U.S. Department of Labor

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

BRB Nos. 23-0272 BLA
and 23-0272 BLA-A

PAUL KING	)	
	)	
Claimant-Petitioner	)	
Cross-Respondent	)	
	)	
v.	)	
	)	
ENTERPRISE MINING COMPANY, LLC	)	
	)	
and	)	
	)	
AIG PROPERTY & CASUALTY COMPANY	)	DATE ISSUED: 06/13/2024
	)	
Employer/Carrier-Respondents	)	
Cross-Petitioners	)	
	)	
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 Joseph E. Kane, Administrative Law Judge, United States Department of Labor.

Paul King, Happy, Kentucky.

Timothy J. Walker and Daniel G. Murdock (Fogle Keller Walker, PLLC), Lexington, Kentucky, for Employer and its Carrier.

Before: BOGGS, BUZZARD, and JONES, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals, without representation,[1] and Employer and its Carrier (Employer) cross-appeal, Administrative Law Judge (ALJ) Joseph E. Kane's Decision and Order Denying Benefits (2019-BLA-05618) rendered on a claim[2] filed on January 18, 2018,[3] pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ found Claimant did not establish complicated pneumoconiosis and thus could not invoke the irrebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(3) of the Act. 30 U.S.C. §921(c)(3); 20 C.F.R. §718.304. He found Claimant established fifty years of coal mine employment based on the parties' stipulation but did not establish a totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(b). Thus, he found Claimant did not invoke the Section 411(c)(4) presumption[4] or establish entitlement under 20 C.F.R. Part 718 and denied benefits.

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

[2] Claimant filed two prior claims. Director's Exhibits 1, 2. The ALJ found Claimant withdrew his prior claims and therefore considered them to have not been filed. 20 C.F.R. §725.306(b); Decision and Order at 2 n.1; Director's Exhibits 1, 2, 4.

[3] We note the ALJ mistakenly relied on the date Claimant signed his miner's claim, January 7, 2018, rather than the date the office of the district director received the claim, January 18, 2018, to determine when the claim was filed. *See* 20 C.F.R. §725.303(a)(1) ("A claim shall be considered filed on the day it is received by the office in which it is first filed."); Decision and Order at 2; Director's Exhibit 4.

[4] Section 411(c)(4) of the Act provides a rebuttable presumption that a miner is 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. Although Claimant established at least fifteen years of coal mine employment, the ALJ did not determine whether the employment was underground, or aboveground in substantially

On appeal, Claimant generally challenges the denial of benefits. Employer responds in support of the denial. On cross-appeal, Employer contends the ALJ erred in finding it did not submit Dr. Tuteur's deposition into evidence. The Director, Office of Workers' Compensation Programs has not filed a substantive response to either appeal.

In an appeal a claimant files without representation, the Board considers whether the Decision and Order below is supported by substantial evidence. *Hodges v. BethEnergy Mines, Inc.*, 18 BLR 1-84, 1-86 (1994). We must affirm the ALJ's findings of fact and conclusions of law if they are rational, supported by substantial evidence, and in accordance with applicable law.[5] 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).

To be entitled to benefits under the Act, 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, 718.203, 718.204. Statutory presumptions may assist a claimant in establishing these elements when certain conditions are met, but failure to establish any element 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).

Invocation of the Section 411(c)(3) Presumption – Complicated Pneumoconiosis

Section 411(c)(3) of the Act, 30 U.S.C. §921(c)(3), provides an irrebuttable presumption that a miner is totally disabled due to pneumoconiosis if he suffers from a chronic dust disease of the lung which: (a) when diagnosed by x-ray, yields one or more opacities greater than one centimeter in diameter that would be classified as Category A, B, or C; (b) when diagnosed by biopsy or autopsy, yields massive lesions in the lung;[6] or (c) when diagnosed by other means, would be a condition that could reasonably be expected to yield a result equivalent to (a) or (b). *See* 20 C.F.R. §718.304. In determining whether a claimant has invoked the irrebuttable presumption, the ALJ must weigh all

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similar conditions, as he found Claimant did not establish total disability. Decision and Order at 3, 7.

[5] The Board will apply the law of the United States Court of Appeals for the Fourth Circuit because Claimant performed his last coal mine employment in Virginia. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibits 5, 12.

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

evidence relevant to the presence or absence of complicated pneumoconiosis. *See Westmoreland Coal Co. v. Cox*, 602 F.3d 276, 283 (4th Cir. 2010); *E. Assoc. Coal Corp. v. Director, OWCP* [*Scarbro*], 220 F.3d 250, 255-56 (4th Cir. 2000); *Melnick v. Consolidation Coal Co.*, 16 BLR 1-31, 1-33-34 (1991) (en banc).

The ALJ found Dr. Crum's reading of the January 31, 2019 x-ray was the only evidence supportive of a finding of complicated pneumoconiosis. In weighing all the evidence together, the ALJ determined Claimant did not establish the disease. 20 C.F.R. §718.304; Decision and Order at 4.

20 C.F.R. §718.304(a) – X-ray Evidence

The ALJ considered seven interpretations of three x-rays dated February 13, 2018, July 6, 2018, and January 31, 2019. Decision and Order at 4; Director's Exhibits 18, 22, 23; Claimant's Exhibits 1, 2, 4; Employer's Exhibits 1, 2. Dr. Crum, a dually-qualified B reader and Board-certified radiologist, read the January 31, 2019 x-ray as positive for complicated pneumoconiosis, Category A, while Drs. Adcock and Kendall, both dually qualified, read it as positive for simple pneumoconiosis but negative for complicated pneumoconiosis. Claimant's Exhibit 2; Employer's Exhibits 1, 2. The ALJ permissibly found the January 31, 2019 x-ray negative for complicated pneumoconiosis based on the preponderance of the negative readings by the dually-qualified radiologists. *See Adkins v. Director, OWCP*, 958 F.2d 49, 52 (4th Cir. 1992); Decision and Order at 4. The ALJ then accurately found Drs. Miller's, DePonte's, and Tarver's readings of the February 13, 2018 x-ray, and Dr. Crum's reading of the July 6, 2018 x-ray, are all negative for complicated pneumoconiosis. Decision and Order at 4; Director's Exhibits 18, 22, 23; Claimant's Exhibit 4.

Because the ALJ performed both a quantitative and qualitative evaluation of the x-ray readings, we affirm as supported by substantial evidence the ALJ's finding that Claimant failed to establish complicated pneumoconiosis at 20 C.F.R. §718.304(a). *See Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 256-57 (4th Cir. 2016); *Adkins*, 958 F.2d at 52-53; Decision and Order at 4.

20 C.F.R. §718.304(c) – Other Medical Evidence

The ALJ next considered Claimant's treatment records, which included a February 4, 2014 x-ray and an August 25, 2015 computed tomography (CT) scan, and accurately found that neither addressed whether Claimant has large opacities, complicated pneumoconiosis, or progressive massive fibrosis.[7] 20 C.F.R. §718.304(c); Decision and

[7] Although the ALJ did not make a specific finding regarding whether the medical opinions support a finding of complicated pneumoconiosis, Dr. Ajjarapu diagnosed simple

Order at 4; Claimant's Exhibits 6 at 13; 7; Employer's Exhibit 4. As there are no references to complicated pneumoconiosis within the rest of Claimant's treatment records, we see no error in the ALJ's conclusion that the treatment records do not support a finding of complicated pneumoconiosis. Decision and Order at 4; Claimant's Exhibits 6 at 13; 7; Employer's Exhibit 4.

As it is supported by substantial evidence, we affirm the ALJ's finding that Claimant did not establish the existence of complicated pneumoconiosis based on the evidence as a whole. 20 C.F.R. §718.304; *see Cox,* 602 F.3d at 283; *Scarbro,* 220 F.3d at 255-56; *Melnick,* 16 BLR at 1-33-34; Decision and Order at 4.

Total Disability

A miner is totally disabled if his pulmonary or respiratory impairment, standing alone, prevents him from performing his usual coal mine work and comparable gainful work. *See* 20 C.F.R. §718.204(b)(1). A claimant may establish total disability based on qualifying pulmonary function studies or arterial blood gas studies,[8] 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 weigh all relevant supporting evidence against all relevant contrary evidence. *See Rafferty v. Jones & Laughlin Steel Corp.*, 9 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). Qualifying evidence in any of the four categories establishes total disability when there is no "contrary probative evidence." 20 C.F.R. §718.204(b)(2).

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pneumoconiosis and Drs. Jarboe and Tuteur opined Claimant did not have clinical pneumoconiosis. Director's Exhibit 18 at 3, 6; Employer's Exhibits 3 at 6-7; 6 at 4. As none of the medical opinions contain diagnoses or evidence of complicated pneumoconiosis, the ALJ's failure to make a specific finding is harmless. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

[8] A "qualifying" pulmonary function study or blood gas study yields results equal to or less than the applicable table values contained in Appendices B and C of 20 C.F.R. Part 718, respectively. A "non-qualifying" study yields results exceeding those values. *See* 20 C.F.R. §718.204(b)(2)(i), (ii).

Pulmonary Function Studies

The ALJ determined the record includes five pulmonary function studies.[9] Decision and Order at 5-6; Director's Exhibits 18, 22; Claimant's Exhibit 5; Employer's Exhibits 3, 6. The December 21, 2017 and December 31, 2019 studies, which were performed during the course of Claimant's treatment, produced qualifying results pre-bronchodilator; bronchodilators were not administered. Director's Exhibit 22; Claimant's Exhibit 5. The February 13, 2018 study produced qualifying results pre- and post-bronchodilator. Director's Exhibit 18 at 13-16. The January 31, 2019 study produced non-qualifying results pre- and post-bronchodilators. Employer's Exhibit 3 at 11. The ALJ determined the October 19, 2020[10] study produced non-qualifying results pre-bronchodilator and post-bronchodilator. Decision and Order at 5; Employer's Exhibit 6 at 5.

In resolving the conflicting evidence, the ALJ gave greatest weight to the most recent study because he found it "most indicative of Claimant's current condition" and because the "overall testing shows that there has been a fluctuation in the results with times of improvement." Decision and Order at 6. He therefore concluded "the preponderance of the testing does not support a finding of total disability." *Id.*; *see* 20 C.F.R. §718.204(b)(2)(ii).

[9] Because the studies reported varying heights for Claimant ranging from 71 to 72 inches, the ALJ permissibly calculated an average height for Claimant of 71.4 inches. *See Protopappas v. Director, OWCP*, 6 BLR 1-221, 1-223 (1983); Decision and Order at 5 n.16; Director's Exhibits 18, 22; Claimant's Exhibit 5; Employer's Exhibits 3, 6. The average height of 71.4 inches falls between the heights of 71.3 inches and 71.7 inches listed in the table values of Appendix B of 20 C.F.R. Part 718. To determine the qualifying values, the ALJ erred in rounding down to the nearest lower table height of 71.3 inches instead of up to 71.7 inches, the closest greater table height. *See Carpenter v. GMS Mine & Repair Maint. Inc.*, BLR , BRB No. 22-0100 BLA, slip op. at 4-5 (Sept. 6, 2023); *see also Toler v. E. Associated Coal Corp.*, 43 F.3d 109, 116 n.6 (4th Cir. 1995); Decision and Order at 5 n.16. As discussed below, this error impacted his evaluation of the October 19, 2020 post-bronchodilator results.

[10] In his chart summarizing the pulmonary function studies, the ALJ noted Dr. Tuteur administered the most recent study on October 29, 2020. Decision and Order at 5. This date appears to be a scrivener's error, as the ALJ later correctly stated Dr. Tuteur administered the study on October 19, 2020. Decision and Order at 6; Employer's Exhibit 6.

To the extent the ALJ credited the October 19, 2020 study over the remaining studies based solely on its recency, he erred, as the Board and the United States Court of Appeals for the Fourth Circuit, within whose jurisdiction this case arises, have held it is irrational to credit evidence solely based on recency where that evidence shows the miner's condition has improved. *See Thorn v. Itmann Coal Co.*, 3 F.3d 713, 718 (4th Cir. 1993) ("A bare appeal to 'recency' is an abdication of rational decisionmaking."); *Adkins*, 958 F.2d at 51-52; *Kincaid v. Island Creek Coal Co.*, BLR , BRB Nos. 22-0024 BLA and 22-0024 BLA-A, slip op. at 7-11 (Nov. 17, 2023).

Additionally, the ALJ erred in finding the October 19, 2020 post-bronchodilator results are non-qualifying.[11] Decision and Order at 5-6; Employer's Exhibit 6. At the time Claimant performed the October 19, 2020 study, he was 77 years old and the ALJ determined he was 71.4 inches tall. In considering the qualifying values for pulmonary function studies in Appendix B, the ALJ erred in rounding down to the nearest lower table height of 71.3 inches instead of rounding up to the closest greater table height of 71.7 inches.[12] *See Carpenter v. GMS Mine & Repair Maint. Inc.*, BLR , BRB No. 22-0100 BLA, slip op. at 4-5 (Sept. 6, 2023); Decision and Order at 5 n.16.

A study performed by a male miner who is over seventy-one years old and 71.7 inches tall qualifies if it produces an FEV1 value at or below 2.01 and either an FVC value at or below 2.59, an MVV value at or below 80, or an FEV1/FVC ratio of 55 percent or less. 20 C.F.R. Part 718, Appendix B. The October 19, 2020 pulmonary function study produced an FEV1 value of 1.99, an FVC value of 2.54, and an MVV of 69.40 post-bronchodilator. Employer's Exhibit 6. Therefore, contrary to the ALJ's finding, the October 19, 2020 study produced qualifying values post-bronchodilator for Claimant's age and height. Decision and Order at 5-6; *see* 20 C.F.R. Part 718, Appendix B.

[11] For a pulmonary function study to constitute evidence of total disability pursuant to 20 C.F.R. §718.204(b)(2)(i), it must produce both a qualifying FEV1 value and one of the following: either an FVC value or MVV value equal to or less than the values appearing in the tables set forth in Appendix B, or an FEV1/FVC ratio equal to or less than fifty-five percent. *See* 20 C.F.R. §718.204(b)(2)(i)(A)-(C). The qualifying values in Appendix B are based on gender, height, and age. 20 C.F.R. Part 718, Appendix B.

[12] A study performed by a male miner who is over seventy-one years old and 71.3 inches tall qualifies if it produces an FEV1 value at or below 1.98 and either an FVC value at or below 2.55, an MVV value at or below 79, or an FEV1/FVC ratio of 55 percent or less. 20 C.F.R. Part 718, Appendix B.

Because the ALJ did not adequately explain his weighing of the pulmonary function study evidence and erred in finding the October 19, 2020 post-bronchodilator study non-qualifying, we vacate his finding that Claimant did not establish total disability at 20 C.F.R. §718.204(b)(2)(i). *See McCune v. Cent. Appalachian Coal Co.*, 6 BLR 1-996, 1-998 (1984); Decision and Order at 6.

Arterial Blood Gas Studies

The ALJ correctly found all the blood gas studies, dated February 13, 2018, January 31, 2019, and October 19, 2020, are non-qualifying for total disability. Decision and Order at 6; Director's Exhibit 18 at 9; Employer's Exhibits 3 at 26; 6 at 21. We therefore affirm the ALJ's determination that Claimant cannot establish total disability at 20 C.F.R. §718.204(b)(2)(ii).

Cor Pulmonale

The ALJ accurately found there is no evidence that Claimant has cor pulmonale with right-sided congestive heart failure. Decision and Order at 3. Thus, we affirm the ALJ's determination that Claimant cannot establish total disability at 20 C.F.R. §718.204(b)(2)(iii).

Medical Opinions

The ALJ considered the medical opinions of Drs. Ajjarapu, Jarboe, and Tuteur. Decision and Order at 6-7; Director's Exhibit 18; Employer's Exhibits 3, 6, 8. Dr. Ajjarapu conducted the Department of Labor sponsored complete pulmonary evaluation of Claimant on February 13, 2018 and obtained a qualifying pulmonary function study and a non-qualifying blood gas study. Director's Exhibit 18. She opined Claimant has a "severe pulmonary impairment" and does not have the pulmonary capacity to continue his previous coal mine employment. *Id.* at 7. Drs. Jarboe and Tuteur examined Claimant and opined he is not totally disabled. Employer's Exhibits 3 at 8; 6 at 3. Dr. Jarboe diagnosed a non-disabling mild restrictive ventilatory defect. Employer's Exhibit 3 at 6. Dr. Tuteur opined Claimant has a mildly reduced FEV1 value and retains the pulmonary capacity to perform his usual coal mine employment. Employer's Exhibit 6 at 3-4.

The ALJ found Dr. Ajjarapu's opinion was entitled to "less weight" because it was limited to her own testing and evaluation.[13] Decision and Order at 6. The ALJ found Drs.

[13] We note an ALJ is not required to discredit a physician who did not review all of a miner's medical records if the opinion is otherwise well-reasoned and documented. *See Church v. Eastern Associated Coal Corp.*, 20 BLR 1-8, 1-13 (1996). To constitute a "reasoned" medical opinion, a physician need only base his diagnosis on "medically

Jarboe's and Tuteur's opinions well-reasoned because they were based on their own objective testing and their review of the additional testing in the record. *Id.* Thus, he found Claimant failed to establish total disability based on the medical opinions.[14] *Id.* at 6-7.

To the extent the ALJ's weighing of the pulmonary function study evidence affected his credibility determinations regarding the medical opinions at 20 C.F.R. §718.204(b)(2)(iv), we vacate them. Decision and Order at 6-7.

Moreover, in determining whether a miner is totally disabled, the ALJ must compare the exertional requirements of the miner's usual coal mine work with the physicians' description of the miner's pulmonary impairment and physical limitations. *See Lane v. Union Carbide Corp.*, 105 F.3d 166, 172 (4th Cir. 1997); *Eagle v. Armco Inc.*, 943 F.2d 509, 512 n.4 (4th Cir. 1991). Here, the ALJ did not make a finding regarding Claimant's usual coal mine work or the exertional requirements of such work and failed to compare those requirements with the physicians' assessments to determine whether the opinions support a finding of total respiratory disability. 20 C.F.R. §718.204(b)(2)(iv); *see Lane*, 105 F.3d at 172; *Eagle*, 943 F.2d at 512 n.4; *see also Cornett v. Benham Coal, Inc.*, 227 F.3d 569, 578 (6th Cir. 2000) (even a mild impairment may be totally disabling depending on the exertional requirements of a miner's usual coal mine employment); *McMath v. Director, OWCP*, 12 BLR 1-6, 1-9 (1988); Decision and Order at 6-7.

Thus, we vacate the ALJ's conclusion that Claimant did not establish total disability based on the medical opinions or in consideration of the evidence as a whole. Decision and Order at 6-7. Consequently, we vacate the ALJ's denial of benefits and remand the case for the ALJ to determine if Claimant can invoke the Section 411(c)(4) presumption or otherwise establish his entitlement to benefits under 20 C.F.R. Part 718.

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acceptable clinical and laboratory diagnostic techniques." 20 C.F.R. §718.204(b)(2)(iv). However, an ALJ may give less weight to the opinion of a physician who did not have a complete picture of the claimant's condition and may give greater weight to a physician who reviewed more of the relevant information and therefore had a more complete picture of the claimant's condition. *See Underwood v. Elkay Mining, Inc.*, 105 F.3d 946, 949 (4th Cir. 1997); *Stark v. Director, OWCP*, 9 BLR 1-36, 1-37 (1986).

[14] The ALJ accurately noted Claimant's treatment records included symptoms of cough, wheezing, shortness of breath, and fatigue and a history of pneumoconiosis but did not discuss whether Claimant could perform his last coal mine employment. Decision and Order at 7; Claimant's Exhibits 6, 7; Employer's Exhibit 4.

Cross-Appeal

In light of our decision to remand this case, we consider Employer's arguments on cross appeal regarding the admission of Dr. Tuteur's deposition testimony into the record. Employer's Brief at 10-11. At the January 15, 2021 hearing, Employer agreed to submit Dr. Tuteur's deposition within 30 days of the hearing, which was February 14, 2021. Hearing Transcript at 8. In his Decision and Order, the ALJ noted the record was held open for submission of Dr. Tuteur's deposition testimony but Employer "did not file this evidence post hearing." Decision and Order at 2 n.3.

On appeal, Employer alleges it filed Dr. Tuteur's deposition, Employer's Exhibit 7, in accordance with the ALJ's Notice of Hearing via email on March 8, 2021. Employer's Brief at 10-11; *see also* Employer's Post-Hearing Brief at 6-7, 11-12 (unpaginated) (referencing Employer's Exhibit 7). We take no position as to whether Dr. Tuteur's deposition testimony was properly filed or should have been included in the record. *See Clark v. Karst-Robbins Coal Co.*, 12 BLR 1-149, 1-153 (1989) (en banc) (ALJ has broad discretion over procedural matters). But given the ALJ's statement that Employer did not file the evidence, and Employer's argument that it did, the ALJ must make an evidentiary ruling in the first instance.

We therefore direct the ALJ on remand to resolve whether Employer timely submitted Dr. Tuteur's deposition in accordance with the ALJ's pre-hearing order and the post-hearing deadline he set for submission of it, and if so to consider it.

Remand Instructions

On remand, the ALJ must resolve the evidentiary record and rule on the admission of Dr. Tuteur's deposition testimony. On the merits, he must reconsider the pulmonary function study evidence and resolve the conflicting evidence without regard to recency alone in order to determine whether Claimant established total disability at 20 C.F.R. §718.204(b)(2)(i). *See Thorn*, 3 F.3d at 718 (4th Cir. 1993); *Adkins*, 958 F.2d at 51-52. He must also determine the exertional requirements of Claimant's usual coal mine employment and reevaluate whether the medical opinion evidence supports a finding of total disability at 20 C.F.R. §718.204(b)(2)(iv). *See Lane*, 105 F.3d at 172; *Eagle*, 943 F.2d at 512 n.4; *see also Cornett*, 227 F.3d at 578. In rendering his credibility findings, the ALJ must consider the comparative credentials of the physicians, the explanations for their conclusions, the documentation underlying their medical judgments, and the sophistication of and bases for their diagnoses. *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).

If the ALJ determines total disability is demonstrated by the pulmonary function studies or medical opinions, or both, he must weigh all the relevant evidence together to determine whether Claimant is totally disabled. 20 C.F.R. §718.204(b)(2); *see Fields v. Island Creek Coal Co.*, 10 BLR 1-19, 1-21 (1987); *Shedlock*, 9 BLR at 1-198. If Claimant fails to establish total disability, the ALJ may reinstate the denial of benefits. *See Anderson*, 12 BLR at 1-112; *Trent*, 11 BLR at 1-27; *Perry*, 9 BLR at 1-2.

However, if Claimant establishes total disability, the ALJ must determine whether he has established at least fifteen years of underground or substantially similar coal mine employment to invoke the Section 411(c)(4) presumption. If the presumption is invoked, the ALJ must determine whether Employer has rebutted it. 20 C.F.R. §718.305(d)(1). If Claimant fails to invoke the presumption, the ALJ must consider whether Claimant can establish entitlement to benefits under 20 C.F.R. Part 718. *See* 20 C.F.R. §§718.3, 718.202, 718.203, 718.204.

In rendering his credibility determinations and findings on remand, the ALJ must explain his decision in compliance with the Administrative Procedure Act.[15] *See Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989).

[15] The Administrative Procedure Act provides that every adjudicatory decision must include "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented . . . ." 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a).

Accordingly, we affirm in part and vacate in part the ALJ's Decision and Order Denying Benefits and remand the case to the ALJ for further consideration consistent with this opinion.

SO ORDERED.

JUDITH S. BOGGS
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

MELISSA LIN JONES
Administrative Appeals Judge