BRB No. 08-0100 BLA

R.A.S.	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	DATE ISSUED: 10/31/2008
DOMINION COAL CORPORATION	)	
	)	
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 - Award of Benefits of Richard T. Stansell-Gamm, Administrative Law Judge, United States Department of Labor.

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

Ronald E. Gilbertson (Bell, Boyd & Lloyd, LLP), 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 - Award of Benefits (2006-BLA-5635) of Administrative Law Judge Richard T. Stansell-Gamm, rendered on a subsequent claim[1] filed pursuant to the provisions of Title IV of the Federal Coal Mine Health and

[1] Claimant filed a prior claim for benefits on December 3, 2001, which was denied by the district director on the ground that claimant was not totally disabled. Director's Exhibit 1. Claimant took no further action with regard to the denial of his claim until he filed this subsequent claim on May 19, 2005. Director's Exhibit 3.

Safety Act of 1969, as amended, 30 U.S.C. §901 *et seq*. (the Act). The administrative law judge accepted the parties' stipulation that claimant had twenty-five years of coal mine employment. The administrative law judge determined that the newly submitted evidence was sufficient to establish the existence of complicated pneumoconiosis pursuant to 20 C.F.R. §718.304 and, thus, he found that claimant demonstrated a change in an applicable condition of entitlement pursuant to 20 C.F.R. §725.309. Based on his review of all of the record evidence, the administrative law judge found that claimant established the existence of simple and complicated pneumoconiosis pursuant to 20 C.F.R. §718.202(a), that claimant's pneumoconiosis arose out of coal mine employment pursuant to 20 C.F.R. §718.203(b), that claimant was entitled to invoke the irrebuttable presumption of total disability due to pneumoconiosis pursuant to Section 718.304, that claimant established total disability based on the most recent and qualifying exercise arterial blood gas study at 20 C.F.R. §718.204(b)(2)(ii), and that claimant established total disability due to pneumoconiosis pursuant to 20 C.F.R §718.204(c). Accordingly, the administrative law judge awarded benefits.

Employer appeals, asserting that the administrative law judge erred in finding that there has been a change in claimant's condition since the denial of his prior claim. Employer contends that the administrative law judge erred in finding that claimant was entitled to invoke the irrebuttable presumption of total disability due to pneumoconiosis at Section 718.304. Employer also contends that the administrative law judge erred in finding that claimant was totally disabled due to pneumoconiosis pursuant to Section 718.204(b), (c). Employer asks the Board to reverse the award of benefits or vacate and remand the case for further consideration.[2] Claimant responds, urging affirmance of the award of benefits. The Director, Office of Workers' Compensation Programs, has declined to file a brief unless specifically requested to do so by the Board.

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,

[2] Employer contends that if the case is remanded for any reason, the administrative law judge should "be instructed on remand to reopen the record to allow employer the opportunity to have the December 20, 2005 x-ray reread." Employer's Brief at 22 n. 1. We reject employer contention that the administrative law judge erred in failing to permit employer to submit a rebuttal reading of the December 20, 2005 x-ray, as that x-ray was part of claimant's treatment records, and there is no specific provision for rebuttal of treatment records. *See* 20 C.F.R. §725.414. Moreover, contrary to employer's assertion, the administrative law judge specifically found that employer failed to show good cause for the submission of a rebuttal reading of the December 20, 2005 x-ray. Hearing Transcript at 16.

and in accordance with applicable law.[3] 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, 363 (1965).

In order to establish entitlement to benefits under 20 C.F.R. Part 718, claimant must prove that he suffers from pneumoconiosis, that his pneumoconiosis arose out of coal mine employment, and that he is totally disabled by pneumoconiosis. *See* 20 C.F.R. §§718.3, 718.201, 718.202, 718.203, 718.204. Failure to establish any one of these elements precludes a finding of entitlement. *Trent v. Director, OWCP*, 11 BLR 1-26 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (*en banc*).

Where 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(d). The "applicable conditions of entitlement" are "those conditions upon which the prior denial was based." 20 C.F.R. §725.309(d)(2). In this case, because claimant's prior claim was denied for failure to establish total disability, he had to submit new evidence to prove that he is totally disabled in order to satisfy the requirements of Section 725.309. *See White v. New White Coal Co.*, 23 BLR 1-1, 1-3 (2004).

The administrative law judge found that claimant satisfied his burden of proving total disability and a change in an applicable condition of entitlement at Section 725.309, as the administrative law judge determined that the newly submitted evidence supported a finding of complicated pneumoconiosis, thereby entitling claimant to the irrebuttable presumption at Section 718.304. The regulation at Section 718.304 provides that there is 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 chest x-ray, yields one or more large opacities (greater than one centimeter in diameter) 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). 20 C.F.R. §718.304.

In order to determine whether claimant has established invocation of the irrebuttable presumption pursuant to Section 718.304, the administrative law judge is required to weigh together all of the evidence relevant to the presence or absence of complicated pneumoconiosis. *See Gollie v. Elkay Mining Corp*., 22 BLR 1-306, 1-311 (2003); *Lester v. Director, OWCP*, 993 F.2d 1143, 1145-46, 17 BLR 2-114, 2-117-18 (4th Cir. 1993); *Melnick v. Consolidation Coal Co*., 16 BLR 1-31, 1-33-34 (1991) (*en*

[3] This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit, as claimant's coal mine employment was in Virginia. *Shupe v. Director, OWCP*, 12 BLR 1-200 (1989) (*en banc*); Director's Exhibits 6, 7.

banc). However, the introduction of legally sufficient evidence of complicated pneumoconiosis does not automatically qualify a claimant for the irrebuttable presumption found at Section 718.304. *Melnick*, 16 BLR at 1-33; *Truitt v. North Am. Coal Corp.*, 2 BLR 1-199 (1979), *aff'd sub nom. Director, OWCP v. North Am. Coal Corp.*, 626 F.2d 1137, 2 BLR 2-45 (3d Cir. 1980). The United States Court of Appeals for the Fourth Circuit, within whose jurisdiction this case arises, has explained:

> Evidence under one prong can diminish the probative force of evidence under another prong if the two forms of evidence conflict….if the x-ray evidence vividly displays opacities exceeding one centimeter, its probative force is not reduced because the evidence under some other prong is inconclusive or less vivid. Instead, the x-ray evidence can lose force only if other evidence affirmatively shows that the opacities are not there or are not what they seem to be, perhaps because of an intervening pathology, some technical problem with the equipment used, or incompetence of the reader.

Eastern Associated Coal Corp. v. Director, OWCP, [Scarbro], 220 F.3d 250, 256, 22 BLR 2-93, 2-101 (4th Cir. 2000).

In this case, the administrative law judge considered five newly submitted x-rays for "the existence of large opacities" pursuant to Section 718.304(a). Decision and Order at 8. The administrative law judge found an x-ray dated August 16, 2005 to be inconclusive because it was read by Dr. Scott, a Board-certified radiologist and B reader, as showing no large opacities, and by Dr. Alexander, a Board-certified radiologist and B reader, as positive for Category A complicated pneumoconiosis.[4] Decision and Order at 9; Director's Exhibits 16, 17. The administrative law judge noted that the record contained two x-rays dated December 20, 2005. The administrative law judge found that the first December 20, 2005 x-ray "was negative for the presence of a large pulmonary opacity because it refers merely to a 'density' without describing its size." *Id*. With respect to the second December 20, 2005 x-ray, the administrative law judge noted that it was read by Dr. Humphreys, a Board-certified radiologist, who identified a 2.5 centimeter conglomerate mass. Claimant's Exhibit 3. The administrative law judge found Dr. Humphrey's reading to be "uncontested" and "positive for a large pulmonary opacity." Decision and Order at 9. The administrative law judge also found that "the consensus" of the radiologists who read the x-rays dated January 27, 2006 and February

[4] The August 16, 2005 x-ray was also read by Dr. Rasmussen, a B reader, as positive for pneumoconiosis, profusion 2/1, with a Category A large opacity in the right upper zone. Director's Exhibit 14. The administrative law judge indicated, however, that he was crediting the readings by Drs. Scott and Alexander, based on their dual qualifications as Board-certified radiologists and B readers. Decision and Order at 9.

15, 2006 established that they were "positive for the presence of a large opacity."[5] Decision and Order at 9-10. Thus, the administrative law judge concluded that a preponderance of the radiographic evidence established the presence of a large pulmonary opacity in claimant's lungs pursuant to Section 718.304(a). Decision and Order at 10.

The administrative law judge next considered whether "other medical evidence" either confirmed or conflicted with the x-ray evidence in accordance with Section 718.304(c).[6] Decision and Order at 10. The administrative law judge noted that treatment records from Dr. Motos, dated from November 2003 through November 2004, and hospitalization records from Russell County Medical Center on December 20, 2005, do not specifically discuss the presence of a large opacity. Decision and Order at 12, 14; Director's Exhibit 13; Claimant's Exhibit 3. The administrative law judge found that Dr. McSharry's medical opinion, that claimant did not have complicated pneumoconiosis, was not well-documented and constituted "insufficient contrary evidence" to establish that claimant did not have a large pulmonary opacity on x-ray. Decision and Order at 10; Director's Exhibit 18; Employer's Exhibit 2. In contrast, the administrative law judge found that Dr. Rasmussen provided a reasoned and documented opinion that claimant suffered from complicated pneumoconiosis. Decision and Order at 15; Director's Exhibit 14.

Under Section 718.304(c), the administrative law judge also considered the comments and notations made by the radiologists as to the etiology of claimant's x-ray findings. Decision and Order at 11. The administrative law judge found that Dr. Scott "essentially presented an equivocal opinion on the nature of the large pulmonary opacities" because Dr. Scott opined that a 4 centimeter mass identified on the January 27, 2006 x-ray was "probably granulomatous," although Dr. Scott noted that cancer could not

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[5] The January 27, 2006 x-ray was read by Dr. DePonte, a Board-certified radiologist and B reader, as showing a large Category A opacity for pneumoconiosis, while Dr. Scott, a Board-certified radiologist and B reader, stated that there were no large opacities for pneumoconiosis. Dr. Scott read the January 27, 2006 x-ray as showing simple pneumoconiosis, profusion 1/2, and a 4 centimeter mass or focal infiltrate "peripheral right upper lung, probably granulomatous," although Dr. Scott stated that he could not rule out cancer and recommended that claimant obtain a biopsy. Employer's Exhibit 4. The February 15, 2006 x-ray was read by Dr. Rasmussen, a B reader, as positive for a Category A large opacity of pneumoconiosis, and by Dr. Scatarige, a Board-certified radiologist and B reader, as positive for simple pneumoconiosis, profusion 1/2, but as showing no large opacities. Employer's Exhibit 5.

[6] There is no biopsy evidence in the record for consideration under 20 C.F.R. §718.304(b).

be ruled out. Decision and Order at 11; Employer's Exhibit 4. The administrative law judge also considered Dr. Scatarige's notation, that a 3.5 centimeter mass found on the February 15, 2006 x-ray was "TB vs. cancer," to be equivocal and entitled to diminished weight. Decision and Order at 11; Employer's Exhibit 5. Conversely, the administrative law judge determined that the "non-equivocal findings of Drs. Rasmussen, DePonte, and Humphreys [that claimant has a Category A large opacity] . . . support rather than contradict" a finding that claimant has complicated pneumoconiosis. *Id*. at 11.

Thus, the administrative law judge concluded: "through the invocation of the [Section] 718.304 presumption, [claimant] has proven that he has become totally disabled due to pneumoconiosis, which in turn establishes one of the conditions of entitlement that he previously failed to prove." *Id*. The administrative law judge also found, based on his consideration of the all of the record evidence, that claimant established the existence of pneumoconiosis arising out of coal mine employment pursuant to Section 718.202(a), 718.203(b), that he was entitled to invoke the irrebuttable presumption of total disability pursuant to Section 718.304, and that claimant established total disability due to pneumoconiosis pursuant to Section 718.204(b), (c).

Employer's first argument on appeal concerns whether the administrative law judge may credit Dr. Rasmussen's opinion in his analysis of the newly submitted evidence at Section 725.309. Employer asserts that because Dr. Rasmussen previously diagnosed complicated pneumoconiosis in the prior claim, his opinion has not "changed" and, therefore, may not constitute evidence sufficient to satisfy claimant's burden to show that there has been a change in one of the conditions of entitlement upon which the denial of claimant's prior claim was based. Employer's Brief at 14-17. We disagree.

The comments to the amended version of Section 725.309 state:

> The Department [of Labor] … substituted a threshold test which allowed the miner to litigate his entitlement to benefits *without regard to any previous findings* by producing new evidence that established any of the elements of entitlement previously resolved against him. The Department explained that this test effectuated the Fourth Circuit's decision in *Lisa Lee Mines v. Director, OWCP*, 86 F.3d 1358 (4th Cir. 1996), *cert. denied*, 117 S. Ct. 763 (1997), by *accepting the correctness of the earlier denial of benefits*.

65 Fed. Reg. 79968 (Dec. 20, 2000) (emphasis supplied). Under this standard, the district director's determination that claimant did not have complicated pneumoconiosis in the prior claim is treated as correct. However, the mere fact that Dr. Rasmussen rendered a diagnosis of complicated pneumoconiosis in the prior claim, which was rejected, does not preclude the administrative law judge from relying upon Dr. Rasmussen's newly submitted opinion, based on his review of new evidence, to support claimant's burden of

proof pursuant to Section 725.309. *See White*, 23 BLR at 1-3; *see also Labelle Processing Co. v. Swarrow*, 72 F.3d 308, 20 BLR 2-76 (3d Cir. 1995); *Sellards v. Director, OWCP*, 17 BLR 1-77 (1993) (the doctrine of *res judicata*, or claim preclusion, generally has no application in the context of a duplicate claim). Thus, we reject employer's argument with respect to whether Dr. Rasmussen's opinion is sufficient to support claimant's burden of proof at Section 725.309.

Employer also contends that the administrative law judge erred in finding that the newly submitted evidence was sufficient to establish that claimant had complicated pneumoconiosis pursuant to Section 718.304. Employer specifically asserts that the administrative law judge erred in finding that the x-ray evidence was "positive for a large opacity;" that he erred in rejecting the opinions of Drs. Scott and Scatarige, that claimant has no radiographic evidence for complicated pneumoconiosis, because the doctors were unable to offer an affirmative diagnosis of the source of the miner's lung mass; that the administrative law judge erred in finding certain x-rays to be positive for complicated pneumoconiosis when they had not been classified under the ILO system; that the administrative law judge failed to address relevant evidence; and that he erred in assigning less weight to Dr. McSharry's opinion, that claimant does not have complicated pneumoconiosis, in comparison to Dr. Rasmussen's "unchanged" opinion, that claimant suffers from complicated pneumoconiosis. Employer's Brief at 10-12.

We agree that the administrative law judge erred in his analysis of the x-ray evidence at Section 718.304(a). First, the administrative law judge erred in finding that all of the readings of the x-rays dated December 20, 2005, January 27, 2006 and February 15, 2006 are positive for a large pulmonary opacity. Contrary to the administrative law judge's finding, Dr. Humphrey read the second December 20, 2005 x-ray as showing a 2.5 centimeter mass in the right lobe, which does not constitute a positive reading for complicated pneumoconiosis, as Dr. Humphrey did not identify a Category A large opacity according to ILO specifications. Claimant's Exhibit 3. Additionally, the administrative law judge erred in concluding that the consensus of the readings of the x-rays dated January 27, 2006 and February 15, 2006 is that claimant has a large pulmonary opacity. Contrary to the administrative law judge's finding, although Drs. Scott and Scatarige identified a mass in the miner's lungs, they specifically opined that claimant did not have any large opacities for complicated pneumoconiosis. Under the regulations, an x-ray interpretation on an ILO form, which notes a mass that is larger than one centimeter in the "Comments" section, but which does not diagnose pneumoconiosis with an opacity size A, B, or C, is not sufficient to assist claimant in establishing complicated pneumoconiosis pursuant to Section 718.304(a). 20 C.F.R. §718.304(a).

Furthermore, we agree with employer that the administrative law judge erred in rejecting the negative readings for complicated pneumoconiosis by Drs. Scott and Scatarige because the administrative law judge considered their opinions to be equivocal. Decision and Order at 11; Employer's Brief at 21-23. There is nothing equivocal about

the ILO x-ray findings of Drs. Scott and Scatarige, stating that claimant has no Category A large opacities for complicated pneumoconiosis. Although they are unable to reach a definitive diagnosis as to the source of the mass seen on claimant's x-rays, we agree with employer that it is unnecessary for these physicians to establish a specific alternative diagnosis, so long as they can rule out complicated pneumoconiosis. Employer's Brief at 10. Pursuant to Section 718.304(a), it is not employer's burden to prove the exact etiology of the miner's x-ray findings.[7] *See Lester*, 993 F.2d at 1146, 17 BLR at 2-118 ("The claimant retains the burden of proving the existence of the disease."). Thus, because the administrative law judge has failed to resolve the conflict in the x-ray readings as to the presence of a Category A large opacity, and since the administrative law judge has given invalid reasons for discrediting the readings by Drs. Scott and Scatarige, we his vacate findings pursuant to Sections 718.304 and 725.309, and the award of benefits.[8]

In the interest of judicial economy, we address employer's contention that the administrative law judge erred in his consideration of Dr. McSharry's opinion. The administrative law judge rejected Dr. McSharry's opinion as being based on "incomplete documentation" for two reasons: 1) Dr. McSharry "is notably silent" about the interpretations of the three x-rays that show a large pulmonary opacity; and 2) Dr. McSharry relied on a negative reading for large opacities of the August 16, 2005 x-ray,

[7] The administrative law judge cited to *Cooper v. Westmoreland Coal Co.*, BRB No. 04-0589 BLA (Mar. 24, 2005) (unpub.) for the proposition that he may properly reject "equivocal x-ray comments evidence [sic] that fails to discuss why a large opacity is not complicated pneumoconiosis." Decision and Order at 11. *Cooper* is distinguished from the instant case as the radiologists in *Cooper* made questionable comments as to whether the mass they identified was in fact a Category A large opacity. In this case, however, Drs. Scott and Scatarige were unequivocal that claimant did not have a Category A large opacity.

[8] Employer argues that the administrative law judge erred in stating that Dr. Rasmussen "was the only physician from the earlier medical record to comment on whether [claimant] had complicated pneumoconiosis" Employer's Brief at 32 n.2. We agree. Dr. Rasmussen diagnosed complicated pneumoconiosis in the prior claim based on Dr. Patel's positive reading of the February 27, 2003 for a Category A large opacity. The administrative law judge did not consider that x-rays dated July 23, 2002, June 5, 2002, and February 17, 2003 were specifically read as showing no large opacities for complicated pneumoconiosis. Director's Exhibit 1. Moreover, the administrative law judge has failed to properly consider that Drs. McSharry and Castle specifically diagnosed simple pneumoconiosis, and not complicated pneumoconiosis, based on the evidence they reviewed in the prior claim. *Id*.

while the administrative law judge considered that same film to be inconclusive for the presence of a large opacity. Decision and Order at 10, 15. Contrary to the administrative law judge's finding, since the x-ray readings by Drs. Humphreys, Scott and Scatarige do not support a finding of a Category A large opacity for complicated pneumoconiosis, the administrative law judge erred in rejecting Dr. McSharry's opinion for being "notably silent" about the x-ray evidence showing a large pulmonary opacity.[9] Furthermore, the administrative law judge does not appear to have considered that when Dr. McSharry prepared his report on December 2, 2005, the three most recent x-rays, dated December 20, 2005, January 27, 2006 and February 15, 2006 were not in existence. *See Shelosky v. Consolidation Coal Co.*, 8 BLR 1-303 (1985) (An administrative law judge may not speculate as to whether a physicians' conclusions would have been affected by his knowledge of additional medical data); *York v. Director, OWCP*, 7 BLR 1-641 (1985). Thus, on remand, the administrative law judge is directed to determine whether Dr. McSharry offered a reasoned and documented opinion that claimant does not have complicated pneumoconiosis, based on the evidence that was available to him at the time he prepared his report.[10] *See Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149 (1989) (*en banc*); *Fields v. Island Creek Coal Co.*, 10 BLR 1-19 (1987); *Lucostic v. United States Steel Corp.*, 8 BLR 1-46 (1985).

Additionally, we agree with employer that the administrative law judge erred in finding that claimant established total disability pursuant to Section 718.204(b). Decision and Order at 23. Although the administrative law judge correctly noted that claimant's exercise blood gas study dated February 15, 2006 is qualifying for total disability, the administrative law judge must render specific findings under each subsection of Section 718.204(b)(2)(i)-(v) and further weigh all of the contrary probative evidence, prior to finding that claimant has satisfied his burden of proof under Section 718.204(b). *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195 (1986), *aff'd on recon.*, 9 BLR 1-236

[9] Employer correctly notes that because the administrative law judge found the August 16, 2005 x-ray to be in equipoise, as to the presence of a large pulmonary opacity, it does not weigh against Dr. McSharry's opinion. Employer's Brief at 29.

[10] Employer correctly asserts that "the administrative law judge did not apply the same reasoning to Dr. Rasmussen's opinion" in comparison to Dr. McSharry's opinion. Employer's Brief at 28. Unlike his treatment of Dr. McSharry's opinion, the administrative law judge did not assign Dr. Rasmussen opinion any less weight, although Dr. Rasmussen did not consider the negative readings for large opacities of the x-rays dated January 27, 2006 and February 15, 2006. Id. On remand, the administrative law judge must apply a consistent standard in evaluating the credibility of the medical experts.

(1987) (*en banc*). Thus, we vacate the administrative law judge's finding that claimant established total disability pursuant to Section 718.204(b) and remand the case for further consideration of that issue, if claimant fails to invoke the irrebuttable presumption at Section 718.304. Furthermore, we vacate the administrative law judge's finding that claimant established total disability due to pneumoconiosis pursuant to 718.204(c), as that finding was affected by the administrative law judge's credibility determinations at Section 718.304.

On remand, the administrative law judge must consider each x-ray interpretation independently and determine whether or not it supports a finding of complicated pneumoconiosis pursuant to Section 718.304(a). The administrative law judge must determine whether other medical evidence under Section 718.304(c) tends to independently establish both a chronic dust disease of the lung, and an opacity or a mass that would appear as greater than one centimeter if seen on x-ray, which would satisfy the regulatory definition of complicated pneumoconiosis. He must then weigh the entirety of the evidence at subsections (a) and (c) together before determining whether claimant has complicated pneumoconiosis and before finding that claimant is entitled to invocate the irrebuttable presumption of total disability due to pneumoconiosis. *Lester*, 993 F.2d at 1143, 17 BLR at 2-114; *Melnick*, 16 BLR at 1-33. If claimant is able to invoke the irrebuttable presumption based on the newly submitted evidence, the administrative law judge may find that claimant has established a change in an applicable condition of entitlement pursuant to Section 725.309. Thereafter, the administrative law judge must consider whether the record evidence as a whole establishes invocation of the irrebuttable presumption at Section 718.304.

If the administrative law judge does not find the evidence to be sufficient to establish the existence of complicated pneumoconiosis at Section 718.304, the administrative law judge should then consider claimant's entitlement to benefits pursuant to Sections 725.309, 718.202(a), 718.203, 718.204 (b), (c). *See Island Creek Coal Co. v. Compton*, 211 F.3d 203, 22 BLR 2-162 (4th Cir. 2000). In rendering his findings, the administrative law judge must provide a detailed analysis for the weight he accords the conflicting evidence. *See Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162 (1989); *Tenney v. Badger Coal Co.*, 7 BLR 1-589, 1-591 (1984).

Accordingly, the administrative law judge's Decision and Order – Award of Benefits is vacated and the case is remanded for further consideration consistent with this opinion.

SO ORDERED.

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NANCY S. DOLDER, Chief
Administrative Appeals Judge

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ROY P. SMITH
Administrative Appeals Judge

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BETTY JEAN HALL
Administrative Appeals Judge