U.S. Department of Labor

Benefits Review Board
200 Constitution Ave. NW
Washington, DC 20210-0001

BRB Nos. 23-0267 BLA
and 23-0268 BLA

MARGARET SANCHEZ (o/b/o and Widow of JOSE D. SANCHEZ) Claimant-Respondent v. CHEVRON MINING, INCORPORATED, Self-Insured, c/o BROADSPIRE/CRAWFORD & COMPANY Employer-Petitioner DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	DATE ISSUED: 08/22/2024 DECISION and ORDER

Appeal of the Decisions and Orders Awarding Benefits of John P. Sellers, III, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe and Brad A. Austin (Wolfe Williams & Reynolds), Norton, Virginia, for Claimant.

John C. Morton and Austin P. Vowels (Morton Law LLC), Henderson, Kentucky, for Employer.

Before: GRESH, Chief Administrative Appeals Judge, BOGGS and JONES, Administrative Appeals Judges.

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) John P. Sellers, III's Decisions and Orders Awarding Benefits (2020-BLA-05959 and 2022-BLA-05075) rendered on claims filed pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act). This case involves a miner's subsequent claim filed on April 4, 2019,[1] and a survivor's claim filed on June 2, 2021.[2]

Initially, the ALJ found the Miner had seven years of coal mine employment and was thus not entitled to the rebuttable presumption of total disability or death due to pneumoconiosis at Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4) (2018).[3] Considering entitlement under 20 C.F.R. Part 718, the ALJ found Claimant established both clinical and legal pneumoconiosis[4] and those diseases substantially contributed to the Miner's respiratory disability; thus, he found Claimant established a change in an

[1] The Miner previously filed a claim in 2002, which the district director denied for failure to establish any element of entitlement. Director's Exhibit 1. The Miner then filed a claim in 2017, which he subsequently withdrew. Director's Exhibit 2. A withdrawn claim is considered not to have been filed. 20 C.F.R. §725.306(b).

[2] Claimant is the widow of the Miner, who died on May 23, 2021. Claimant's Exhibit 1. Claimant is pursuing the miner's claim on her husband's behalf and her own survivor's claim. The Benefits Review Board consolidates these appeals for decision only.

[3] Section 411(c)(4) of the Act provides a rebuttable presumption a miner's total disability or death was due to pneumoconiosis if he had at least fifteen years of underground or substantially similar surface coal mine employment and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4) (2018); 20 C.F.R. §718.305.

[4] "Clinical pneumoconiosis" consists of "those diseases recognized by the medical community as pneumoconioses, *i.e.*, the conditions characterized by permanent deposition of substantial amounts of particulate matter in the lungs and the fibrotic reaction of the lung tissue to that deposition caused by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(1). "Legal pneumoconiosis" includes any chronic lung disease or impairment and its sequelae arising out of coal mine employment. 20 C.F.R. §718.201(a)(2). The definition includes "any chronic pulmonary disease or respiratory or pulmonary impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b).

applicable condition of entitlement.[5] 20 C.F.R §§718.202(a), 718.204(b)(2), (c), 725.309(c). Therefore, he awarded benefits in the miner's claim. Based on the award in the miner's claim, he awarded Claimant derivative survivor's benefits pursuant to Section 422(*l*) of the Act, 30 U.S.C. §932(*l*) (2018).[6]

On appeal, Employer argues the ALJ erred in finding the Miner suffered from pneumoconiosis and was totally disabled from pneumoconiosis and thus in awarding benefits in both the miner's and survivor's claims. Claimant responds, urging affirmance of the awards.[7] The Director, Office of Workers' Compensation Programs, has not filed a response brief.

The Board's scope of review is defined by statute. We must affirm the ALJ's Decisions and Orders if they are rational, supported by substantial evidence, and in accordance with applicable law.[8] 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Assocs., Inc.*, 380 U.S. 359 (1965).

---

[5] When a miner files a claim for benefits more than one year after the denial of a previous claim becomes final, the ALJ must also deny the subsequent claim unless he 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); *see 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). Because the district director denied the Miner's prior claim for failing to establish any element of entitlement, Claimant had to submit evidence establishing at least one element of entitlement to obtain review of the merits in the current claim. *See White*, 23 BLR at 1-3; 20 C.F.R. §725.309(c)(3), (4); Director's Exhibit 1.

[6] Under Section 422(*l*) of the Act, a survivor of a miner who was determined to be eligible to receive benefits at the time of his death is automatically entitled to survivor's benefits without having to establish the miner's death was due to pneumoconiosis. 30 U.S.C. §932(*l*) (2018).

[7] We affirm, as unchallenged by the parties, the ALJ's finding that the Miner had seven years of coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4.

[8] The Board will apply the law of the United States Court of Appeals for the Tenth Circuit because the Miner performed his last coal mine employment in New Mexico. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibits 6, 7, 10, 11.

The Miner's Claim

Part 718 Entitlement

Without the benefit of the Section 411(c)(3)[9] and (c)(4) presumptions,[10] Claimant must establish disease (pneumoconiosis), disease causation (it arose out of coal mine employment); disability (a totally disabling respiratory or pulmonary impairment); and disability causation (pneumoconiosis substantially contributed to the disability). 30 U.S.C. §901; 20 C.F.R. §§718.3, 718.202, 718.204. Failure to establish any one of these elements precludes an award of benefits. *Anderson v. Valley Camp of Utah, Inc.*, 12 BLR 1-111, 1-112 (1989); *Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987); *Perry v. Director, OWCP*, 9 BLR 1-1 (1986) (en banc).

Clinical Pneumoconiosis

The ALJ determined Claimant established the presence of clinical pneumoconiosis based on the chest x-ray evidence and medical opinions, and when weighing the evidence as a whole. Decision and Order at 7, 9-10. Employer contests the ALJ's weighing of the computed tomography (CT) scan evidence and the medical opinion evidence with respect to clinical pneumoconiosis.[11]

The ALJ considered two CT scan interpretations contained in the Miner's treatment records dated June 13, 2017, and January 20, 2021. Decision and Order at 8; Employer's Exhibit 6. The June 13, 2017 CT scan noted "chronic parenchymal changes within both lungs," a two millimeter nodular density in the left lower lobe "likely representing poorly

[9] As the ALJ notes, there are no x-rays or computed tomography scans positive for complicated pneumoconiosis and no other evidence that would support a finding of a large opacity or massive lesions. Decision and Order at 7-10. Thus, Claimant cannot invoke the irrebuttable presumption of total disability or death due to pneumoconiosis found at Section 411(c)(3) the Act. 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304.

[10] As Claimant established less than fifteen years of coal mine employment, the ALJ accurately determined Claimant cannot invoke the rebuttable presumption of total disability or death due to pneumoconiosis found at Section 411(c)(4) of the Act. 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305; Decision Order at 5.

[11] Employer does not contest the ALJ's finding that the chest x-ray evidence supports a finding of clinical pneumoconiosis; therefore, we affirm it. Employer's Brief at 11 (unpaginated); *see Skrack*, 6 BLR at 1-711; 20 C.F.R. §718.202(a)(1); Decision and Order at 6-7.

calcified granuloma," and no acute consolidation or pleural effusion. Employer's Exhibit 6 at 58. The January 20, 2021 CT scan noted "subtle nonspecific nodulous density/tree-in-bud opacity in the periphery of both lungs." Employer's Exhibit 6 at 23. The reader indicated the etiology was "likely infectious versus inflammatory." *Id*. at 24. The ALJ found both CT scans were silent as to the presence or absence of pneumoconiosis and thus insufficient to determine its existence or absence. Decision and Order at 8.

Employer acknowledges the CT scan interpretations did not specifically mention pneumoconiosis. However, it argues the ALJ erred in finding they were not contrary to a finding of pneumoconiosis given that the CT scan interpretations were from physicians at the Miners' Colfax Medical Center and "[c]ertainly, a facility named after coal mining knows how to diagnose coal miner's pneumoconiosis when it is seen." Employer's Brief at 12 (unpaginated). We disagree.

The ALJ permissibly found the CT scan interpretations weighed neither for nor against a finding of pneumoconiosis, as these treatment records were silent on the issue. *See N. Coal Co. v. Director, OWCP* [*Pickup*], 100 F.3d 871, 873 (10th Cir. 1996) (ALJ's function is to weigh the evidence, draw appropriate inferences, and determine credibility); *see also Marra v. Consolidation Coal Co.*, 7 BLR 1-216, 1-218-19 (1984) (ALJ is not required to find an x-ray that is silent on the existence of pneumoconiosis is a negative reading). We therefore affirm the ALJ's finding that the CT scans neither support nor refute a finding of pneumoconiosis. Decision and Order at 7-8.

As for the medical opinion evidence, the ALJ considered Drs. Sood's[12] and Rosenberg's opinions. Decision and Order at 8-10. Dr. Sood concluded the Miner had clinical pneumoconiosis based on the x-ray evidence he reviewed and the weight of the x-ray evidence overall. Director's Exhibit 18; Employer's Exhibit 4. Dr. Rosenberg opined the Miner did not have clinical pneumoconiosis, as there was no CT scan evidence of clinical pneumoconiosis and no evidence of restriction. Employer's Exhibit 5 at 5. The ALJ accorded Dr. Sood's opinion probative weight as well-reasoned and documented, while he found Dr. Rosenberg's opinion entitled to little weight because it is inconsistent with the weight of the x-ray evidence. Decision and Order at 9-10.

[12] Dr. Sood authored two reports in the record. He conducted the examination of the Miner on behalf of the Department of Labor (DOL) for the current claim. Director's Exhibit 18. He also conducted the examination of the Miner on behalf of the DOL in the withdrawn claim in 2017, which Employer submitted as evidence in this claim. Employer's Exhibit 4.

Employer argues the ALJ erred in discrediting Dr. Rosenberg's opinion because of his reliance on the CT scan evidence and mischaracterized Dr. Rosenberg's discussion of the x-ray evidence. Employer's Brief at 13 (unpaginated). However, as discussed above, the ALJ permissibly found the CT scan evidence neither supported nor refuted a finding of pneumoconiosis. Decision and Order at 7-8; *see Pickup*, 100 F.3d at 873; *Marra*, 7 BLR at 1-218-19. Further, contrary to Employer's argument, the ALJ did not mischaracterize Dr. Rosenberg's opinion but found he failed to adequately explain how the Miner did not have clinical pneumoconiosis considering all the x-ray readings were positive. Employer's Brief at 14 (unpaginated); Decision and Order at 9. Relatedly, the ALJ found Dr. Rosenberg's conclusion that "one cannot state with certainty that [the Miner] had clinical coal workers' pneumoconiosis" was equivocal, a finding Employer has not challenged. Decision and Order at 9-10; Employer's Exhibit 5 at 5; *see Justice v. Island Creek Coal Co.*, 11 BLR 1-91, 1-94 (1988) (ALJ may reject an equivocal medical opinion); *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

We therefore affirm the ALJ's weighing of Dr. Rosenberg's opinion and finding that the medical opinion evidence supports a finding of clinical pneumoconiosis.[13] Decision and Order at 9-10. Further, we affirm the ALJ's finding that the evidence, when weighed together as a whole, established clinical pneumoconiosis. *Id.* at 10.

Legal Pneumoconiosis

To establish legal pneumoconiosis, Claimant must prove the Miner had a "chronic pulmonary disease or respiratory or pulmonary impairment significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b).

The ALJ considered Drs. Sood's and Rosenberg's opinions. Decision and Order at 10-14. Dr. Sood diagnosed the Miner with legal pneumoconiosis in the form of a "chronic bronchitis phenotype of COPD [chronic obstructive pulmonary disease]," substantially caused by coal mine dust exposure and cigarette smoking. Director's Exhibit 18; Employer's Exhibit 4. Dr. Rosenberg also diagnosed chronic bronchitis, but found it was

[13] Employer does not challenge the ALJ's findings that Dr. Sood's opinions support a finding of clinical pneumoconiosis and the x-ray readings contained in the Miner's treatment records neither weigh for nor against a finding of clinical pneumoconiosis; therefore, we affirm them. *See Skrack*, 6 BLR at 1-711; Decision and Order at 7, 9.

likely due to cigarette smoking and achalasia,[14] and was unrelated to the Miner's coal mine dust exposure. Employer's Exhibit 5 at 6-8.

The ALJ found Dr. Sood's opinion well-reasoned and supported by the medical evidence he considered, his examination of the Miner, the Miner's reported symptoms, and the principles underlying the 2001 preamble to the revised regulations. Consequently, he accorded Dr. Sood's opinion probative weight. Decision and Order at 11-12. Conversely, he found Dr. Rosenberg's opinion was not well-reasoned and was inconsistent with the preamble to the revised regulations. *Id.* at 13-14. Based on Dr. Sood's opinion, the ALJ found Claimant established the Miner had legal pneumoconiosis. *Id.* at 14.

Employer argues that, because Dr. Sood's opinion is based in part upon the blood gas studies and the ALJ erred when he found those studies supported total disability, the Board must also vacate the ALJ's crediting of Dr. Sood's diagnosis of legal pneumoconiosis.[15] Employer's Brief at 15 (unpaginated). As discussed below, however, we reject Employer's arguments that the ALJ erred in his consideration of the arterial blood gas studies regarding total disability; thus, Employer's argument is moot. Employer fails to identify any other errors in the ALJ's finding that the Miner had legal pneumoconiosis; thus, we affirm the ALJ's finding that the evidence establishes the Miner had legal pneumoconiosis. 20 C.F.R. §§718.201, 718.202; Decision and Order at 14.

Total Disability

A miner is totally disabled if he has a pulmonary or respiratory impairment which, standing alone, prevents him from performing his usual coal mine work.[16] *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on pulmonary function studies, arterial blood gas studies, evidence of pneumoconiosis and cor pulmonale with right-sided congestive heart failure, or medical opinions. 20 C.F.R. §718.204(b)(2)(i)-(iv). The ALJ must consider all relevant evidence and weigh the evidence supporting total disability against the contrary evidence. *See Rafferty v. Jones & Laughlin Steel Corp.*, 9

[14] Dr. Rosenberg explained that achalasia is an "abnormality of the contraction of the muscles within the esophagus impairing the normal passage of food through this portion of the gastrointestinal tract." Employer's Exhibit 5 at 6.

[15] Employer does not challenge the ALJ's weighing of Dr. Rosenberg's opinion; therefore, we affirm it. *See Skrack*, 6 BLR at 1-711; Decision and Order at 13-14.

[16] The ALJ concluded that the Miner's usual coal mine employment as a general laborer required heavy to very heavy labor. Decision and Order at 15. This finding is affirmed as unchallenged on appeal. *See Skrack*, 6 BLR at 1-711.

BLR 1-231, 1-232 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195, 1-198 (1986), *aff'd on recon.*, 9 BLR 1-236 (1987) (en banc). The ALJ found Claimant established total disability based on the arterial blood gas studies, medical opinion evidence, and the evidence as a whole.[17] Decision and Order at 20.

The ALJ considered three arterial blood gas studies dated October 17, 2017, September 17, 2019,[18] and March 29, 2021. Decision and Order at 16-17. The October 17, 2017 blood gas study was non-qualifying[19] at rest and with exercise. Employer's Exhibit 4. With the September 17, 2019 blood gas study, two samples were obtained at rest and one with exercise; all the values qualified as disabling. Director's Exhibit 18. The resting March 29, 2021 arterial blood gas study was also qualifying. Employer's Exhibit 6. Because the two most recent blood gas studies produced qualifying values, the ALJ credited those studies over the October 17, 2017 study and thus found the arterial blood gas study evidence supports a finding of total disability. Decision and Order at 16-17.

Employer argues the ALJ erred in ignoring the actual September 13, 2019 arterial blood gas study in the record, which it asserts is non-qualifying. Employer's Brief at 6-7 (unpaginated). We are not persuaded by Employer's argument.

First, as noted above, the ALJ's characterization of the September 17, 2019 arterial blood gas study as the September 13, 2019 blood gas study was likely a scrivener's error as the results the ALJ lists in his chart correspond with the study the DOL conducted on

[17] The ALJ determined that the pulmonary function evidence does not establish total disability and found no evidence of cor pulmonale. 20 C.F.R. §718.204(b)(2)(i), (iii); Decision and Order at 15-16. The parties do not challenge these findings; therefore, we affirm them. *See Skrack*, 6 BLR at 1-711.

[18] The ALJ indicated that he considered the September 13, 2019 arterial blood gas study, which was obtained on behalf of the DOL, but the results he listed are from the September 17, 2019 arterial blood gas study DOL provided to the Miner. Decision and Order at 17; Director's Exhibit 18. The record reflects the DOL examination of the Miner took place over two separate days- on September 13, 2019, and then September 17, 2019. *See* Director's Exhibit 18; Claimant's Response at 4. Therefore, we conclude the ALJ's reference to the September 13, 2019 study in this context was a scrivener's error.

[19] Under the regulations, a blood gas study is "qualifying" for total disability if it yields results equal to or less than the applicable table values contained in Appendix C of 20 C.F.R. Part 718, while a "non-qualifying" study yields results exceeding those values. 20 C.F.R. §718.204(b)(2)(ii).

September 17, 2019.[20] Decision and Order at 17; Director's Exhibit 18 at 15-18. Employer is correct that a September 13, 2019 resting blood gas study result is included in the DOL examination testing that the ALJ did not address in his analysis of total disability. *See* Director's Exhibit 18 at 19. However, the district director did not rely on the September 13, 2019 blood gas study in issuing their Proposed Decision and Order, no party designated this study as arterial blood gas evidence, and at no point did Employer raise this issue before the ALJ. Director's Exhibit 18 at 15; Director's Exhibit 37; Employer's Evidence Summary Forms; Claimant's Evidence Summary Forms. Indeed, the parties addressed only the September 17, 2019 blood gas study results in reference to the DOL's complete pulmonary examination of the Miner, and neither expert addressed the September 13, 2019 blood gas study in coming to his conclusions.[21] *See* Employer's Closing Argument at 5, 16-19 (listing only the September 17, 2019 blood gas results in its summary of the evidence and submitting arguments only related to whether the blood gas studies were qualifying given the barometric pressure); Claimant's Closing Argument; Director's Exhibit 18; Employer's Exhibits 4-5.

As Employer failed to raise the issue before the ALJ, it has forfeited any argument that the ALJ should have considered the September 13, 2019 blood gas study.[22] 20 C.F.R. §802.301(a); s*ee Joseph Forrester Trucking v. Director, OWCP* [*Davis*], 937 F.3d 581, 591 (6th Cir. 2021) (parties forfeit arguments before the Board not first raised to the ALJ); *Dankle v. Duquesne Light Co.*, 20 BLR 1-1, 1-4-7 (1995).

[20] It appears Dr. Sood or the technician administering the blood gas study rounded the actual values obtained in the study to the nearest whole number. *Compare* Director's Exhibit 18 at 15 to Director's Exhibit 18 at 16, 18. The ALJ properly considered the values without rounding. *See* 20 C.F.R. §718.204(b)(2)(ii); *Tucker v. Director, OWCP*, 10 BLR 1-35, 1-39-1-40 (1987).

[21] Dr. Rosenberg noted the result of the non-qualifying September 13, 2019 blood gas study but did not rely upon it in coming to his conclusion that the Miner was not totally disabled. Employer's Exhibit 5 at 1, 5-6.

[22] While the record does not explicitly state why two blood gas studies were obtained on behalf of the DOL, we note that it appears the September 13, 2019 study was obtained while the Miner was on supplemental oxygen, as was a six-minute walking pulse oximetry test which demonstrated a desaturation of pulse oxygenation to eighty-seven percent. Director's Exhibit 18 at 19-20, 33, 38. The September 17, 2019 blood gas study was subsequently obtained on room air. *Id.* at 16-18.

Employer next argues the ALJ erred in not adequately considering the "contrary evidence" of Dr. Rosenberg's opinion, which it contends demonstrates that the qualifying arterial blood gas studies were not disabling. Employer's Brief at 7-11 (unpaginated). Specifically, it contends Dr. Rosenberg's opinion establishes that, when using the "extreme" barometric pressure where the Miner's blood gases were obtained to determine the A-a gradient, the results were minimally deficient or normal. *Id.* at 8-9 (unpaginated).

Contrary to Employer's argument, the ALJ permissibly found Dr. Rosenberg's rationale unpersuasive because the regulations already account for the effects of elevation, in Appendix C to Part 718. Decision and Order at 19-20; *Big Horn Coal Co. v. Director, OWCP* [*Alley*], 897 F.2d 1052, 1055 (10th Cir. 1990); *see also Cannelton Indus. Inc. v. Director, OWCP* [*Frye*], 93 Fed. App'x. 551, 560 (4th Cir. 2004) (upholding an ALJ's discrediting of an opinion that contradicts Appendix C). The regulations provide three ranges of altitudes by which blood gas testing is assessed, which the ALJ correctly applied.[23] 20 C.F.R. Part 718, App. C; Decision and Order at 17. Thus, the ALJ was within his discretion to find Dr. Rosenberg's opinion unpersuasive and permissibly found the results of the September 17, 2019 and March 29, 2021 blood gas studies qualify as disabling pursuant the regulations. *See Pickup*, 100 F.3d at 873; Decision and Order at 17.

As Employer's arguments regarding the ALJ's weighing of the medical opinion evidence rely upon its arguments regarding the blood gas evidence, which we have rejected, we further affirm the ALJ's determination that the medical opinion evidence supports a finding of total disability. Employer's Brief at 11 (unpaginated); Decision and Order at 20. As Employer raises no further arguments regarding the ALJ's weighing of the evidence on total disability, we also affirm the ALJ's finding that the evidence, when weighed together as a whole, establishes total disability. *See Rafferty*, 9 BLR at 1-232; *Shedlock*, 9 BLR 1-at 1-198; Decision and Order at 20.

[23] As the ALJ alluded, the DOL declined to use the calculation of the A-a gradient as a measure of disability (as noted in in the preamble to the 1980 revised regulations) because it was laborious and difficult to administer, few laboratories were equipped to perform it, and "the arterial blood oxygen tension measures the overall ability of the lung to properly provide oxygen for body metabolism and thus provides a more useful measurement in order to determine the overall ability of the individual to function." 42 Fed. Reg. 13,678, 13,683 (Feb. 29, 1980); *see* Decision and Order at 19.

Disability Causation

To establish disability causation, Claimant must prove the Miner's pneumoconiosis was a "substantially contributing cause" of his totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c)(1). Pneumoconiosis is a substantially contributing cause if it has "a material adverse effect on the miner's respiratory or pulmonary condition" or "[m]aterially worsens a totally disabling respiratory or pulmonary impairment which is caused by a disease or exposure unrelated to coal mine employment." 20 C.F.R. §718.204(c)(1)(i), (ii).

Employer argues Dr. Sood's opinion is "legally insufficient" to establish disability causation. Employer's Brief at 14-15 (unpaginated). We disagree.

Much of Employer's argument relies on its arguments regarding the blood gas studies, which we have already rejected. Further, the ALJ permissibly found Dr. Sood's opinion that the Miner's legal and clinical pneumoconiosis significantly contributed to the Miner's disabling impairment to be supported by the medical evidence, the Miner's symptoms, and Dr. Sood's explanation that the Miner's impairments would not have been caused by his obesity.[24] *See Pickup*, 100 F.3d at 873; Decision and Order at 21. He further permissibly rejected Dr. Rosenberg's opinion on disability causation because he did not diagnose either form of pneumoconiosis or a disabling impairment, contrary to the ALJ's findings. *See Antelope Coal Co. v. Goodin*, 743 F.3d 1331, 1346 n.20 (10th Cir. 2014); *Toler v. E. Associated Coal Co.*, 43 F.3d 109, 116 (4th Cir. 1995); Decision and Order at 21.

[24] Employer also contends the ALJ failed to consider the Miner's treatment records, which it asserts "clearly explain that his pulmonary impairment 'can be seen in mixed obstructive and restrictive disorders and pulmonary vascular disease.'" Employer's Brief at 15 (unpaginated) (citing Employer's Exhibit 6 at 21). Contrary to Employer's argument, the ALJ specifically addressed the treatment records and found that while they referenced black lung disease, they did not distinguish between clinical and legal pneumoconiosis or indicate what evidence such a diagnosis was based upon; thus, they were insufficient to support a finding of the disease. Decision and Order at 10. Further, even assuming the single reference to pulmonary vascular disease in the Miner's treatment record constitutes a diagnosis of the disease and a reasoned opinion regarding a potential etiology of the Miner's impairment, it does not preclude a finding that pneumoconiosis materially contributed to his impairment. *See Westmoreland Coal Co. v. Cochran*, 718 F.3d 319, 322-23 (4th Cir. 2013).

Thus, we reject Employer's arguments and affirm the ALJ's finding that the Miner was totally disabled due to clinical and legal pneumoconiosis. 20 C.F.R. §718.204(c); Decision and Order at 21. We therefore affirm the award of benefits in the miner's claim.

Survivor's Claim

Because we have affirmed the award of benefits in the miner's claim and Employer raises no specific challenge to the award in the survivor's claim beyond those issues raised in the underlying miner's claim, we affirm the ALJ's determination that Claimant is derivatively entitled to survivor's benefits pursuant to Section 422(*l*) of the Act. 30 U.S.C. §932(*l*) (2018); *see Thorne v. Eastover Mining Co.*, 25 BLR 1-121, 1-126 (2013).

Accordingly, we affirm the ALJ's Decisions and Orders Awarding Benefits.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge