BRB No. 03-0181 BLA

BETTY BAILEY (Widow of THOMAS BAILEY) Claimant-Respondent v. CONSOLIDATION COAL COMPANY Employer-Petitioner DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	DATE ISSUED: 11/07/2003 DECISION and ORDER

Appeal of the Decision and Order on Remand of Stuart A. Levin, Administrative Law Judge, United States Department of Labor.

Frederick K. Muth (Hensley, Muth, Garton & Hayes), Bluefield, West Virginia, for claimant.

Mary Rich Maloy (Jackson Kelly PLLC), Washington, D.C., for employer.

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

PER CURIAM:

Employer appeals the Decision and Order on Remand (98-BLA-0825) of Administrative Law Judge Stuart A. Levin awarding benefits on a survivor's claim[1] filed

[1] Claimant, Betty Bailey, is the widow of Thomas Bailey, the miner, who died on May 5, 1997. Director's Exhibit 3. Benfits were awarded on the miner's claim. *Bailey v. Consolidation Coal Co.*, BRB No. 00-0405 BLA (Jan. 31, 2001)(unpub.), *slip op.* at 2 n.1. Claimant filed her application for benefits on May 12, 1997. Director's Exhibit 1. By letter dated June 4, 2003, claimant's counsel informed the Board that he had learned from claimant's daughter, Ms. Cathy Bailey, that claimant died on March 11, 2003.

pursuant to the provisions of Title IV of the Federal Coal Mine Health and Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq*. (the Act).[2] This case is before the Board for the second time. In his initial Decision and Order, the administrative law judge credited the miner with thirty years of qualifying coal mine employment, found that the x-ray evidence established the existence of pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(1) (2000) and found that the miner's death was due to pneumoconiosis pursuant to 20 C.F.R. §718.205(c)(1) and (2) (2000). Benefits were, accordingly, awarded.

Pursuant to employer's appeal, the Board held that the doctrine of collateral estoppel did not preclude the administrative law judge from considering the issue of the existence of pneumoconiosis in the survivor's claim even though it was previously adjudicated in the miner's claim. The Board, however, vacated the administrative law judge's Section 718.202(a)(4) (2000) finding and remanded the case to the administrative law judge for further consideration because the administrative law judge failed to explain how the physical examinations conducted by Drs. Qazi, Abernathy, and Hatahet assisted them in rendering their diagnoses of pneumoconiosis. The Board instructed the administrative law judge to provide the basis for his finding that Dr. Hatahet was the miner's treating physician and to consider whether the evidence of record was sufficient to establish the existence of complicated pneumoconiosis, thereby entitling claimant to the irrebuttable presumption of death due to pneumoconiosis at Section 718.304. 30 U.S.C. §921(c)(3). Similarly, the Board vacated the administrative law judge's determinations under Section 718.205(c)(1) and (2) because the administrative law judge failed to adequately explain how the examinations conducted by Drs. Khokar and Hatahet assisted them in rendering their opinions on the cause of the miner's death. The Board further instructed the administrative law judge to determine whether these medical opinions were sufficiently reasoned in light of *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 21 BLR 2-323 (4th Cir. 1998) and *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 21 BLR 2-269 (4th Cir. 1997). *Bailey v. Consolidation Coal Co.*, BRB No. 00-0405 BLA (Jan. 31, 2001)(unpub.).

On remand, the administrative law judge found that claimant established the existence of simple pneumoconiosis arising out of the miner's coal mine employment and that pneumoconiosis substantially contributed to the miner's death. The administrative law judge also found the evidence sufficient to establish the presence of complicated pneumoconiosis, entitling claimant to the irrebuttable presumption that the miner's death was due to pneumoconiosis. Accordingly, benefits were awarded.

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

On appeal, employer argues that the administrative law judge erred in finding that the evidence was sufficient to establish the existence of both simple and complicated pneumoconiosis. Employer also argues that the administrative law judge erred by failing to provide an adequate analysis of his weighing of the conflicting medical evidence under Section 718.202(a) and by failing to weigh together all of the relevant evidence in accordance with the holding of the United States Court of Appeals for the Fourth Circuit, within whose jurisdiction this case arises, in *Island Creek Coal Co. v. Compton*, 211 F.3d 203, 22 BLR 2-162 (4th Cir. 2000). Further, employer asserts that the administrative law judge erred by failing to: consider and weigh both the x-ray and CT scan evidence in finding the presence of complicated pneumoconiosis, render an adequate analysis of the evidence concerning the cause of death, and comply with the Board's remand instructions in evaluating the qualifications of the physicians in determining the weight to accord their opinions. By letter dated January 30, 2003, claimant responds stating that she did not file a timely response to employer's appeal, but states that her position was articulated in the previous appeal of this case. The Director, Office of Workers' Compensation Programs, as party-in-interest, has filed a letter, indicating that he will not participate in this appeal.

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

We first address employer's argument concerning the existence of complicated pneumoconiosis. Employer contends that the administrative law judge failed to consider and weigh the multitude of x-ray readings which are negative for pneumoconiosis, as well as x-rays which found simple pneumoconiosis but not complicated pneumoconiosis. In particular, employer notes that not one x-ray reading included an ILO classification of a large opacity size A, B, or C or a reading by a B-reader designating a large opacity size A, B, or C. Additionally, employer contends that not one CT scan diagnosed the existence of complicated pneumoconiosis. Employer also argues that the administrative law judge ignored the opinions of Drs. Castle, Fino, and Dahhan and focused entirely on discounting Dr. Wheeler's testimony that the miner did not have complicated pneumoconiosis.

The administrative law judge found that the x-ray evidence of masses described in the deposition testimonies of Drs. Wheeler, Khokar, and Hatahet was sufficient to establish the presence of complicated pneumoconiosis because the masses described satisfied the size requirements of a large opacity.20 C.F.R. §718.304(a); Decision and Order on Remand at 20. In considering Dr. Wheeler's additional testimony on deposition, the administrative law judge found that his argument that the masses present could not be complicated pneumoconiosis absent a background of simple pneumoconiosis was unsubstantiated.

Further, the administrative law judge noted that Dr. Wheeler opined that the masses were most likely representative of conglomerate tuberculosis. The administrative law judge found that opinion suspect, however, since no other physician who examined the miner or reviewed his medical history diagnosed tuberculosis and Dr. Wheeler conceded that he was unable to make a certain diagnosis absent examination of the miner or knowledge of the miner's medical history.

As employer contends, the administrative law judge failed to specifically weigh and discuss together all the x-ray, CT scan, and medical opinion evidence in determining that the evidence established the existence of complicated pneumoconiosis at Section 718.304. Decision and Order at 20. Because these types of evidence are relevant to establishing the existence of complicated pneumoconiosis, and must be weighed together, the administrative law judge's failure to specifically discuss all the relevant evidence at the part of his decision where he found the existence of complicated pneumoconiosis established requires that we vacate the administrative law judge's finding of complicated pneumoconiosis at Section 718.304 and remand the case for further consideration, thereunder. *Eastern Associated Coal Corp. v. Director, OWCP* [*Scarbro*], 220 F.3d 250, 256, 22 BLR 2-93, 2-101 (4th Cir. 2000); *Lester v. Director, OWCP*, 993 F.2d 1143, 17 BLR 2-114 (4th Cir. 1993); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31 (1991)(*en banc*). On remand, in determining whether claimant has established the existence of complicated pneumoconiosis, the administrative law judge must fully explain his credibility determinations and his weighing of all the relevant evidence. *See Bill Branch Coal Corp. v. Sparks*, 213 F.3d 186, 22 BLR 2-251 (4th Cir. 2000). Further, in considering the evidence on remand, the administrative law judge must evaluate and address the respective qualifications of the physicians, as the Board previously instructed, pursuant to *Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 21 BLR 2-323 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 21 BLR 2-269 (4th Cir. 1997), and must examine all the medical reports of record and fully explain which physicians' opinions are better supported by their underlying documentation. *Trumbo v. Reading Anthracite Co.*, 17 BLR 1-85, 1-88-89 (1993); *Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989)(*en banc*), and better reasoned, *King v. Consolidation Coal Co.*, 8 BLR 1-262 (1985); *Lucostic v. U.S. Steel Corp.*, 8 BLR 1-46 (1985).

Employer also argues that the administrative law judge erred in finding the x-ray evidence sufficient to establish the existence of simple pneumoconiosis. Employer contends that the administrative law judge failed to consider specific x-ray readings that found no evidence of coal workers' pneumoconiosis and to compare those findings to contrary positive readings. Employer contends that the administrative law judge failed to weigh the radiological qualifications of the x-ray readers, and to weigh the deposition testimony of Dr. Wheeler, which detailed his interpretations of the miner's x-rays. Additionally, employer contends that the administrative law judge erred in according greater weight to the positive x-

ray readings which were outnumbered by negative x-ray readings.[3]

Section 718.102 mandates that an x-ray be of suitable quality for proper classification of pneumoconiosis. To establish the existence of pneumoconiosis, a chest x-ray "shall be classified as Category 1, 2, 3, A, B, or C" according to the ILO-U/C. 20 C.F.R. §718.102(a), (b); *Wilt v. Wolverine Mining Co.*, 14 BLR 1-70 (1990); *Sheckler v. Clinchfield Coal Co.*, 7 BLR 1-128 (1984). Further, Section 718.202 provides that where the x-ray evidence is in conflict, consideration "shall be given to the radiological qualifications of the physicians interpreting such X-rays." 20 C.F.R. §718.202(a)(1); *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Dixon v. North Camp Coal Co.*, 8 BLR 1-344 (1985); *Roberts v. Bethlehem Mines Corp.*, 8 BLR 1-211 (1985); *see Staton v. Norfolk & Western Ry. Co.*, 65 F.3d 55, 19 BLR 2-271 (6th Cir. 1997); *Woodward v. Director, OWCP*, 991 F.2d 314, 17 BLR 2-77 (6th Cir. 1993); *Adkins v. Director, OWCP*, 958 F.2d 49, 16 BLR 2-61 (4th Cir. 1992).

Although the administrative law judge listed all of the x-rays in this case, Decision and Order at 3-8, he merely concluded that the x-rays were positive for changes consistent with pneumoconiosis, without clearly discussing the basis for his finding, *i.e.*, why he accorded greater weight to the positive x-ray evidence. Accordingly, the administrative law judge's finding at Section 718.202(a)(1) must be vacated and the case remanded for the administrative law judge to provide a complete discussion of his evaluation of the x-ray evidence, including a discussion of how he resolved the conflict in the x-ray evidence and a discussion of the qualifications of the x-ray readers. 20 C.F.R. §718.202(a). The administrative law judge is not, however, required to give greater weight to negative x-ray readings than to positive readings merely based on the numerical superiority of the negative x-ray evidence of record. *Adkins v. Director, OWCP*, 958 F.2d 49, 16 BLR 2-61 (4th Cir. 1992).[4]

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[3] In this instant case, of the forty-three x-ray interpretations of record from the time period of 1986 until the miner's death in 1997, there are ten positive readings rendered by Drs. Dahhan and Gaziano, B-readers, and Dr. Aycoth, who is a B-reader and is Board-eligible in radiology, while thirty-three negative readings were rendered by Drs. Castle and Fino, B-readers, and Dr. Wheeler, a Board-certified radiologist and B-reader, Director's Exhibits 9, 17, 18; Employer's Exhibits 1, 2, 6. Seven readings were made during claimant's hospitalizations by Drs. Rao, Shahan, and Fowler, physicians whose radiological qualifications are not of record, who found evidence of pneumoconiosis or chronic interstitial lung disease, but did not classify their findings according to the ILO-U/C system. 20 C.F.R. §718.202(a)(1); Claimant's Exhibit 1.

[4] We reject employer's argument that the administrative law judge erred by failing to consider the deposition testimony of Dr. Wheeler under his Section 718.202(a)(1) analysis. Section 718.202(a)(1) permits an administrative law judge to find the existence of

Employer also argues that the administrative law judge failed to adequately consider and weigh the CT scans of record.[5] In considering the CT scan evidence, the administrative law judge found that even though none of the CT scans established the existence of pneumoconiosis, the reasoning of the reviewing physicians was "no different from the reasoning [of the reviewing physicians] on the X-rays, and the latter has already been dismissed." Decision and Order on Remand at 19. Because the administrative law judge's analysis of the CT scan evidence is unclear, however, and may have been impacted by his inadequate assessment of the x-ray evidence, we vacate the administrative law judge's weighing of the CT scan evidence and remand the case for the administrative law judge to discuss the CT scan evidence and specifically consider it with the x-ray and medical opinion evidence.

Next, employer argues that the administrative law judge erred in finding that the medical opinion evidence established the existence of pneumoconiosis at Section 718.202(a)(4). Specifically, employer contends that the administrative law judge's rejection of Dr. Castle's opinion was highly selective inasmuch as the administrative law judge rejected Dr. Castle's opinion because he relied on minimal x-ray abnormalities in 1987 to opine that there was no evidence of pneumoconiosis. Employer contends however, that this was error because Dr. Castle also based his opinion on multiple readings of more recent x-ray films taken in 1996 and 1997.

In rejecting Dr. Castle's opinion, the administrative law judge found that Dr. Castle's opinion that the miner did not suffer from coal workers' pneumoconiosis because of only minimal abnormalities seen on the 1987 x-ray was not only unsupported, but was also antithetical to the Act's recognition that pneumoconiosis is a "latent and progressive disease which may first become detectable only after the cessation of coal mine dust exposure." 20 C.F.R. §718.201(c).

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pneumoconiosis based on a chest x-ray that is classified as Category 1/0 or greater. 20 C.F.R. §§718.102(b), 718.202(a)(1). The Board has held "comments that address the source of a pneumoconiosis diagnosed by x-ray are not relevant to the issue of the existence of pneumoconiosis at §718.202(a)(1)" but rather, are to be considered by the fact-finder pursuant to Section 718.203. *Cranor v. Peabody Coal Co.*, 22 BLR 1-1, 1-5 (1999)(*en banc*).

[5] There are three CT scans of record dated October 13, 1993, June 14, 1995, and April 24, 1996, which were reviewed by Drs. Wheeler, Fino, Castle, and Dahhan. None of these physicians found the existence of either simple or complicated pneumoconiosis on the CT scan evidence. Director's Exhibit 17; Employer's Exhibits 2, 3, 5.

In reports dated June 3, 1998 and August 12, 1998 and during a deposition on September 28, 1998, Dr. Castle stated, after a review of the miner's medical records, x-rays films consisting of negative and positive readings, CT scans, blood gas studies, and pulmonary function studies, that the miner did not have any physical, physiological, radiological, or blood gas studies demonstrating the presence of coal workers' pneumoconiosis. Contrary to the administrative law judge's finding, therefore, Dr. Castle's opinion was based on more than the findings in the 1987 x-ray. Employer's Exhibits 1, 3.

An administrative law judge may not discredit a physician's opinion solely on the ground that it is based, in part, upon an x-ray reading which is at odds with the administrative law judge's finding with respect to the x-ray evidence of record. *Church v. Eastern Assoc. Coal Co.*, 20 BLR 1-8, 1-13 (1996); *Taylor v. Director, OWCP*, 9 BLR 1-22 (1986). Thus, although the administrative law judge may reject a report whose objective basis is suspect, *see Fuller v. Gibraltar Coal Corp.*, 6 BLR 1-1291 (1984), the administrative law judge's discrediting of Dr. Castle's opinion, in this case, was unreasonable because the administrative law judge erred in characterizing Dr. Castle's opinion as being based on a 1987 x-ray when, in fact, Dr. Castle relied on additional more recent medical evidence. *See Tackett v. Director, OWCP*, 7 BLR 1-703, 1-706 (1985); *Goode v. Eastern Assoc. Coal Co.*, 6 BLR 1-1064 (1984). The administrative law judge's rejection of Dr. Castle's opinion is, therefore, vacated. On remand, the administrative law judge must consider Dr. Castle's opinion in light of all the evidence he reviewed.

Likewise, employer avers that the administrative law judge's rejection of Dr. Fino's opinion was highly selective. Employer contends that, instead of considering Dr. Fino's opinion in its entirety, which was based on his review of a series of x-rays, CT scans, and all the medical data available, the administrative law judge impermissibly focused only on Dr. Fino's statement that pneumoconiosis does not cause "significant" obstruction. Employer contends that the statement does not ignore the possibility that pneumoconiosis may cause of degree of obstructive impairment, nor does it rule out the possibility of the existence of legal pneumoconiosis in the form of obstructive impairment caused by coal mine employment. Employer also contends that the administrative law judge erred in paying isolated attention to Dr. Fino's comment regarding the use of bronchodilators since the record was clear that bronchodilators do not help someone with impairment caused by coal dust exposure and Dr. Fino's opinion regarding the existence of pneumoconiosis was based on consideration of numerous factors, *i.e.*, medical literature, the nature and frequency of pneumonia in pneumoconiosis and other respiratory diseases, reliance on CT scan findings, employment and smoking histories, and blood gas study abnormalities.

In according Dr. Fino's opinion diminished weight, the administrative law judge concluded that Dr. Fino's opinion that coal workers' pneumoconiosis cannot cause significant obstruction was inconsistent with the Act. In addition, the administrative law judge concluded that the portion of Dr. Fino's opinion stating that the use of bronchodilators

was inconsistent with coal workers' pneumoconiosis undermined his opinion because even though the use of bronchodilators may be ineffective for the treatment of coal workers' pneumoconiosis, that does not mean that they are contraindicated or that a physician prescribing them would be engaged in inappropriate treatment.

Although the Fourth Circuit has held that a physician's opinion based on a premise antithetical to the Act is not probative, *Thorn v. Itmann Coal Co.*, 3 F.3d 713, 18 BLR 2-16 (4th Cir. 1993); *see also Penn Allegheny Coal Co. v. Mercatell*, 878 F.2d 106, 12 BLR 2-305 (3d Cir. 1989); *Labelle Processing Co. v. Swarrow*, 72 F.3d 308, 20 BLR 2-76 (3d Cir. 1995), the administrative law judge has not shown, how based on the reasons given, Dr. Fino's opinion that the miner's diffuse lung disease was unrelated to coal mine dust inhalation was inconsistent with the Act. *See Stiltner v. Island Creek Coal Co.*, 86 F.3d 337, 20 BLR 2-246 (4th Cir. 1996).

Employer next challenges the administrative law judge's weighing of the opinions of Drs. Khokar and Hatahet and his determination that these physicians' opinions were entitled to dispositive weight. Employer argues that the administrative law judge erred in relying on these opinions because neither physician independently evaluated the x-rays or reviewed the CT scans. Employer argues that the administrative law judge impermissibly failed to evaluate whether Dr. Khokar's opinion were reasoned, supported by the underlying documentation and more credible than the contrary findings of Drs. Wheeler, Castle, and Fino, whose analyses he found to be duly supported by their findings regarding the shape and location of opacities on x-ray, CT scan abnormalities and undisputed medical literature. Employer also avers that, despite the fact that the administrative law judge cited Section 718.104(d)(1)-(4), he failed to state how the contact between Dr. Khokar, the miner's treating physician, and the miner provided Dr. Khokar with information that was not also available to the reviewing physicians. Employer also contends that the administrative law judge's acceptance of the opinions of Drs. Khokar and Hatahet, examining physicians, while rejecting the opinions of Drs. Castle and Fino, out of hand, because they were not examining physicians is impermissible.

The administrative law judge found that the deposition testimonies of Drs. Khokar and Hatahet opining that the miner suffered from coal workers' pneumoconiosis were credible and persuasive. Applying the criteria set forth in Section 718.104(d)(1)-(4) to Dr. Khokar's opinion, the administrative law judge accorded it determinative weight based on the nature of the physician's relationship with the miner as treating physician, the fact that the four years the relationship lasted four years prior to the miner's death, the frequency of the examinations of the miner both in and out of the hospital, and the extent of his treatment of the miner. Decision and Order on Remand at 19. This was proper. 20 C.F.R. §718.104(d).[6]

[6] Dr. Hatahet treated the miner during his last hospitalization. Decision and Order at

Nevertheless, because the administrative law judge's reconsideration of the medical opinions on remand may impact his treatment of the opinions of Drs. Khokar and Hatahet, we remand the case for the administrative law judge to also reconsider these physicians' opinions at Section 718.202(a)(4).

Employer also argues that the administrative law judge failed to weigh together all of the relevant evidence at Section 718.202(a)(1)-(4) as a whole in accordance with *Compton*, 211 F.3d 203, 22 BLR 2-162. Employer's argument has merit. Although the administrative law judge found x-ray and medical opinion evidence each sufficient to establish the existence of pneumoconiosis pursuant to Section 718.202(a)(1) and (4), he did not determine whether they established the existence of simple pneumoconiosis by weighing them together in accordance with *Compton*. He must do this on remand. *See Compton*, 211 F.3d at 211, 22 BLR at 2-174; *Bailey*, *slip op.* at 5-6.

Relevant to Section 718.203, employer argues that, when weighing the medical opinions under Section 718.202(a)(4), the administrative law judge improperly shifted the burden of establishing the existence of pneumoconiosis to employer in finding that the opinions of Drs. Castle and Fino failed to rebut the presumption that the miner's pneumoconiosis arose out of his coal mine employment. Immediately following his determination that the x-ray evidence was sufficient to establish the existence of pneumoconiosis, the administrative law judge stated, "Therefore, I find the X-rays to be positive for changes consistent with simple pneumoconiosis under Section 718.202(a)(1), and the Claimant is entitled to invocation of the irrebuttable presumption that the pneumoconiosis arose from the Miner's coal mine employment." Decision and Order on Remand at 19. Consequently, the administrative law judge considered each medical opinion to determine whether it was sufficient to establish the existence of pneumoconiosis and rebuttal of the presumption at Section 718.203(b).

Claimant is entitled to invocation of the rebuttable presumption that the pneumoconiosis arose out of the miner's coal mine employment pursuant to 718.203(b) provided the miner worked in qualifying coal mine employment for ten years or more. 20 C.F.R. §718.203(b). Because the administrative law judge obfuscated the issues of the existence of pneumoconiosis, a requisite element set forth in Section 718.202(a), with the etiology of the disease, another requisite element set forth in Section 718.203, we vacate the administrative law judge's Section 718.203 determination inasmuch as the causality determination cannot precede the threshold determination as to whether pneumoconiosis has been established. *See Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (*en banc*).

18.

Employer also argues that the administrative law judge erred in finding the evidence sufficient to establish that the miner's death was due to pneumoconiosis based on Dr. Khokar's opinion. Employer contends, however, that the administrative law judge's finding is inadequate and based upon the administrative law judge's speculations regarding the miner's use of steroids, *i.e.*, the administrative law judge's statement that steroids apparently made the miner more susceptible to pneumonia, and are contradicted by the substantial medical opinions of Drs. Castle, Fino, and Dahhan.

In finding that the miner's death was due to pneumoconiosis, the administrative law judge noted that the miner's use of steroids which were prescribed to him by his treating physician, Dr. Khokar, for the treatment of pneumoconiosis, apparently made him more susceptible to pneumonia. The administrative law judge failed, however, to discuss any other medical opinion evidence relevant to the cause of the miner's death. Accordingly, if reached, the administrative law judge must on remand consider and discuss all medical opinion evidence relevant to the cause of death.

Accordingly, the Decision and Order on Remand of the administrative law judge is vacated and the case is remanded 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