U.S. Department of Labor

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

BRB No. 16-0542 BLA

WALTER C. WARD	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
KARST ROBBINS COAL COMPANY	)	
	)	
and	)	
	)	
OLD REPUBLIC INSURANCE COMPANY	)	DATE ISSUED: 06/20/2017
	)	
Employer/Carrier-Petitioners	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order of Scott R. Morris, Administrative Law Judge, United States Department of Labor.

Laura Metcoff Klaus (Greenberg Traurig LLP), Washington, D.C., for employer/carrier.

Michelle S. Gerdano (Nicholas C. Geale, Acting Solicitor of Labor; Maia Fisher, 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, GILLIGAN and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Employer/carrier (employer) appeals the Decision and Order (13-BLA-5219) of Administrative Law Judge Scott R. Morris awarding benefits on a claim filed pursuant to provisions of the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2012) (the Act). This case involves a subsequent claim filed on June 27, 2011.[1]

After crediting claimant with nine years and nine months of coal mine employment,[2] the administrative law judge found that the new evidence established that claimant has a totally disabling respiratory impairment pursuant to 20 C.F.R. §718.204(b)(2).[3] The administrative law judge therefore found that claimant established a change in an applicable condition of entitlement. 20 C.F.R. §725.309(c). Considering the claim on its merits, the administrative law judge found that the evidence established the existence of complicated pneumoconiosis, thereby invoking the irrebuttable presumption of total disability due to pneumoconiosis at 20 C.F.R. §718.304. The administrative law judge further found that the evidence established that claimant's pneumoconiosis arose out of his coal mine employment pursuant to 20 C.F.R. §718.203(c). Assuming arguendo that claimant was not entitled to the Section 718.304 presumption, the administrative law judge found that the evidence also established that

[1] Claimant initially filed a claim for benefits on October 27, 1987. Director's Exhibit 1. In a Decision and Order dated March 30, 1992, an administrative law judge denied the claim because he found that the evidence did not establish the existence of a totally disabling respiratory or pulmonary impairment. *Id.* Upon review of claimant's appeal, the Board affirmed the administrative law judge's denial of benefits. *Ward v. Karst Robbins Coal Co.*, BRB No. 92-1554 BLA (Jan. 26, 1994) (unpub.).

[2] The record indicates that claimant's coal mine employment was in Kentucky. Director's Exhibit 4. Accordingly, this case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc).

[3] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner is totally disabled due to pneumoconiosis where fifteen or more years of qualifying coal mine employment and a totally disabling respiratory or pulmonary impairment are established. 30 U.S.C. §921(c)(4) (2012); *see* 20 C.F.R. §718.305. Because the administrative law judge credited claimant with less than fifteen years of coal mine employment, he found that claimant was not entitled to the Section 411(c)(4) presumption.

claimant is totally disabled due to legal pneumoconiosis. 20 C.F.R. §§718.202(a)(4), 718.203, 718.204(b), (c). Accordingly, the administrative law judge awarded benefits.

On appeal, employer argues that the administrative law judge erred in finding that claimant's claim was timely filed. Employer also contends that the administrative law judge erred in finding that the evidence established the existence of complicated pneumoconiosis pursuant to 20 C.F.R. §718.304. Employer further challenges the administrative law judge's findings pursuant to 20 C.F.R. §§718.202(a)(4), 718.204(c). Claimant has not filed a response brief. The Director, Office of Workers' Compensation Programs (the Director), has filed a limited response, asserting that claimant's subsequent claim was timely filed.[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 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).

Timeliness of Claim

Employer initially challenges the administrative law judge's determination that claimant's subsequent claim was timely filed. Section 422 of the Act provides that "[a]ny claim for benefits by a miner . . . shall be filed within three years after whichever of the following occurs later -- (1) a medical determination of total disability due to pneumoconiosis; or (2) March 1, 1978." 30 U.S.C. §932(f). Miners' claims for black lung benefits are presumptively timely filed. 20 C.F.R. §725.308(c). To rebut the timeliness presumption, employer must show that the claim was filed more than three years after a "medical determination of total disability due to pneumoconiosis" was communicated to the miner. 30 U.S.C. §932(f); 20 C.F.R. §725.308(a).

In support of its contention that claimant's claim was untimely, employer points to claimant's admission that he relied upon the opinions of Drs. Miller and Anderson when he filed his first claim for benefits in 1987. Employer's Brief at 11; Employer's Post-Hearing Brief at 5. Employer asserts that these opinions support a finding that claimant was totally disabled due to pneumoconiosis in 1987. *Id.* Employer also notes that claimant was awarded disability benefits in a 1989 state award. Employer's Brief at 14;

[4] We affirm, as unchallenged on appeal, the administrative law judge's findings that the evidence established total disability pursuant to 20 C.F.R. §718.204(b)(2), and that claimant established a change in an applicable condition of entitlement pursuant to 20 C.F.R. §725.309(c). *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

Director's Exhibit 13. Employer therefore contends that claimant received a diagnosis of total disability due to pneumoconiosis more than three years before he filed his subsequent claim in 2011, rendering it untimely.

The Director argues that the medical reports of Drs. Miller and Anderson, as well as the 1989 state award, are insufficient as a matter of law to trigger the time limitations of 20 C.F.R. §725.308. We agree with the Director. A medical determination of total disability due to pneumoconiosis predating a prior denial of benefits is legally insufficient to trigger the running of the three-year time limit for filing a subsequent claim, because the medical determination must be deemed a misdiagnosis in view of the superseding denial of benefits. *Arch of Ky., Inc. v. Director, OWCP* [*Hatfield*], 556 F.3d 472, 483, 24 BLR 2-135, 2-154 (6th Cir. 2009). In this case, the administrative law judge's final determination that claimant was not totally disabled due to pneumoconiosis as of March 30, 1992, necessarily repudiated the 1987 opinions of Drs. Miller and Anderson that claimant was totally disabled due to pneumoconiosis, as well as the 1989 state award. Consequently, this evidence could not trigger the running of the three-year time limit for filing claimant's 2011 claim. *See Peabody Coal Co. v. Director, OWCP* [*Brigance*], 718 F.3d 590, 595-96, 25 BLR 2-273, 2-283 (6th Cir. 2013) ("[I]f it is determined that a claimant does not meet the criteria for an award of benefits under the [Black Lung Benefits Act], then the claimant is handed a clean slate for purpose[s] of the . . . statute of limitations."); *Hatfield*, 556 F.3d at 483, 24 BLR at 2-154. We, therefore, affirm the administrative law judge's finding that claimant's subsequent claim was timely filed. 30 U.S.C. §932(f); 20 C.F.R. §725.308(a).

Complicated Pneumoconiosis

Under Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3), and its implementing regulation, 20 C.F.R. §718.304, there is an irrebuttable presumption that a miner is totally disabled due to pneumoconiosis if the miner is suffering from a chronic dust disease of the lung which: (a) when diagnosed by x-ray, yields one or more opacities greater than one centimeter in diameter that would be classified as Category A, B, or C; (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung; or (c) when diagnosed by other means, would be a condition that could reasonably be expected to yield a result equivalent to (a) or (b). *See* 20 C.F.R. §718.304. The administrative law judge must determine whether the evidence in each category tends to establish the existence of complicated pneumoconiosis, and then must weigh together the evidence at subsections (a), (b), and (c) before determining whether claimant has invoked the irrebuttable presumption. *See Gray v. SLC Coal Co.*, 176 F.3d 382, 388-89, 21 BLR 2-615, 2-626-29 (6th Cir. 1999); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33 (1991) (en banc).

Section 718.304(a)

Employer contends that the administrative law judge erred in finding that the x-ray evidence established the existence of complicated pneumoconiosis pursuant to 20 C.F.R. §718.304(a). Specifically, employer argues that the administrative law judge erred in his weighing of the interpretations of the new x-rays taken on September 14, 2009, February 22, 2010, November 10, 2011, and May 14, 2012.[5] We, therefore, begin our analysis by summarizing the interpretations of those x-rays.[6]

September 14, 2009 X-ray

Dr. Miller diagnosed complicated pneumoconiosis after identifying Category B large opacities, and smaller opacities of simple pneumoconiosis. Director's Exhibit 19. Dr. Wolfe also identified Category B large opacities. Employer's Exhibit 7. Although Dr. Wolfe acknowledged that the changes on the x-ray "could result from complicated pneumoconiosis," he opined that it was "unlikely" because there was not a background of small rounded opacities, and because the opacities were "randomly distributed predominately in the mid and lower lung zones." *Id.* Dr. Wolfe noted that other diagnoses such as "tuberculosis, rheumatoid nodules, parenchymal sarcoidosis and arteritis including Wegener's granulomatosis" should be considered. *Id.*

February 22, 2010 X-ray

Dr. Alexander interpreted the x-ray as showing simple pneumoconiosis and complicated pneumoconiosis (Category B large opacities). Director's Exhibit 19. Dr. Wolfe interpreted the x-ray as negative for simple pneumoconiosis, but identified Category B large opacities. Employer's Exhibit 8. Although Dr. Wolfe acknowledged that these changes could result from complicated pneumoconiosis, he again noted that this was unlikely, and reiterated his opinion that other diagnoses should be considered. *Id.*

[5] The administrative law judge also considered the interpretations of seven x-rays that were submitted in the 1987 claim. The administrative law judge found that, on balance, these x-rays were positive for simple pneumoconiosis. Decision and Order at 35. The administrative law judge noted that none of these x-rays were interpreted as positive for complicated pneumoconiosis. *Id.* at 29.

[6] As was summarized by the administrative law judge, all the doctors who provided interpretations for the four new x-rays at issue in this appeal are dually-qualified as Board-certified radiologists and B readers.

November 10, 2011 X-ray

Dr. DePonte interpreted the x-ray as positive for simple pneumoconiosis, as well as Category B large opacities. Director's Exhibit 16. Dr. Meyer interpreted the x-ray as negative for simple pneumoconiosis. Director's Exhibit 18. Although Dr. Meyer identified basilar predominant pulmonary masses measuring up to 3.5 cm., he opined that the findings were not characteristic of coal workers' pneumoconiosis due to the lack of background fine nodularity and basilar distribution. *Id.* Dr. Meyer suggested that the masses were suspicious for metastases. *Id.*

May 14, 2012 X-ray

Although Drs. Wolfe and West each interpreted the x-ray as negative for simple pneumoconiosis, Dr. Wolfe identified Category B large opacities, and Dr. West identified Category C large opacities. Dr. Wolfe again opined that it was unlikely that the changes resulted from complicated pneumoconiosis, suggesting that other diagnoses should be considered. *Id.* Dr. West noted that the location of the opacities was not typical of complicated pneumoconiosis and that there were few, if any, small rounded opacities. Director's Exhibit 17. Dr. West suggested that differential possibilities such as collagen vascular disease or sarcoidosis should be considered. *Id.*

In evaluating the x-ray interpretations regarding the existence of complicated pneumoconiosis, the administrative law judge discredited the negative interpretations of Drs. Wolfe, Meyer, and West because the physicians provided equivocal interpretations for the large opacities that were not supported by the other medical evidence of record.[7] Decision and Order at 35. The administrative law judge further noted that Drs. Wolfe, Meyer, and West excluded complicated pneumoconiosis based, in part, on the absence of a background of small opacities. *Id.* However, because the administrative law judge found that a preponderance of the new x-rays was positive for simple pneumoconiosis (small opacities), he determined that the physicians' basis for excluding a diagnosis of complicated pneumoconiosis was undermined. *Id.* Conversely, the administrative law judge found that the x-ray evidence of small opacities supported the opinions of Drs. Miller, Alexander and DePonte that the large opacities represented complicated

[7] The administrative law judge noted that several physicians indicated that claimant had no history of tuberculosis or any other pulmonary disease. Decision and Order at 34. The administrative law judge also noted that the record revealed that claimant tested negative for histoplasma antibodies in May 2009. *Id.* The administrative law judge also found that the x-ray interpretations found in claimant's treatment records tended to rule out a diagnosis of cancer. *Id.* at 37.

pneumoconiosis. *Id.* The administrative law judge, therefore, found that the x-ray evidence established complicated pneumoconiosis pursuant to 20 C.F.R. §718.304(a). *Id.*

Employer argues that the administrative law judge "reached a conclusion with no explanation" in finding that the x-ray evidence established the existence of complicated pneumoconiosis. Employer's Brief at 17. We disagree. While all of the physicians identified large opacities on the new x-rays, they disagreed as to whether the masses represented complicated pneumoconiosis, or another disease process. The administrative law judge permissibly discredited the x-ray interpretations that were negative for complicated pneumoconiosis and presented alternative etiologies for the large opacities, because the record did not contain any evidence of the suggested alternatives.[8] *See Westmoreland Coal Co. v. Cox*, 602 F.3d 276, 287, 24 BLR 2-269, 2-287 (4th Cir. 2010); *see also Director, OWCP v. Rowe*, 710 F.2d 251, 255, 5 BLR 2-99, 2-103 (6th Cir. 1983); Decision and Order at 34-35.

The administrative law judge therefore discounted Dr. Wolfe's negative interpretations of the September 14, 2009, February 22, 2010, and May 14, 2012 x-rays, Dr. Meyer's negative interpretation of the November 10, 2011 x-ray, and Dr. West's negative interpretation of the May 14, 2012 x-ray, assigning them less weight than the positive interpretations of Drs. Miller, Alexander, and DePonte. *See Cox*, 602 F.3d at 287, 24 BLR at 2-287; Decision and Order at 35. The administrative law judge also permissibly questioned the negative x-ray interpretations for complicated pneumoconiosis rendered by Drs. Wolfe, Meyer, and West because they were based in part on the doctors' belief that the x-ray evidence did not reveal simple pneumoconiosis (small opacities), a basis called into question by the administrative law judge's determination that the x-ray evidence established the existence of simple pneumoconiosis.[9] *Rowe*, 710 F.2d at 255, 5 BLR at 2-103.

In sum, the administrative law judge permissibly determined that the record did not support the alternative etiologies that Drs. Wolfe, Meyer and West offered to explain the large opacities seen on claimant's x-rays, and reasonably found that their negative interpretations of the x-rays at issue were therefore entitled to less weight than the positive interpretations of Drs. Miller, Alexander, and DePonte. *See Gray*, 176 F.3d at

[8] The administrative law judge also noted that Drs. Wolfe and West each acknowledged that claimant could have an atypical presentation of complicated pneumoconiosis. Decision and Order at 41-42.

[9] Because employer does not challenge the administrative law judge's finding that the preponderance of the new x-rays is positive for simple pneumoconiosis, this finding is affirmed. *Skrack*, 6 BLR at 1-711.

388-89, 21 BLR at 2-626-29; *Cox*, 602 F.3d at 287, 24 BLR at 2-287; *Rowe*, 710 F.2d at 255, 5 BLR at 2-103. The administrative law judge also permissibly questioned the reliance of Drs. Wolfe, Meyer and West on the absence of small opacities to exclude a diagnosis of complicated pneumoconiosis since he found that the x-ray evidence established the existence of small opacities. *Gray*, 176 F.3d at 388-89, 21 BLR at 2-626-29. Because it is supported by substantial evidence, the administrative law judge's determination that the x-ray evidence established the existence of complicated pneumoconiosis pursuant to 20 C.F.R. §718.304(a) is affirmed.

20 C.F.R. §718.304(c)

Employer also argues that the administrative law judge erred in his consideration of the evidence pursuant to 20 C.F.R. §718.304(c).[10] We disagree. The record contains a range of other diagnostic evidence the administrative law judge considered under 20 C.F.R. §718.304(c), including interpretations of a May 14, 2012 CT scan, and medical opinion evidence.[11]

Dr. West interpreted a May 14, 2012 CT scan. Dr. West opined that the "expected finding of centrilobular small rounded opacities [was] very limited." Director's Exhibit 17 at 36. Dr. West, however, noted that it was "possible that previous small nodules

[10] The record does not contain any biopsy evidence submitted in connection with claimant's subsequent claim. 20 C.F.R. §718.304(b).

[11] In his consideration of the evidence under 20 C.F.R. §718.304(c), the administrative law judge also considered the following x-ray interpretations contained in claimant's treatment records: Dr. Tiu interpreted an April 15, 2009 x-ray as showing irregular flame shaped opacities, smaller opacities in the left lower lobe, and a 3.5-centimeter nodular density in the left mid lung field. Claimant's Exhibit 8. Dr. Tiu opined that the nature of the lung findings was uncertain and that his "differential diagnosis [would] have to include the possibility of pulmonary masses with accompanying pneumonia or seen in combination with underlying coal workers' pneumoconiosis." *Id.* Dr. Buck interpreted an October 12, 2009 x-ray as showing conglomerate masses consistent with complicated pneumoconiosis. *Id.* Dr. Desai interpreted a March 16, 2011 x-ray as showing bilateral multiple large nodular densities. *Id.* Dr. Desai interpreted a June 24, 2013 x-ray as showing "probably large opacities of pneumoconiosis." *Id.* The administrative law judge found that the treatment record x-rays supported a finding of complicated pneumoconiosis. Decision and Order at 37. Because employer does not challenge the administrative law judge's finding as to the x-ray interpretations contained in claimant's treatment records, it is affirmed. *Skrack*, 6 BLR at 1-711.

[had] coalesced into larger opacities and that the present findings reflect complicated coal workers' pneumoconiosis." *Id.* Dr. West opined that the findings were not typical for complicated coal workers' pneumoconiosis but could be consistent with that possible diagnosis. *Id.* The administrative law judge found that Dr. West's interpretation was inconclusive as to the presence of complicated pneumoconiosis. Decision and Order at 37. Because this finding is supported by substantial evidence, it is affirmed.[12]

The administrative law judge also considered the new medical opinions of Drs. Habre, Alam, Rosenberg, and Vuskovich.[13] Dr. Habre diagnosed complicated pneumoconiosis based upon a positive interpretation of the November 10, 2011 x-ray. Director's Exhibit 16. In a treatment note dated August 13, 2009, Dr. Alam also diagnosed complicated pneumoconiosis. Claimant's Exhibit 7. Drs. Rosenberg and Vuskovich, however, opined that claimant does not suffer from simple or complicated pneumoconiosis. Director's Exhibit 17; Employer's Exhibits 5, 6, 12, 13; Claimant's Exhibit 7. The administrative law judge permissibly discredited the opinions of Drs. Rosenberg and Vuskovich because he found that their opinions that claimant does not suffer from simple pneumoconiosis were inconsistent with the weight of the new x-ray evidence. *See Dixie Fuel Co. v. Director, OWCP* [*Hensley*], 700 F.3d 878, 881, 25 BLR 2-213, 218 (6th Cir. 2012); *Arnoni v. Director, OWCP*, 6 BLR 1-423 (1983). Because the doctors based their opinions that claimant does not have complicated pneumoconiosis in part on the absence of small opacities of pneumoconiosis, the administrative law judge permissibly found that their opinions were entitled to diminished weight. *See Eastover Mining Co. v. Williams*, 338 F.3d 501, 514, 22 BLR 2-625, 2-649 (6th Cir. 2003).

In this case, the administrative law judge considered the x-ray evidence, as well as the CT scan and medical opinion evidence, and permissibly found that the evidence established the existence of complicated pneumoconiosis. *See Gray*, 176 F.3d at 388-89, 21 BLR at 2-626-29; *Melnick*, 16 BLR at 1-33; Decision and Order at 41-42. Consequently, we affirm the administrative law judge's finding that claimant invoked the irrebuttable presumption set forth at 20 C.F.R. §718.304.

[12] The record also contains Dr. Pampati's interpretation of a July 23, 2009 CT scan, in which Dr. Pampati reported nodules measuring over 3.0 cm. Claimant's Exhibit 8. The administrative law judge noted that the doctor did not provide an opinion as the cause of the nodules. Decision and Order at 36.

[13] The administrative law judge found that the medical opinion evidence from the prior claim was less probative than the more recent evidence, because it predated any finding of large opacities. Decision and Order at 40.

Section 718.203

Employer argues that the administrative law judge erred in finding that the evidence established that claimant's complicated pneumoconiosis arose out his coal mine employment. Pursuant to 20 C.F.R §718.203(c), the administrative law judge noted correctly that, because claimant established less than ten years of coal mine employment, he was required to prove by "competent evidence" that his pneumoconiosis arose out of coal mine employment. Decision and Order at 42.

In evaluating whether the evidence established that claimant's complicated pneumoconiosis arose out his coal mine employment, the administrative law judge credited Dr. Habre's opinion that claimant's complicated pneumoconiosis arose out of his coal mine employment. Decision and Order at 42; Director's Exhibit 16 at 31. The administrative law judge, therefore, found that claimant established that his complicated pneumoconiosis arose out of his coal mine employment. *Id.*

Employer argues that the administrative law judge erred in relying upon Dr. Habre's opinion to support his finding that the evidence established that claimant's complicated pneumoconiosis arose of his coal mine employment pursuant to 20 C.F.R. §718.203(c). Employer contends that the administrative law judge failed to address the significance of Dr. Habre's reliance on an inaccurate coal mine employment history. Given that the parties stipulated to nine years and nine months of coal mine employment, and Dr. Habre relied upon a coal mine employment of "around [ten] years," employer has failed to adequately explain the basis for its assertion that Dr. Habre relied upon an inaccurate coal mine history. *See Hucker v. Consolidation Coal Co.*, 9 BLR 1-137, 140 (1986) (holding that an administrative law judge improperly rejected a doctor's opinion based on a discrepancy in length of coal mine employment as there was no significant difference between the 7.5 years found by the administrative law judge and the 7 years relied upon by the doctor). We similarly reject employer's assertion that Dr. Habre's opinion is "unexplained." Employer's Brief at 19. Dr. Habre related claimant's complicated pneumoconiosis to his coal mine employment, explaining that coal dust particles trigger an inflammatory process that continues even after coal mine dust exposure ceases. Director's Exhibit 16 at 31. Dr. Habre explained that continuous inflammation leads to "more fibrotic and bigger pneumoconiotic lesions." *Id.* Because it is based upon substantial evidence, we affirm the administrative law judge's finding that the evidence established that claimant's complicated pneumoconiosis arose out of his coal mine employment pursuant to 20 C.F.R. §718.203(c).[14] *See Southard v. Director,*

[14] In light of our affirmance the administrative law judge's findings that claimant invoked the irrebuttable presumption that he is totally disabled due to pneumoconiosis pursuant to 20 C.F.R. §718.304, and established that his complicated pneumoconiosis arose out of coal mine employment pursuant to 20 C.F.R. §718.203(c), we need not

OWCP, 732 F.2d 66, 72, 6 BLR 2-26, 2-35 (6th Cir. 1984) (holding that a claimant need only establish that coal mine dust exposure contributed to the disease at least in part, under 20 C.F.R. §718.203(c)).

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

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge

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address employer's contentions of error regarding the administrative law judge's findings pursuant to 20 C.F.R. §§718.202(a)(4), 718.204(c). *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).