests, substantial evidence supports her determination that Dr. Habre's opinion does not support employer's burden to disprove legal pneumoconiosis. *See* 20 C.F.R. §718.201(a)(2), (b); *Arch on the Green, Inc. v. Groves*, 761 F.3d 594, 596-99, 25 BLR 2-615, 2-620-24 (6th Cir. 2014)(holding that a physician's opinion that "most of [the miner's] impairment is secondary to cigarette smoking and that coal mine dust contributes to a minor degree" was sufficient to

[10] The premises underlying the regulations permit a finding of legal pneumoconiosis, notwithstanding the absence of radiographic evidence of clinical pneumoconiosis. *See* 65 Fed. Reg. 79,920, 79,939 (Dec. 20, 2000)(indicating that "[m]ost evidence to date indicates that exposure to coal mine dust can cause chronic airflow limitation in life and emphysema at autopsy, and this may occur independently of [clinical pneumoconiosis.]").

[11] Employer contends that the opinions of the doctors are not inconsistent with the preamble, and does not challenge the substance of the DOL's position in this regard.

establish legal pneumoconiosis); *Crockett Colleries, Inc. v. Barrett*, 478 F.3d 350, 356, 23 BLR 2-472, 2-483 (6th Cir. 2007); *Cornett v. Benham Coal, Inc*., 227 F.3d 569, 576, 22 BLR 2-107, 2-121 (6th Cir. 2000). We therefore affirm, as supported by substantial evidence, the administrative law judge's conclusion that Dr. Habre's opinion does not assist employer in establishing rebuttal. *Martin v. Ligon Preparation Co*., 400 F.3d 302, 305, 23 BLR 2-261, 2-283 (6th Cir. 2005).

The determination of whether a medical opinion is adequately reasoned is committed to the discretion of the administrative law judge. *See Rowe,* 710 F. 2d at 255, 5 BLR at 2-103. Because the administrative law judge permissibly exercised her discretion in discrediting the opinions of Drs. Jarboe and Rosenberg, attributing claimant's disabling obstructive impairment solely to smoking,[12] and further permissibly found that Dr. Habre's opinion does not support employer's rebuttal burden, we affirm her finding that employer failed to disproved the existence of legal pneumoconiosis by a preponderance of the evidence. *See Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185, 12 BLR 2-121, 2-129 (6th Cir. 1989); *See Director, OWCP v. Rowe*, 710 F. 2d 251, 255, 5 BLR 2-99, 2-103 (6th Cir. 1983). We, therefore, affirm, as supported by substantial evidence, the administrative law judge's finding that employer did not establish rebuttal of the Section 411(c)(4) presumption by disproving the existence of legal pneumoconiosis.

The administrative law judge next addressed whether employer rebutted the presumed fact of disability causation by establishing that no part of the miner's respiratory or pulmonary total disability was caused by pneumoconiosis. The administrative law judge rationally discredited the opinions of Drs. Jarboe and Rosenberg, that pneumoconiosis did not cause claimant's total respiratory disability, because Drs. Jarboe and Rosenberg did not diagnose claimant with legal pneumoconiosis, contrary to the administrative law judge's finding that employer failed to disprove legal pneumoconiosis. *See Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1074, 25 BLR 2-431, 2-452 (6th Cir. 2013); *see also Scott v. Mason Coal Co.*, 289 F.3d 263, 269, 22 BLR 2-372, 2-383-84 (4th Cir. 2002); *Toler v. E. Associated Coal Co.*, 43 F.3d 109, 116, 19 BLR 2-70, 2-83 (4th Cir. 1995); Decision and Order at 30. The administrative law judge further permissibly found that the opinions of Drs. Habre and Baker do not assist employer in rebutting the presumption. *See Ogle*, 737 F.3d at 1069-71, 25 BLR at 2-443-45, *Minich v. Keystone Coal Mining Corp.*, BLR , BRB No. 13-0544 BLA (Apr. 21,

[12] Because the administrative law judge provided valid bases for according less weight to the opinions of Drs. Jarboe and Rosenberg, we need not address employer's remaining arguments regarding the weight she accorded to their opinions. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983); *see also Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1074, 25 BLR 2-431, 2-451 (6th Cir. 2013).

2015)(Boggs, J., concurring & dissenting), slip op. at 11; Decision and Order at 30. Thus, we affirm the administrative law judge's determination that employer failed to rebut the Section 411(c)(4) presumption by establishing that no part of claimant's total disability was caused by pneumoconiosis.[13] *See* 20 C.F.R. §718.305(d)(1)(ii).

Claimant invoked the Section 411(c)(4) presumption that he is totally disabled due to pneumoconiosis, and employer did not rebut the presumption. Therefore, we affirm the award of benefits. 30 U.S.C. §921(c)(4).

[13] As we have affirmed the administrative law judge's findings that the opinions of Drs. Jarboe and Rosenberg are not sufficiently reasoned to disprove the existence of legal pneumoconiosis, or to establish that no part of claimant's disabling impairment is due to pneumoconiosis, we need not address employer's contentions that "little support is found in the treatment records for legal pneumoconiosis" and that "Dr. Baker's conclusions [attributing claimant's impairment to coal mine dust] are not well reasoned." *See Larioni*, 6 BLR at 1-1278; Employer's Brief at 27.

Accordingly, the administrative law judge's Decision and Order awarding benefits is affirmed.

SO ORDERED.

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BETTY JEAN HALL, Chief
Administrative Appeals Judge

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JUDITH S. BOGGS
Administrative Appeals Judge

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GREG J. BUZZARD
Administrative Appeals Judge