U.S. Department of Labor

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

BRB No. 24-0180 BLA

DAVID MATNEY	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
JEWELL RIDGE COAL CORPORATION	)	
	)	DATE ISSUED: 11/25/2024
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 Granting Benefits of Heather C. Leslie, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe and Donna E. Sonner (Wolfe Williams & Austin), Norton, Virginia, for Claimant.

Kendra Prince (Penn, Stuart & Eskridge), Abingdon, Virginia, for Employer.

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

PER CURIAM:

Employer appeals Administrative Law Judge (ALJ) Heather C. Leslie's Decision and Order Granting Benefits (2020-BLA-05102) rendered on a claim filed on November 2, 2018, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2018) (Act).

The ALJ credited Claimant with eleven years of coal mine employment based on the parties' stipulation and thus found he could not invoke the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.[1] 30 U.S.C. §921(c)(4) (2018); *see* 20 C.F.R. §718.305. Nevertheless, when considering Claimant's entitlement under 20 C.F.R. Part 718, the ALJ stated that Employer failed to establish that Claimant does not have legal pneumoconiosis or "rebut the presumption" that his total disability is due to legal pneumoconiosis and thus she awarded benefits.[2] 20 C.F.R. §§718.202(a), 718.204(b), (c).

On appeal, Employer argues the ALJ did not appropriately evaluate the evidence and therefore erred in her conclusions on legal pneumoconiosis and disability causation. Claimant responds in support of the award. The Director, Office of Workers' Compensation Programs, has not filed a response brief.

The Benefits Review Board's scope of review is defined by statute. We must affirm the ALJ's Decision and Order if it is 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).

[1] 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); *see* 20 C.F.R. §718.305.

[2] "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).

[3] 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); Hearing Transcript at 17.

Entitlement Under 20 C.F.R. Part 718

Without the benefit of any presumption,[4] Claimant must establish disease (pneumoconiosis);[5] disease causation (it arose out of coal mine employment); disability (a totally disabling respiratory or pulmonary impairment);[6] 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 (1986) (en banc).

Legal Pneumoconiosis

The ALJ initially noted "[t]o disprove legal pneumoconiosis, [Employer] must demonstrate [Claimant] does not have a chronic lung disease or impairment 'significantly related to, or substantially aggravated by, dust exposure in coal mine employment.'" Decision and Order at 26; *see* 20 C.F.R. §718.201(a)(2), (b). The ALJ then considered the medical opinions of Drs. Mabe, Habre, Rajbhandari, McSharry, and Sargent. Decision and Order at 13-24, 26-28. Drs. Mabe, Habre, and Rajbhandari diagnosed legal pneumoconiosis, whereas Drs. McSharry and Sargent opined Claimant's disabling respiratory impairment and symptoms are related to asthma, not coal dust exposure, and thus did not diagnose legal pneumoconiosis. Director's Exhibits 15; 19 at 4; 21; Claimant's Exhibits 3; 6 at 3; Employer's Exhibits 4 at 2; 5 at 24-27; 6 at 20-22.

The ALJ first found Drs. McSharry's and Sargent's opinions were not well-reasoned, contrary to the preamble to the 2001 revised regulations, and entitled to little weight. Decision and Order at 27-28. Referencing her summary of the medical opinions in the disability section of her decision, the ALJ observed she had previously found the opinions of Drs. Mabe, Habre, and Rajbhandari were well-reasoned and entitled to "great

[4] The ALJ found Claimant is unable to invoke the irrebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(3) of the Act because the record does not contain evidence of complicated pneumoconiosis. 30 U.S.C. §921(c)(3); *see* 20 C.F.R. §718.304; Decision and Order at 6.

[5] The ALJ found Claimant did not establish the existence of clinical pneumoconiosis. 20 C.F.R. §718.202(a)(1); Decision and Order at 6, 25.

[6] We affirm, as unchallenged on appeal, the ALJ's finding that Claimant established a totally disabling respiratory or pulmonary impairment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 24.

weight." *Id.* at 13-16, 26, 28. She concluded Employer "failed to establish by a preponderance of the evidence that [Claimant] does not have legal pneumoconiosis." *Id.* at 28-29.

We agree with Employer that the ALJ did not even-handedly evaluate the evidence. Employer's Brief at 6-7. In addition, the ALJ committed plain error by placing the burden of proof on Employer, rather than Claimant. *See American Energy, LLC v. Director, OWCP* [*Goode*], 106 F.4th 319, 332 (4th Cir. 2024); Decision and Order at 26-29. Thus her finding on legal pneumoconiosis must be vacated.

Because Claimant did not invoke the Section 411(c)(4) presumption, Claimant bears the burden to establish legal pneumoconiosis by a preponderance of the evidence. 20 C.F.R. §718.201(a)(2), (b); *see Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 280-81 (1994); *Anderson*, 12 BLR at 1-112; Employer's Brief at 3. Although the ALJ summarized Drs. Mabe's, Habre's, and Rajbhandari's opinions and stated that she found them well-reasoned and entitled to "great weight,"[7] she did not critically analyze their explanations or the bases for their conclusions. Because the ALJ incorrectly required Employer to disprove that Claimant has legal pneumoconiosis and did not adequately explain her credibility findings as the Administrative Procedure Act (APA) requires, we vacate her finding at Section 718.202(a)(4).[8] *See* U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a); *Sea "B" Mining Co. v. Addison*, 831 F.3d 244, 252-53, 255-56 (4th Cir. 2016) (ALJ must conduct an appropriate analysis of the evidence to support her conclusion and render necessary credibility findings); *Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989); Decision and Order at 28-29.

Disability Causation

To establish disability causation, Claimant must prove pneumoconiosis is 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

[7] We note that contrary to the ALJ's statement that she had "previously" found Dr. Rajbhandari's opinion to be "well-reasoned," she previously determined that his opinion was "*not* well-reasoned and *not* persuasive" based on his misunderstanding of Claimant's length of coal mine employment. Decision and Order at 16, 28 (emphasis added).

[8] The APA 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).

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); *see Robinson v. Pickands Mather & Co.*, 914 F.2d 35, 37-38 (4th Cir. 1990).

We agree with Employer that the ALJ's disability causation analysis fails to satisfy the APA. Employer's Brief at 10-11. The ALJ rejected the opinions of Drs. McSharry and Sargent as contrary to her conclusion on legal pneumoconiosis but failed to provide any discussion of Drs. Mabe's, Habre's, or Rajbhandari's opinions. Decision and Order at 30. Additionally, the ALJ erred by requiring Employer to "rebut the presumption of disability causation." 20 C.F.R. §718.204(c)(1); Decision and Order at 29-30; Employer's Brief at 10-11. Because the ALJ did not apply the correct burden of proof and failed to consider all of the evidence and explain her findings in accordance with the APA, we vacate her finding that the "medical opinions do not rebut the presumption of disability causation." 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a); 20 C.F.R. §718.204(c)(1); *Wojtowicz*, 12 BLR at 1-165; Decision and Order at 30. Consequently, we must vacate the award of benefits and remand the case for further consideration.

Remand Instructions

On remand, the ALJ must determine whether Claimant established the existence of legal pneumoconiosis after considering all relevant evidence and applying the correct burden of proof. 20 C.F.R. §§718.201(a)(2), (b), 718.202(a); *see Addison*, 831 F.3d at 252-53, 255-56; *McCune v. Cent. Appalachian Coal Co.*, 6 BLR 1-996, 1-998 (1984). In analyzing and weighing the medical opinion evidence, she should address the comparative credentials of the respective 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 Claimant establishes legal pneumoconiosis on remand, the ALJ must consider whether it substantially contributed to his totally disabling respiratory or pulmonary impairment. 20 C.F.R. §718.204(c). If the ALJ finds legal pneumoconiosis is not established, Claimant will have failed to establish an essential element of entitlement. *See Anderson*, 12 BLR at 1-112; *Trent*, 11 BLR at 1-27.

In reaching her conclusions on remand, the ALJ must critically analyze each medical opinion and explain the bases for her credibility determinations, findings of fact, and conclusions of law as required by the APA. *See Wojtowicz*, 12 BLR at 1-165.

Accordingly, we affirm in part and vacate in part the ALJ's Decision and Order Granting Benefits and remand this case 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

MELISSA LIN JONES
Administrative Appeals Judge