

Before: HALL, Chief Administrative Appeals Judge, GILLIGAN and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decisions and Orders Awarding Benefits (2013-BLA-05056 and 2016-BLA-05772)¹ of Administrative Law Judge Adele Higgins Odegard rendered on a miner's subsequent claim and a survivor's claim filed pursuant to the provisions of the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2012) (the Act).² The miner filed a subsequent claim for benefits on February 13, 2012. In a Decision and Order issued on January 22, 2016, the administrative law judge determined that the miner had 33.07 years of underground coal mine employment and adjudicated the claim pursuant to the regulatory provisions at 20 C.F.R. Parts 718 and 725. The administrative law judge considered the relevant evidence and concluded that the newly submitted evidence was sufficient to invoke the irrebuttable presumption of total disability due to pneumoconiosis under 20 C.F.R. §718.304 and, therefore, sufficient to demonstrate a change in an applicable condition of entitlement at 20 C.F.R. §725.309(c). Weighing all of the evidence of record together, the administrative law judge also determined that the irrebuttable presumption was invoked pursuant to 20 C.F.R. §718.304. Accordingly, the administrative law judge awarded benefits in the miner's claim.

In a separate Decision and Order in the survivor's claim, issued on August 24, 2016, the administrative law judge found that claimant was automatically entitled to benefits pursuant to Section 422(l) of the Act, 30 U.S.C. §932(l) (2012). Section 422(l)

¹ Employer's appeal in the miner's claim (2013-BLA-05056) was assigned BRB No. 16-0249 BLA, and its appeal in the survivor's claim (2016-BLA-05772) was assigned BRB No. 16-0679 BLA. By Order dated February 6, 2017, the Board granted employer's motion and consolidated these appeals for the purpose of decision only. *Dotson v. Jim Walter Resources, Inc.*, BRB Nos. 16-0249 BLA and 16-0679 BLA (Feb. 6, 2017) (unpub. Order).

² Claimant is the miner's surviving spouse. The miner filed his first claim for black lung benefits on April 20, 1998, which was denied on September 28, 1998, because the miner failed to establish any of the elements of entitlement. Miner's Claim (MC) Director's Exhibit 1. The miner took no further action until filing the subsequent claim that is the subject of this appeal. MC Director's Exhibit 2. The miner died on February 25, 2016. Survivor's Claim (SC) Director's Exhibit 3. Claimant filed a claim for survivor's benefits on March 21, 2016. SC Director's Exhibit 1.

provides that the survivor of a miner who was determined to be eligible to receive benefits at the time of his or her death is automatically entitled to survivor's benefits, without having to establish that the miner's death was due to pneumoconiosis. Accordingly, the administrative law judge awarded benefits in the survivor's claim.

On appeal of the award of benefits in the miner's claim, employer contends that the administrative law judge erred in finding that the newly submitted x-ray evidence, and the evidence as a whole, was sufficient to establish the existence of complicated pneumoconiosis at 20 C.F.R. §718.304. Employer also contends that the administrative law judge improperly shifted the burden to employer to disprove that the miner had complicated pneumoconiosis. Claimant responds, urging affirmance of the award of benefits. The Director, Office of Workers' Compensation Programs (the Director), has filed a response, asserting that the administrative law judge properly found that complicated pneumoconiosis was established by the x-ray evidence. Employer has filed reply briefs, reiterating its contentions.³

On appeal in the survivor's claim, employer adopts and incorporates its brief in its appeal in the miner's claim. Employer notes that the administrative law judge awarded benefits under Section 422(I), based on her award of benefits in the miner's claim and maintains that the resolution of the issues in the appeal of the miner's claim would resolve the issues in the appeal of the survivor's claim. Claimant responds in support of the award of survivor's benefits. The Director has filed a letter stating that he relies on his previously filed response in the miner's claim with respect to the survivor's claim.

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.⁴ 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).

I. THE MINER'S CLAIM

³ We affirm, as unchallenged on appeal, the administrative law judge's finding of at least 33.07 years of underground coal mine employment. MC Decision and Order at 9; *see Skrack v. Island Creek Coal Co.*, 6 BLR 1-710 (1983).

⁴ The record reflects that the miner's last coal mine employment was in Alabama. MC Director's Exhibit 7. Accordingly, the Board will apply the law of the United States Court of Appeals for the Eleventh Circuit. *See Shupe v. Director, OWCP*, 12 BLR 1-200 (1989) (en banc).

When a miner files a claim for benefits more than one year after the final denial of a previous claim, the subsequent claim must also be denied unless the administrative law judge finds that “one of the applicable conditions of entitlement . . . has changed since the date upon which the order denying the prior claim became final.” 20 C.F.R. §725.309(c); *White v. New White Coal Co.*, 23 BLR 1-1, 1-3 (2004). The “applicable conditions of entitlement” are “those conditions upon which the prior denial was based.” 20 C.F.R. §725.309(c)(3). In this case, the miner’s first claim for black lung benefits was denied because he failed to establish any of the elements of entitlement. Miner’s Claim (MC) Director’s Exhibit 1. Therefore, claimant was required to establish at least one element in order to obtain a merits review of the miner’s subsequent claim based on the newly submitted evidence. *See White*, 23 BLR at 1-3.

Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3), as implemented by 20 C.F.R. §718.304, provides an irrebuttable presumption of total disability due to pneumoconiosis if the miner suffers from a chronic dust disease of the lung which: (a) when diagnosed by x-ray, yields one or more large 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, is a condition which would yield results equivalent to (a) or (b). 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. The introduction of legally sufficient evidence of complicated pneumoconiosis does not automatically qualify a claimant for the irrebuttable presumption found at 20 C.F.R. §718.304. In determining whether claimant has established invocation of the irrebuttable presumption of total disability due to pneumoconiosis pursuant to 20 C.F.R. §718.304, the administrative law judge must weigh together all of the evidence relevant to the presence or absence of complicated pneumoconiosis. *See Pittsburg & Midway Coal Mining Co. v. Director, OWCP [Cornelius]*, 508 F.3d 975, 987, 24 BLR 2-72, 2-94 (11th Cir. 2007); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33-34 (1991) (en banc).

In considering the newly submitted evidence at 20 C.F.R. §718.304, the administrative law judge reviewed six ILO-classified interpretations of two x-rays, dated January 10, 2012 and May 1, 2012; two interpretations of a CT scan taken on October 21, 2011; the miner’s lung biopsy report, dated November 7, 2011; and the medical opinions of Drs. Barney, Goldstein, Connolly, and Zaldivar. Pursuant to 20 C.F.R. §718.304(a), the administrative law judge noted that the January 10, 2012 x-ray was read as positive for both simple and complicated pneumoconiosis, Category A, by Drs. Groten,⁵ Meyer,⁶

⁵ On an ILO form, Dr. Groten identified small opacities, q/r, with a profusion of 1/2 in all six zones; complicated pneumoconiosis with large opacity A; and a coalescence of small pneumoconiotic nodules. MC Director’s Exhibit 13. In the “Other Comments”

and Ahmed,⁷ who are dually-qualified as Board-certified radiologists and B readers.⁸ MC Director's Exhibit 13; MC Claimant's Exhibit 3; MC Employer's Exhibit 1. The administrative law judge noted that the May 1, 2012 x-ray was read as positive for both simple and complicated pneumoconiosis, Category A, by Drs. Groten⁹ and Ahmed,¹⁰

section of the form, Dr. Groten wrote, "[right] hilar mass – large opacity vs. carcinoma vs. acute pneumonia – CT scan with contrast and follow-up with [primary] care physician recommended." *Id.*

⁶ Dr. Meyer identified small opacities r/q with a profusion of 2/2 in the upper and middle zones, and a Category A large opacity on an ILO form. MC Employer's Exhibit 1. In a separate report, Dr. Meyer stated, "[a]xillary coalescence is seen in the left upper zone." He further noted that the opacity located in the right mid-zone "must be classified as a possible large opacity of complicated coal workers' pneumoconiosis," although "[i]ts inferior location . . . is atypical." *Id.* Dr. Meyer explained that "bronchogenic carcinoma must also be considered," and recommended a chest CT scan or comparison with previous films. *Id.*

⁷ Dr. Ahmed submitted an ILO form on which he identified small opacities, q/r, with a profusion of 2/2 in the upper and middle zones, and complicated pneumoconiosis with large opacity A. MC Claimant's Exhibit 3. Dr. Ahmed stated in a separate report that the miner's x-ray showed parenchymal densities measuring over ten millimeters in diameter consistent with complicated pneumoconiosis in the right upper lung. *Id.* He further indicated that he observed focal fibrosis and scarring in the right lower lung, especially in the right infrahilar region. *Id.*

⁸ A Board-certified radiologist is a physician who has been certified by the American Board of Radiology as having particular expertise in the field of radiology. *See* 20 C.F.R. §718.202(a)(1)(ii)(D). A B reader is a physician who has demonstrated proficiency in classifying x-rays according to the ILO-U/C standards by successful completion of an examination established by the National Institute for Occupational Safety and Health. *See* 20 C.F.R. §718.202(a)(1)(ii)(E); 42 C.F.R. §37.51; *Mullins Coal Co. of Va. v. Director, OWCP*, 484 U.S. 135, 145 n.16, 11 BLR 2-1, 2-6 n.16 (1987), *reh'g denied*, 484 U.S. 1047 (1988).

⁹ On an ILO form, Dr. Groten identified small opacities, q/r, with a profusion of 2/2 in all six zones, and complicated pneumoconiosis with large opacity A. MC Claimant's Exhibit 1. In a separate report, Dr. Groten noted that the miner's x-ray showed a right infrahilar mass or mass-like infiltrate that could be a type A large opacity, but that a malignancy could not be excluded. *Id.* Dr. Groten also observed the presence of additional type A large opacities in both lung apices, along with coalescence of small

while Dr. Goldstein, who is a B reader, found simple pneumoconiosis, but no large opacities consistent with complicated pneumoconiosis. MC Director's Exhibit 15; MC Claimant's Exhibits 1, 2. The administrative law judge found that the January 10, 2012 and May 1, 2012 x-rays were "preponderantly positive" for complicated pneumoconiosis, based on the superior qualifications of Drs. Groten, Meyer, and Ahmed, as compared to Dr. Goldstein. MC Decision and Order at 13. The administrative law judge therefore concluded that the preponderance of the x-ray evidence was sufficient to establish the existence of complicated pneumoconiosis pursuant to 20 C.F.R. §718.304(a). *Id.*

Pursuant to 20 C.F.R. §718.304(b), the administrative law judge considered Dr. Clary's report of a biopsy performed on a mass in the right lower lobe of the miner's lung on November 7, 2011. MC Decision and Order at 14; MC Claimant's Exhibit 5. The administrative law judge acknowledged Dr. Clary's diagnoses of prominent anthracosis, benign reactive bronchial epithelium, and benign alveolar tissue, with type 2 pneumocyte hyperplasia. MC Decision and Order at 14. The administrative law judge determined that the biopsy evidence was sufficient to establish simple pneumoconiosis, but not complicated pneumoconiosis. *Id.* The administrative law judge further noted, "a biopsy report that does not describe complicated pneumoconiosis is not conclusive evidence that the [miner] did not have complicated pneumoconiosis." *Id.*

Under 20 C.F.R. §718.304(c), the administrative law judge considered CT scan readings, medical opinions, and treatment records. MC Decision and Order at 14-25. The administrative law judge initially considered the readings of the October 21, 2011 CT scan by Drs. Meyer and Ahmed. *Id.* at 15-16. Dr. Meyer observed "an elliptical density in the right lower lobe associated with pleural thickening, volume loss and swirling of vessels consistent with rounded atelectasis," and stated that "[t]here are no

pneumoconiotic nodules in the same locations. *Id.* He reiterated his recommendation of a CT scan and follow-up with the miner's primary physician to exclude a malignancy. *Id.*

¹⁰ Dr. Ahmed prepared an ILO form on which he identified small opacities, q/r, with a profusion of 2/1 in all six zones, and complicated pneumoconiosis with a Category A large opacity. MC Claimant's Exhibit 2. In a written report, Dr. Ahmed identified soft rounded parenchymal densities, measuring up to 10 millimeters, scattered throughout both lungs and multiple pleural-based nodules in the right upper lung, some of which measured up to one centimeter in diameter. *Id.* He also noted a "[m]ass-like opacity identified in the infrahilar region which is pleural-based and could be part of complicated pneumoconiosis." *Id.* He recommended a follow-up CT scan to exclude the possibility of malignancy. *Id.*

definite large opacities.” MC Employer’s Exhibit 3. Dr. Meyer concluded that while “the CT findings [were] consistent with simple coal workers’ pneumoconiosis,” “[t]he focal opacity in the right lower lobe fulfills all the CT criteria for rounded atelectasis and is not a large opacity/conglomerate fibrosis of [coal workers’ pneumoconiosis].” *Id.* The administrative law judge gave “minimal weight” to Dr. Meyer’s reading because he “provided no rationale for his findings.” MC Decision and Order at 16.

Dr. Ahmed observed “[p]neumoconiosis with several nodules larger than 3 millimeters,” most of which were in the upper two-thirds of both lung fields and “several other nodules which are coalescing [and] show speculated borders and measure up to 9 millimeters.” MC Claimant’s Exhibit 6. *Id.* He also opined that these nodules “could be part of pneumoconiosis; however, early malignancy cannot be excluded.” *Id.* Dr. Ahmed also observed:

A rounded opacity in the lower lobe is identified which is pleural-based and measures 5.3 centimeters. Differential diagnoses included pneumonia, atelectasis, or mass. Follow[-]up until total clearing is indicated to exclude the possibility of neoplastic process or hidden nodules of complicated pneumoconiosis.

MC Claimant’s Exhibit 6. The administrative law judge determined that Dr. Ahmed’s reading was equivocal and “does not establish complicated pneumoconiosis.” MC Decision and Order at 17. Based on her weighing of the two CT scan readings of record, the administrative law judge concluded, “as the [miner] bears the burden of establishing complicated pneumoconiosis, I find that the CT scan evidence does not establish complicated pneumoconiosis.”¹¹ *Id.*

The administrative law judge next weighed the medical opinions of Drs. Barney, Goldstein, Connolly and Zaldivar. MC Decision and Order at 10-12. Dr. Barney performed an examination at the request of the Department of Labor on January 10, 2012. MC Director’s Exhibit 13. Dr. Barney reported that the miner “should be referred to

¹¹ The administrative law judge acknowledged that the treatment records included Dr. Lindsey’s interpretation of the March 9, 2012 CT scan. MC Decision and Order at 15 n.19; MC Claimant’s Exhibit 4. Dr. Lindsey found numerous bilateral pulmonary nodules and multiple pleural based nodules, including a 4.8 centimeter mass in the right lower lobe, which “may represent a type of progressive massive fibrosis rather than a malignancy.” MC Claimant’s Exhibit 4. The administrative law judge determined, “Dr. Lindsey’s opinion that the mass may represent complicated pneumoconiosis is equivocal.” MC Decision and Order at 15 n.19.

another physician because there was a lung mass indicative of “possible massive pneumoconiosis.” *Id.* Dr. Goldstein examined claimant on May 1, 2012, and opined that the miner had simple pneumoconiosis. MC Director’s Exhibit 15. Dr. Connolly, who began treating the miner in 2011, authored a report dated April 7, 2014. MC Claimant’s Exhibit 4. Based on his examination of the miner, a pulmonary function study, and CT scan findings of pneumoconiosis, Dr. Connolly opined that the miner suffered from a chronic pulmonary disease caused, in whole or in part, by coal dust exposure. *Id.* Dr. Zaldivar reviewed the miner’s medical records, and diagnosed simple pneumoconiosis, but further opined that the x-ray abnormalities that other physicians had interpreted as complicated pneumoconiosis, were “rounded atelectasis,” rather than complicated pneumoconiosis. MC Employer’s Exhibit 4. He further explained that pneumoconiosis does not cause thickening of the pleura. *Id.*

The administrative law judge considered these opinions, and the accompanying treatment records from Dr. Connolly, and determined that this evidence did not support a finding of complicated pneumoconiosis. MC Decision and Order at 22-25. Upon weighing all of the evidence together under 20 C.F.R. §718.304(a)-(c), the administrative law judge gave controlling weight to the positive x-rays and concluded that claimant satisfied her burden to prove that the miner had complicated pneumoconiosis. *Id.* at 25. The administrative law judge thus determined that claimant invoked the irrebuttable presumption of total disability due to pneumoconiosis at 20 C.F.R. §718.304 based on the newly submitted evidence. MC Decision and Order at 25-28. Further, the administrative law judge determined that claimant established a change in an applicable condition of entitlement, as required by 20 C.F.R. §725.309(c). *Id.* Upon consideration of the record as a whole, the administrative law judge gave less weight to the older, “outdated” evidence of record, after noting that it was “approximately 18 years old,” and that the miner had worked in coal mine employment “for another 12 years since he filed his initial claim.” *Id.* at 27. Thus, the administrative law judge found that the evidence of record, as a whole, was sufficient to establish the presence of complicated pneumoconiosis and to invoke the irrebuttable presumption of total disability due to pneumoconiosis under 20 C.F.R. §718.304. *Id.*

Employer maintains that the administrative law judge’s finding of complicated pneumoconiosis is flawed because Dr. Meyer identified a Category A opacity in the right mid-lung zone on the May 1, 2012 x-ray, while Drs. Groten and Ahmed observed a large opacity in the upper lung zones on both the January 10, 2012 x-ray and the May 1, 2012 x-ray. MC Director’s Exhibit 13; MC Claimant’s Exhibits 1-3; MC Employer’s Exhibit 3. As the Director has observed, employer appears to argue that Dr. Meyer’s observation of a large opacity in a different lung zone than Drs. Groten and Ahmed negated all of the positive x-ray readings for complicated pneumoconiosis. Director’s Letter Brief in the Miner’s Claim at 2. We reject this contention.

All of new x-ray interpretations performed by dually-qualified radiologists, Drs. Meyer, Groten, and Ahmed, were positive for complicated pneumoconiosis. Director's Exhibit 13; Claimant's Exhibits 1-3; Employer's Exhibit 1. Based on the preponderance of positive readings by highly-qualified physicians, the administrative law judge rationally determined that the existence of complicated pneumoconiosis was established by the x-ray evidence. *See Cornelius*, 508 F.3d at 986, 24 BLR at 2-89; *Cranor v. Peabody Coal Co.*, 22 BLR 1-1, 1-5 (1999) (en banc); *Melnick*, 16 BLR at 1-37; MC Decision and Order at 13. Contrary to employer's argument, there is no provision requiring that x-ray readings that otherwise meet the standards set forth in 20 C.F.R. §718.304(a) also reflect a consensus as to the location of a Category A large opacity in order to be credited as positive for complicated pneumoconiosis. 30 U.S.C. §921(c)(3), as implemented by 20 C.F.R. §718.304. Therefore, we affirm the administrative law judge's finding that claimant established the existence of complicated pneumoconiosis at 20 C.F.R. §718.304(a), based on the newly submitted x-ray evidence. *See Director, OWCP v. Greenwich Collieries [Ondecko]*, 512 U.S. 267, 281, 18 BLR 2A-1, 2A-12 (1994); *Staton v. Norfolk & Western Ry. Co.*, 65 F.3d 55, 59, 19 BLR 2-271, 2-279-80 (6th Cir. 1995); MC Decision and Order at 13.

Employer further alleges that the administrative law judge shifted the burden to employer to disprove the existence of the disease, after finding that the x-ray evidence was sufficient to establish the existence of complicated pneumoconiosis. Employer's Brief at 8. We disagree. After finding that the x-ray evidence was sufficient to establish the existence of complicated pneumoconiosis at 20 C.F.R. §718.304(a), the administrative law judge rationally determined that the x-ray evidence could lose force only if evidence relevant to 20 C.F.R. §718.304(b), (c), affirmatively demonstrates that the opacities seen on x-ray are not there or are not what they appear to be. *See E. Assoc. Coal Corp. v. Director, OWCP [Scarbro]*, 220 F.3d 250, 255, 22 BLR 2-93, 2-100 (4th Cir. 2000); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33-34 (1991) (en banc). Accordingly, the administrative law judge properly maintained the burden of proof on claimant while rendering permissible credibility determinations pursuant to 20 C.F.R. §718.304(b), (c). *See Melnick*, 16 BLR at 1-33-34; MC Decision and Order at 9, 17, 25; Employer's Brief at 8-12.

Pursuant to 20 C.F.R. §718.304(b), the administrative law judge permissibly determined that the biopsy evidence supported the x-ray findings of complicated pneumoconiosis by confirming the presence of coalescing small opacities in the right hilar region and the absence of a malignancy. *See Maddaleni v. Pittsburg & Midway Coal Mining Co.*, 14 BLR 1-135, 1-140 (1990); *Lafferty v. Cannelton Industries, Inc.*, 12 BLR 1-190, 1-192 (1989); MC Decision and Order at 26. The administrative law judge also acted within her discretion in finding that Dr. Meyer's reading of the CT scan dated

October 21, 2011, was entitled to “minimal weight” at 20 C.F.R. §718.304(c) because Dr. Meyer stated that the mass in the lower lobe of claimant’s right lung “fulfills all the CT criteria for rounded atelectasis,”¹² without identifying the criteria he applied or explaining why the mass was not consistent with complicated pneumoconiosis. Decision and Order at 16; Employer’s Exhibit 1; see *U.S. Steel Mining Co. v. Director, OWCP [Jones]*, 386 F.3d 977, 992, 23 BLR 2-213, 2-238 (11th Cir. 2004). Similarly, the administrative law judge permissibly found that Dr. Ahmed’s interpretation of the same CT scan did not undercut the x-ray evidence, as Dr. Ahmed provided a differential diagnosis of the right lower lobe mass, while acknowledging that it could be masking nodules of complicated pneumoconiosis. See *Maddaleni*, 14 BLR at 1-140; *Lafferty*, 12 BLR at 1-192; Decision and Order at 16; Claimant’s Exhibit 6. Finally, contrary to employer’s argument, the administrative law judge acted rationally in according little weight to Dr. Zaldivar’s opinion under 20 C.F.R. §718.304(c) because Dr. Zaldivar relied on Dr. Meyer’s discredited diagnosis of atelectasis on the October 21, 2011 CT scan and on a treatment record reading of the same CT scan that included atelectasis in a differential diagnosis. See *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-113 (1989); MC Decision and Order at 25.

The administrative law judge thus properly weighed all of the record evidence together as to the presence or absence of complicated pneumoconiosis and explained the basis for her credibility determinations. See *Cornelius*, 508 F.3d at 987-989, 24 BLR at 2-94-96; *Gollie v. Elkay Mining Corp.*, 22 BLR 1-306, 1-311 (2003); *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989). As the administrative law judge maintained the burden of persuasion on claimant in finding that the evidence, as a whole, established the existence of complicated pneumoconiosis, we affirm her finding that claimant invoked the irrebuttable presumption of total disability due to pneumoconiosis at 20 C.F.R. §718.304. 30 U.S.C. §921(c)(3); see *Braenovich v. Cannelton Industries, Inc./Cypress Amax*, 22 BLR 1-236, 1-245 (2003); *Melnick*, 16 BLR at 1-33-34. We further affirm the administrative law judge’s finding that claimant established a change in an applicable condition of entitlement under 20 C.F.R. §725.309. See *White*, 23 BLR at 1-3.

Finally, we affirm, as unchallenged by employer on appeal, the administrative law judge’s determination that claimant’s complicated pneumoconiosis arose out of his coal mine employment pursuant to 20 C.F.R. §718.203(b). See *Skrack v. Island Creek Coal*

¹² Atelectasis is an “incomplete expansion of a lung or a portion of a lung, occurring congenitally as a primary or secondary condition; airlessness of a lung that had once been expanded; and/or collapse of a lung.” Decision and Order at 16 n.20, quoting DORLAND’S ILLUSTRATED MEDICAL DICTIONARY, 26th Ed. (1985) at 133.

Co., 6 BLR 1-710, 1-711 (1983); MC Decision and Order at 27. Accordingly, we affirm the administrative law judge's Decision and Order Awarding Benefits in the miner's claim.

II. THE SURVIVOR'S CLAIM

In the survivor's claim, the administrative law judge determined that claimant was automatically entitled to receive benefits pursuant to Section 422(*l*) of the Act. Survivor's Claim (SC) Decision and Order at 2. In her July 12, 2016 Order, the administrative law judge found that claimant satisfied her burden to establish each fact necessary to demonstrate her entitlement under Section 422(*l*): that she filed her claim after January 1, 2005; that she is an eligible survivor of the miner; that her claim was pending on or after March 23, 2010; and that the miner was found to be eligible to receive benefits at the time of his death. 30 U.S.C. §932(*l*). Employer acknowledges that a decision in the miner's appeal affirming the award of benefits in the miner's claim is determinative of the propriety of the administrative law judge's application of Section 422(*l*) in the survivor's claim appeal. Because we have affirmed the award of benefits in the miner's claim, we affirm the administrative law judge's finding that claimant is entitled to survivor's benefits under Section 422(*l*). *See Thorne v. Eastover Mining Co.*, 25 BLR 1-121, 1-126 (2013).

Accordingly, the administrative law judge's Decisions and Orders Awarding Benefits in the miner's claim and the survivor's claim are affirmed.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge