PART VIII

STATUTORY PRESUMPTIONS IN MINERS' CLAIMS

A. SECTION 411(c)(1)

Section 411(c)(1) of the Act, 30 U.S.C. §921(c)(1), as implemented by 20 C.F.R. §§410.416(a), 718.203 and 718.302, provides that, in the case of a miner who was employed for ten or more years in one or more coal mines and who is suffering from pneumoconiosis, there is a rebuttable presumption that his pneumoconiosis arose out of employment in the nation's coal mines. In any other case, the regulations provide that a miner suffering from pneumoconiosis must submit the evidence necessary to establish that his pneumoconiosis arose out of employment in the nation's coal mines. For additional explanation of this presumption and case law, *see* Part VI.D. and Part VII.C. of the Desk Book.

CASE LISTINGS

DIGESTS

The Board held that a physician's comments that address the source of a pneumoconiosis diagnosed by x-ray are not relevant to the issue of the existence of pneumoconiosis at 20 C.F.R. §718.202(a)(1). Rather, those comments are to be considered at 20 C.F.R. §718.203. ***Cranor v. Peabody Coal Co.***, 21 BLR 1-201 (1999).

In light of the definition of legal pneumoconiosis set forth in the revised regulation at 20 C.F.R. §718.201(a)(2), and the historical evolution of the Act, the Tenth Circuit held that the rebuttable presumption at 20 C.F.R. §718.203 is only applicable to claims of clinical pneumoconiosis and does not extend to claims of legal pneumoconiosis. ***Andersen v. Director, OWCP***, F.3d , BLR (10th Cir. 2006).

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