U.S. Department of Labor

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

BRB No. 23-0171 BLA

STEVIE L. YOUNG	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
BOUNTY MINING CORPORATION	)	
	)	
and	)	DATE ISSUED: 06/20/2024
	)	
OLD REPUBLIC INSURANCE COMPANY	)	
	)	
Employer/Carrier-Respondents	)	
	)	
DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR	)	
	)	
Party-in-Interest	)	DECISION and ORDER

Appeal of the Decision and Order Denying Benefits of Carrie Bland, Associate Chief Administrative Law Judge, United States Department of Labor.

Stevie L. Young, Grundy, Virginia.

Michael A. Pusateri (Greenberg Traurig, LLP), Washington, D.C., for Employer and its Carrier.

Eirik Cheverud (Seema Nanda, Solicitor of Labor; Barry H. Joyner, Associate Solicitor; Jennifer L. Jones, Deputy Associate Solicitor; Andrea J. Appel, Counsel for Administrative Appeals), Washington, D.C., for the

Director, Office of Workers' Compensation Programs, United States Department of Labor.

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

PER CURIAM:

Claimant appeals, without representation,[1] Associate Chief Administrative Law Judge (ALJ) Carrie Bland's Decision and Order Denying Benefits (2017-BLA-05423) rendered on a claim filed on September 29, 2014, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ found the parties stipulated to 6.94 years of qualifying coal mine employment and thus found Claimant could not invoke the presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.[2] 30 U.S.C. §921(c)(4) (2018). Considering entitlement under 20 C.F.R. Part 718, the ALJ found Claimant did not establish he has pneumoconiosis. 20 C.F.R. §718.202(a). Accordingly, she denied benefits.

On appeal, Claimant generally challenges the ALJ's denial of benefits. Employer and its Carrier (Employer) respond in support of the denial. The Director, Office of Workers' Compensation Programs (the Director), filed a response arguing the ALJ erred in finding Claimant did not establish pneumoconiosis.

In an appeal a claimant files without representation, the Board addresses whether substantial evidence supports the Decision and Order below. *Hodges v. BethEnergy Mines, Inc.*, 18 BLR 1-84, 1-86 (1994). We must affirm the ALJ's Decision and Order if it is

[1] Vickie Combs, a benefits counselor with Stone Mountain Health Services of Vansant, Virginia, requested the Benefits Review Board review the ALJ's decision on Claimant's behalf, but Ms. Combs is not representing Claimant on appeal. *See Shelton v. Claude V. Keen Trucking Co.*, 19 BLR 1-88 (1995) (Order).

[2] Under Section 411(c)(4) of the Act, a miner is presumed totally disabled due to pneumoconiosis if he has 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.

rational, supported by substantial evidence, 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 Assocs., Inc.*, 380 U.S. 359 (1965).

Length of Coal Mine Employment

Claimant bears the burden to establish the number of years the Miner worked in coal mine employment. *See Kephart v. Director, OWCP*, 8 BLR 1-185, 1-186 (1985); *Hunt v. Director, OWCP*, 7 BLR 1-709, 1-710-11 (1985). The dates and length of employment may be established by any credible evidence, and the Board will uphold an ALJ's determination if it is based on a reasonable method of calculation that is supported by substantial evidence. 20 C.F.R. §725.101(a)(32)(ii); *see Muncy v. Elkay Mining Co.*, 25 BLR 1-21, 1-27 (2011); *Vickery v. Director, OWCP*, 8 BLR 1-430, 1-432 (1986).

In this case, the ALJ found that the parties "agreed with the [d]istrict [d]irector's determination of 6.94 years of qualifying coal mine employment." Decision and Order at 6. This was error. Claimant repeatedly stipulated to "at least" 6.94 years of coal mine employment, and alleged "about nine" years of coal mine employment. Hearing Transcript at 14-15. Claimant's Closing Arguments at 2; Director's Exhibit 2. As discussed below, we must vacate the ALJ's determination that the medical opinion evidence does not establish the existence of clinical or legal pneumoconiosis and remand the case for reconsideration. Because the ALJ's findings regarding the length of Claimant's coal mine employment may impact her weighing of the medical opinion evidence on remand, her error in mischaracterizing Claimant's stipulation and failing to render necessary factual findings is not harmless.

Consequently, we vacate her length of coal mine employment finding and remand the case for her to reconsider the relevant evidence and determine the length of Claimant's coal mine employment based on a reasonable method of calculation. *See Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 252-53 (4th Cir. 2016); *see also Daniels Co. v. Mitchell*, 479 F.3d 321, 334-36 (4th Cir. 2007); *Muncy*, 25 BLR at 1-27.

[3] This case arises within the jurisdiction of the United States Court of Appeals for the Fourth Circuit as Claimant performed his coal mine employment in Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Hearing Transcript at 19.

Part 718 Entitlement

Without the Section 411(c)(3)[4] or (c)(4)[5] presumptions, Claimant must establish disease (pneumoconiosis); disease causation (pneumoconiosis 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, 718.203, 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, 1-2 (1986) (en banc).

Clinical Pneumoconiosis

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).

Chest X-rays

The ALJ considered twelve readings of five x-rays dated October 31, 2014, August 25, 2016, January 17, 2017, August 14, 2017, and July 28, 2021. Decision and Order at 7; Director's Exhibits 21, 25; Claimant's Exhibits 1-5; Employer's Exhibits 1, 4, 6, 9, 13. The ALJ accurately noted all the interpreting physicians are dually-qualified B readers and Board-certified radiologists. Decision and Order at 7-8.

Drs. Alexander and Crum interpreted the October 31, 2014 x-ray as positive for simple pneumoconiosis, whereas Dr. Adcock read it as negative for pneumoconiosis. Director's Exhibit 25; Claimant's Exhibit 5; Employer's Exhibit 1. Taking into consideration the readers' qualifications and the number of readings, the ALJ permissibly found the October 31, 2014 x-ray to be positive for pneumoconiosis based on the

[4] The ALJ accurately found the irrebuttable presumption of total disability due to pneumoconiosis under Section 411(c)(3) of the Act is not applicable because there is no evidence of complicated pneumoconiosis. 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304; Decision and Order at 8.

[5] As Claimant alleges nine years of coal mine employment, he cannot invoke the presumptions at 20 C.F.R. §§718, 203(b), 718.305. Director's Exhibit 2; Hearing Transcript at 14-15; Claimant's Closing Arguments at 2.

preponderance of the positive readings. *See Addison*, 831 F.3d at 256-57; Decision and Order at 7.

With respect to the remaining four x-rays, Dr. Alexander read the August 25, 2016 x-ray as positive for pneumoconiosis, while Dr. Meyer indicated it was negative. Claimant's Exhibit 3; Employer's Exhibit 4. Dr. Alexander also interpreted the January 17, 2017 x-ray as positive for pneumoconiosis, but Dr. Kendall read it as negative. Claimant's Exhibit 4; Employer's Exhibit 6. Dr. Alexander next indicated the August 14, 2017 x-ray was positive for pneumoconiosis, whereas Dr. Adcock read it as negative. Claimant's Exhibit 1; Employer's Exhibit 9. Finally, Dr. Crum read the July 28, 2021 x-ray as positive for pneumoconiosis, and Dr. Simone interpreted it as negative. Claimant's Exhibit 2; Employer's Exhibit 13. Because each of these x-rays were read as positive and negative for pneumoconiosis by the same number of equally qualified readers, the ALJ permissibly found the readings of the August 25, 2016, January 17, 2017, August 14, 2017, and July 28, 2021 x-rays to be in equipoise. *Addison*, 831 F.3d at 256-57; Decision and Order at 7-8.

Weighing the x-ray evidence as a whole, the ALJ noted that the October 31, 2014 x-ray is positive for pneumoconiosis while the readings of the other x-rays are in equipoise. Decision and Order at 7-8. She then concluded Claimant did not meet his burden of establishing clinical pneumoconiosis. *Id.* at 8.

When x-ray readings are in equipoise, their weight neither confirms nor disproves clinical pneumoconiosis. *See Dixie Fuel Co. v. Director, OWCP* [*Hensley*], 820 F.3d 833, 843 (6th Cir. 2016); *Sunny Ridge Mining Co. v. Keathley*, 773 F.3d 734, 740 (6th Cir. 2014). Apart from the readings of the four x-rays that are in equipoise, the record contains only one x-ray that the ALJ found positive for pneumoconiosis, the October 31, 2014 x-ray, and no negative x-rays. Nevertheless, the ALJ summarily concluded that the x-ray evidence did not establish pneumoconiosis, and subsequently repeatedly indicated that the x-ray evidence is negative for the disease. Decision and Order at 7-8, 14, 15.

Consequently, we agree with the Director's assertion that the ALJ failed to adequately explain how she found the x-ray evidence does not establish pneumoconiosis,[6] and her findings were not set forth in accordance with the Administrative Procedure Act

[6] The ALJ also considered a chest x-ray dated August 4, 2016 from Claimant's treatment records, which Dr. Jerrigan interpreted as showing "no active heart or lung disease identified." Employer's Exhibit 10 at 3. The ALJ permissibly found this x-ray did not establish pneumoconiosis. *See Marra v. Consolidation Coal Co.*, 7 BLR 1-216, 1-218-19 (1984); Decision and Order at 8.

(APA), 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a).[7] *Wojtowicz v. Duquesne Light Co*., 12 BLR 1-162, 1-165 (1989); Decision and Order at 8; Director's Response at 4. We therefore vacate her determination that the x-ray evidence does not establish clinical pneumoconiosis pursuant to 20 C.F.R. §718.202(a)(1).

Medical Opinions and Other Medical Evidence

The ALJ considered two computed tomography (CT) scans contained in Claimant's treatment records.[8] Decision and Order at 8; Employer's Exhibit 10. Dr. Haines read the May 22, 2015 CT scan as showing "no acute radiographic abnormality." Employer's Exhibit 10 at 1. Dr. DePonte read the March 27, 2017 CT scan as "unremarkable." *Id.* at 5. The ALJ permissibly found these CT scan readings do not support a finding of clinical pneumoconiosis. *See Marra v. Consolidation Coal Co.*, 7 BLR 1-216, 1-218-19 (1984) (ALJ has discretion to determine the weight to accord diagnostic testing that is silent on the existence of pneumoconiosis); Decision and Order at 8.

The ALJ also considered Claimant's treatment records from Vansant Breathing Center.[9] Decision and Order at 13; Claimant's Exhibits 6, 7. Nurse Practitioners Jody Wills and Jessica Resnick examined Claimant and diagnosed him with coal workers' pneumoconiosis. Claimant's Exhibits 6, 7. The ALJ permissibly found their opinions entitled to no weight as they did not indicate the basis for their diagnoses or indicate their knowledge of Claimant's smoking or employment history. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); Decision and Order at 14.

[7] The Administrative Procedure Act requires every adjudicatory decision include "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record . . . ." 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a); *see Wojtowicz v. Duquesne Light Co*., 12 BLR 1-162, 1-165 (1989).

[8] Because the record contains no biopsy or autopsy evidence, Claimant could not establish the existence of pneumoconiosis at 20 C.F.R. §718.202(a)(2).

[9] Claimant's other treatment records do not contain diagnoses of clinical pneumoconiosis, but instead are limited to arterial blood gas studies. Claimant's Exhibits 8, 9.

Finally, the ALJ considered the medical opinion of Dr. Green that Claimant has clinical pneumoconiosis, and those of Drs. Rosenberg and Fino that he does not.[10] Decision and Order at 13-15. Because the ALJ largely combined her analysis of the separate diseases of clinical and legal pneumoconiosis into one section relating to "pneumoconiosis," it is for the most part unclear which of her rationales for crediting or discrediting the physicians she intended to apply to the clinical form of the disease. *Id.* Regardless, to the extent she intended to discredit Dr. Green's opinion because it was contrary to her finding that the x-ray evidence is negative, and credited Drs. Rosenberg's and Fino's opinions in part because they reviewed the x-ray evidence which she found negative, we cannot affirm those findings. *Id.* at 14. As discussed, we have vacated the ALJ's finding that the x-ray evidence is negative. To the extent that finding affected the weight she assigned the medical opinions on clinical pneumoconiosis, we must also vacate her finding that they do not establish the disease. 20 C.F.R. §718.202(a)(4); Decision and Order at 13-15.

Consequently, we must vacate the ALJ's determination that the evidence as a whole does not establish clinical pneumoconiosis and remand the case for reconsideration. 20 C.F.R. §718.202(a); Decision and Order at 15.

Legal Pneumoconiosis

To establish legal pneumoconiosis, Claimant must prove he has a chronic lung disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(2), (b). The United States Court of Appeals for the Fourth Circuit, whose law applies in this case, has held a miner can establish legal pneumoconiosis by showing coal dust exposure contributed "in part" to his respiratory or pulmonary impairment. *See Westmoreland Coal Co., Inc. v. Cochran*, 718 F.3d 319, 322-23 (4th Cir. 2013); *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 311 (4th Cir. 2012); *see also Arch on the Green v. Groves*, 761 F.3d 594, 598-99 (6th Cir. 2014) (A miner can establish a lung impairment is significantly related to coal mine dust exposure "by showing that his disease was caused 'in part' by coal mine employment.").

Prior to weighing the physicians' opinions on legal pneumoconiosis, the ALJ resolved the conflicting evidence regarding Claimant's smoking history. Decision and Order at 5-6. Claimant testified he smoked "a pack or less" of cigarettes per day, starting

[10] Dr. Harris did not offer an opinion on clinical pneumoconiosis other than to summarize the x-ray readings and acknowledge "the clear difference in opinion . . . depending on the B reader." Claimant's Exhibit 10 at 3. He stated, however, it is "more certain" that Claimant has legal pneumoconiosis. *Id.*

when he was "about 18" and quitting around 2003 ("18 years [prior to]" the October 2021 hearing). Hearing Transcript at 22. He also reported to the physicians who examined him a history of twenty-five pack years to thirty-one years of smoking until 2003 or 2004. Director's Exhibit 25; Employer's Exhibits 2, 7. However, Dr. Fino opined that Claimant's carboxyhemoglobin test on August 25, 2016, indicated that he continued to smoke. Employer's Exhibit 2.

In light of Dr. Fino's medical opinion, uncontradicted by the other physicians of record, that the objective testing is consistent with smoking as recently as Dr. Fino's examination in 2016, the ALJ permissibly found Claimant's statements that he has not smoked since around 2003 or 2004 were not reliable. *See Looney*, 678 F.3d at 316-17 (it is the duty of the ALJ to make findings of fact and to resolve conflicts in the evidence); *Maypray v. Island Creek Coal Co*., 7 BLR 1-683, 1-686 (1985) (ALJ is responsible for making a factual determination as to the length and extent of a miner's smoking history); Decision and Order at 6. Consequently, we affirm her determination that Claimant smoked "at least" thirty pack years prior to 2004 "plus a history of smoking more recently." Decision and Order at 6, 14.

The ALJ next considered the medical opinions of Drs. Green, Harris, Fino, and Rosenberg. Decision and Order at 13-15. Dr. Green diagnosed Claimant with legal pneumoconiosis in the form of chronic obstructive pulmonary disease (COPD) due to smoking and coal mine dust exposure. Director's Exhibits 24 at 3; 25 at 2-3. Dr. Harris diagnosed Claimant with legal pneumoconiosis in the form of chronic bronchitis, severe restrictive lung disease, and severe hypoxemia due to coal mine dust exposure and cigarette smoke. Claimant's Exhibit 10 at 3, 5-6. Dr. Fino diagnosed Claimant with hypoxemia and a restrictive impairment of an unknown cause, but opined it is unrelated to coal dust exposure. Employer's Exhibits 2 at 8; 16 at 11, 18; 17 at 5-6. Similarly, Dr. Rosenberg diagnosed Claimant with hypoxemia and a moderate degree of restriction of unknown origin, but stated all are unrelated to coal mine dust exposure. Employer's Exhibits 7 at 2-3; 15 at 3, 5; 18 at 2-3. The ALJ found the opinions of Drs. Green and Harris were not well-documented or reasoned and assigned them little weight. Decision and Order at 14-15. Conversely, she credited the opinions of Drs. Fino and Rosenberg as well-documented and well-reasoned. *Id*.

We agree with the Director that the ALJ erred in discrediting Dr. Green's opinion on legal pneumoconiosis because his diagnosis of clinical pneumoconiosis was contradicted by the ALJ's x-ray evidence finding.[11] *See Looney*, 678 F.3d at 313

[11] As noted above, the ALJ largely combined her credibility findings on clinical and legal pneumoconiosis, making it difficult to discern which of her rationales she intended to apply to which disease. However, her decision clearly indicates she relied on her x-ray

(regulations "separate clinical and legal pneumoconiosis into two different diagnoses" and "provide that no claim for benefits shall be denied solely on the basis of a negative chest x-ray") (internal quotations omitted); *see* 20 C.F.R. §§718.201(a)(2), (b), 718.202(a)(4) (physician can render a credible diagnosis of pneumoconiosis notwithstanding a negative x-ray reading); Decision and Order at 14; Director's Response at 2-3. In this case, Dr. Green examined Claimant on October 31, 2014, and diagnosed him with legal pneumoconiosis in the form of COPD, based upon his symptoms of a chronic productive cough, wheezing, and shortness of breath, as well as the obstructive impairment seen on pulmonary function studies and air trapping. Director's Exhibit 25. He attributed the COPD to Claimant's thirty-one years of cigarette smoking and ten years of coal mine employment. *Id*. His opinion did not change after considering a lesser coal mine employment history of 6.94 years. Director's Exhibit 24.

The ALJ also discredited Dr. Green's diagnosis of legal pneumoconiosis as not well-reasoned, finding the physician neither addressed the impact of Claimant's smoking history in his subsequent opinion nor explained why his opinion remained the same even after he considered a shorter length of coal mine employment. Decision and Order at 14-15. However, Dr. Green stated that the disparity in the years of Claimant's coal mine employment did not change his initial diagnosis, in which he considered Claimant's smoking history and explained that he could not differentiate between the relative contributions of Claimant's smoking and coal mine dust exposure, but that coal mine dust nevertheless was a "significant" factor. Director's Exhibits 24 at 3-4; 25 at 3. In addressing the shorter length of coal mine employment in his supplemental opinion, he reiterated that Claimant's symptoms and objective testing, revealing an obstructive impairment and hyperinflation of the lungs, support his diagnosis due to Claimant's "6.94 year occupational history of exposure to respirable coal and rock dust." Director's Exhibit 24 at 1. He also noted that medical literature has documented, by autopsy, cases of severe pneumoconiosis in miners with less than ten years of coal mine employment.[12] *Id*. Thus, Dr. Green addressed both the impact of Claimant's smoking history on his impairment and explained

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finding, which we have vacated, to discredit Dr. Green's opinion on legal pneumoconiosis. Immediately after finding Dr. Green's clinical pneumoconiosis opinion contrary to her x-ray findings, she assigned his opinion "little weight on legal pneumoconiosis." Decision and Order at 14.

[12] The ALJ acknowledged that Dr. Green referenced this medical literature as supporting his opinion that Claimant developed pneumoconiosis despite having less than ten years of coal dust exposure. Decision and Order at 14. However, the sole basis for the ALJ's decision to discredit Dr. Green's reliance on that literature – that she found the x-rays preponderantly negative for pneumoconiosis – has been vacated.

why his subsequent opinion did not change. *Id*. Consequently, because the ALJ mischaracterized Dr. Green's opinion and failed to consider his opinion in its entirety, we vacate her finding that it is entitled to little weight. *See McCune v. Central Appalachian Coal Co.*, 6 BLR 1-996, 1-998 (1984).

Next, the ALJ considered the opinion of Dr. Harris, who reviewed Claimant's medical records and diagnosed an obstructive impairment and hypoxemia due to both cigarette smoking and coal mine dust, explaining it is not possible to distinguish the relative contributions of each exposure. Claimant's Exhibit 10 at 5-6. The ALJ permissibly found Dr. Harris's opinion entitled to less weight because he considered a smoking history of less than twenty-five pack-years when the ALJ found over thirty pack-years of cigarette smoking prior to 2004, plus evidence Claimant smoked as recently as 2016. *See Akers*, 131 F.3d at 441; *Trumbo v. Reading Anthracite Co*., 17 BLR 1-85, 1-89 (1993); *Bobick v. Saginaw Mining Co*., 13 BLR 1-52, 1-54 (1988) (ALJ may reject medical opinions that rely on an inaccurate smoking history); Decision and Order at 14; Claimant's Exhibit 10 at 1.

Finally, while the ALJ analyzed whether Drs. Green and Harris adequately explained their rationales, she only summarily concluded that the opinions of Employer's experts were well-reasoned. *See Hughes v. Clinchfield Coal Co.*, 21 BLR 1-134, 1-140 (1999) (en banc) (ALJ must apply the same level of scrutiny in determining the credibility of the medical opinion evidence); Decision and Order at 15. Thus, because the ALJ did not explain her bases for crediting Drs. Fino's and Rosenberg's opinions, her findings do not comply with the APA. *See Wojtowicz*, 12 BLR at 1-165; Decision and Order at 15; Director's Response at 5-7.

We thus vacate the ALJ's finding that Claimant did not establish legal pneumoconiosis and remand the case for reconsideration.[13] 20 C.F.R. §718.201(a)(2); Decision and Order at 15.

As we have vacated the ALJ's findings on clinical and legal pneumoconiosis, we further vacate the denial of benefits.

[13] The ALJ permissibly found the diagnosis of coal workers' pneumoconiosis by two nurse practitioners in Claimant's treatment records are entitled to little weight regarding legal pneumoconiosis as they did not set forth the bases for their opinions or the occupational and social histories that they relied in on coming to their conclusions. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441 (4th Cir. 1997); Claimant's Exhibits 6, 7.

Remand Instructions

On remand, the ALJ must first determine the length of Claimant's coal mine employment based on a reasonable method of calculation. *See Mitchell*, 479 F.3d at 334-36; *Muncy*, 25 BLR at 1-27. She must then reconsider whether Claimant has established clinical or legal pneumoconiosis, or both. 20 C.F.R. §718.202(a).

In addressing clinical pneumoconiosis, the ALJ must reconsider the x-ray evidence and medical opinion evidence, and then weigh all relevant evidence together as a whole to determine if Claimant has established clinical pneumoconiosis. 20 C.F.R. §§718.201(a)(1), 718.202(a)(1)-(4). In addressing legal pneumoconiosis, she must reconsider the medical opinion evidence and weigh all of the relevant evidence together as a whole to determine if Claimant has established legal pneumoconiosis. 20 C.F.R. §§718.201(a)(2), (b), 718.202(a). The ALJ must take into consideration the physicians' explanations for their conclusions, the documentation underlying their medical judgments, and the sophistication of, and bases for, their diagnoses. *Hicks*, 138 F.3d at 533; *Akers*, 131 F.3d at 441. She must also adequately explain the bases for her findings of fact and conclusions of law in accordance with the APA. *See Wojtowicz*, 12 BLR at 1-165. In reconsidering the evidence on remand, the ALJ may consider the Director's arguments to the Board regarding the medical opinion evidence.

If Claimant establishes clinical pneumoconiosis, the ALJ must consider whether it arose out of Claimant's coal mine employment. *See* 20 C.F.R. §718.203(c). If Claimant establishes clinical or legal pneumoconiosis, the ALJ must determine whether Claimant has a totally disabling respiratory or pulmonary impairment and if so, whether either disease is a substantially contributing cause of his total respiratory disability. 20 C.F.R. §718.204(b), (c).

Accordingly, the ALJ's Decision and Order Denying Benefits is affirmed in part and vacated in part, and the case is remanded to the ALJ for further consideration consistent with this opinion.

SO ORDERED.

DANIEL T. GRESH, Chief
Administrative Appeals Judge

JUDITH S. BOGGS
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge