

PART VII

ESTABLISHING ENTITLEMENT UNDER 20 C.F.R. PART 718

D. TOTAL DISABILITY: SECTION 718.204

4. SECTION 718.204(c)(3)

Pursuant to Section 718.204(c)(3), claimant may offer medical opinions diagnosing cor pulmonale with right sided congestive heart failure to establish total disability. This evidence must be ultimately weighed against any contrary probative evidence of record by the administrative law judge. If, however, the medical opinion diagnosing cor pulmonale does not also diagnose right sided congestive heart failure, it is insufficient to demonstrate total disability under Section 718.204(c)(3). ***Newell v. Freeman United Coal Mining Co.***, 13 BLR 1-37 (1989).

CASE LISTINGS

DIGESTS

The Board declined to deviate from the plain language of the regulation and held that a medical opinion diagnosing cor pulmonale but not right sided congestive heart failure is insufficient to demonstrate total disability under Section 718.204(c)(3). ***Newell v. Freeman United Coal Mining Co.***, 13 BLR 1-37 (1989).

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