U.S. Department of Labor

Benefits Review Board
P.O. Box 37601
Washington, DC 20013-7601

BRB No. 16-0347 BLA

COOLIDGE FUGATE	)	
	)	
Claimant-Respondent	)	
	)	
v.	)	
	)	
UNITED STATES STEEL MINING COMPANY, LLC	)	DATE ISSUED: 05/02/2017
	)	
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 Awarding Benefits of Paul R. Almanza, Administrative Law Judge, United States Department of Labor.

Joseph E. Wolfe, Brad A. Austin, and M. Rachel Wolfe (Wolfe Williams & Reynolds), Norton, Virginia, for claimant.

Howard G. Salisbury, Jr. (Kay Casto & Chaney PLLC), Charleston, West Virginia, for employer.

Before: HALL, Chief Administrative Appeals Judge, BUZZARD and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order Awarding Benefits (2012-BLA-06156) of Administrative Law Judge Paul R. Almanza, rendered on a subsequent claim filed on December 21, 2011, pursuant to provisions of the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2012) (the Act).[1] The administrative law judge determined that claimant established thirty-four years of underground coal mine employment and a totally disabling respiratory or pulmonary impairment pursuant to 20 C.F.R. §718.204(b)(2). The administrative law judge found, therefore, that claimant established a change in an applicable condition of entitlement at 20 C.F.R. §725.309 and invoked the rebuttable presumption of total disability due to pneumoconiosis at Section 411(c)(4) of the Act.[2] 30 U.S.C. §921(c)(4) (2012). The administrative law judge further found that employer did not rebut the presumption and awarded benefits accordingly.

On appeal, employer argues that the administrative law judge erred in finding that claimant established total disability and, therefore, erred in determining that claimant invoked the Section 411(c)(4) presumption and established a change in an applicable condition of entitlement. Employer further asserts that the administrative law judge erred in determining that it did not rebut the presumption. Claimant responds, urging affirmance of the award of benefits. The Director, Office of Workers' Compensation Programs, has not filed a response brief in this appeal.[3]

[1] Claimant filed a claim for benefits on May 11, 1983, which was denied because he did not establish the existence of pneumoconiosis. Director's Exhibit 1. Claimant filed a second claim for benefits on November 3, 1995, which was denied because he did not establish the existence of pneumoconiosis or total disability. Director's Exhibit 2. Claimant filed a timely request for modification that was denied. Director's Exhibit 3. The Board affirmed the finding that claimant did not establish total disability and further affirmed the denial of benefits. *C.F.* [*Fugate*] *v. U.S. Steel Mining Co.*, BRB No. 07-0811 BLA (July 30, 2008) (unpub.). Claimant did not take any additional action until he filed the current subsequent claim. Director's Exhibit 4.

[2] Under Section 411(c)(4) of the Act, a miner's total disability is presumed to be due to pneumoconiosis if he had at least fifteen years of underground coal mine employment, or coal mine employment in conditions substantially similar to those in an underground mine, and a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4) (2012), as implemented by 20 C.F.R. §718.305(b).

[3] We affirm, as unchallenged on appeal, the administrative law judge's finding that claimant has thirty-four years of underground coal mine employment. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

The Board's scope of review is defined by statute. The administrative law judge's Decision and Order must be affirmed if it is rational, supported by substantial evidence, and in accordance with applicable law.[4] 33 U.S.C. §921(b)(3), as incorporated into the Act by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc*., 380 U.S. 359 (1965).

I. Invocation of the Presumption – Total Disability

Employer argues that the administrative law judge erred in weighing the medical opinion evidence relevant to total disability, particularly in light of his finding that the pulmonary function study evidence does not demonstrate that claimant is totally disabled.[5] Pursuant to 20 C.F.R. §718.204(b)(2)(i), the administrative law judge considered the newly submitted pulmonary function studies dated January 17, 2012, August 30, 2012, March 19, 2013, and December 19, 2013. Decision and Order at 11; Director's Exhibit 13; Claimant's Exhibit 5; Employer's Exhibits 1, 2. The administrative law judge determined that the January 17, 2012 study, which yielded qualifying[6] pre-bronchodilator and post-bronchodilator values, was valid based on the

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

[5] At 20 C.F.R. §718.204(b)(2)(ii), the administrative law judge rationally determined that claimant did not establish total disability because all of the newly submitted blood gas studies are non-qualifying according to the values set forth in the tables in Appendix C of 20 C.F.R. Part 718. Decision and Order at 8, 12; Director's Exhibit 13; Claimant's Exhibit 5; Employer's Exhibits 1-2. Additionally, the administrative law judge correctly found that claimant could not establish total disability at 20 C.F.R. §718.204(b)(2)(iii), as the record contains no evidence of cor pulmonale with right-sided congestive heart failure. Decision and Order at 12.

[6] A "qualifying" pulmonary function study yields values that are equal to or less than the applicable values listed in the table in Appendix B of 20 C.F.R. Part 718. A "non-qualifying" study exceeds those values. 20 C.F.R. §718.204(b)(2)(i). The table in Appendix B includes values for miners up to age seventy-one. Claimant was eighty-five years old when the 2012 pulmonary function studies were performed and eighty-six years old when the 2013 pulmonary function studies were performed. Director's Exhibit 13; Claimant's Exhibit 5; Employer's Exhibits 1, 5.

determinations by a preponderance of equally-qualified physicians.[7] Decision and Order at 11; Director's Exhibit 13; Employer's Exhibits 1, 5. The administrative law judge found that the August 30, 2012 study, which yielded non-qualifying pre-bronchodilator and post-bronchodilator values, was also valid based on Dr. Castle's uncontradicted determination. Decision and Order at 11; Claimant's Exhibit 5; Employer's Exhibits 1, 5. The administrative law judge determined that the March 19, 2013 pulmonary function study, which yielded qualifying pre-bronchodilator values and non-qualifying post-bronchodilator values, was invalid, based on the report of Dr. Castle, the administering physician. Decision and Order at 11; Employer's Exhibit 2. Lastly, the administrative law judge found the December 19, 2013 study, which yielded qualifying pre-bronchodilator and post-bronchodilator values, was valid, based on Dr. Castle's unchallenged determination. Decision and Order at 11; Employer's Exhibit 5.

Upon weighing the newly submitted pulmonary function study evidence together, the administrative law judge stated:

> While several of the pulmonary function study values are qualifying when evaluated under the criteria for a 71 year[-]old man, Drs. Castle and Jarboe have explained why the qualifying pulmonary function study values for a 71 year[-]old are not indicative of total disability in [c]laimant [who was 85 and 86 years old at the time the studies were conducted]. I note that their explanations are uncontradicted and I find that their explanations are persuasive. Therefore, the pulmonary function study evidence does not demonstrate total disability pursuant to Section 718.204(b)(2)(i).

Decision and Order at 12; *see also K.J.M. [Meade] v. Clinchfield Coal Co.*, 24 BLR 1-40, 1-47 (2008) (when a party submits evidence that the qualifying pulmonary function study values for a seventy-one year-old are not indicative of total disability in an older miner, the administrative law judge has to weigh it at 20 C.F.R. §718.204(b)(2)(i)).

Pursuant to 20 C.F.R. §718.204(b)(2)(iv), the administrative law judge considered the newly submitted medical opinions of Drs. Forehand, Jarboe, and Castle. Decision and Order at 12-13. Dr. Forehand examined claimant on January 17, 2012 and December 19, 2013, and prepared a report on each date. Director's Exhibit 13; Claimant's Exhibit 5. Dr. Forehand stated in the report of his January 17, 2012 examination that claimant's

[7] Dr. Gaziano and Dr. Jarboe determined that Dr. Forehand's January 17, 2012 pulmonary function study was valid, while Dr. Castle indicated that it was invalid due to the lack of reproducibility of the flow volume curves. Director's Exhibit 13; Employer's Exhibits 1, 5.

pulmonary function study showed an "obstructive ventilatory pattern" and a "significant respiratory impairment." Director's Exhibit 13. He opined that claimant has "insufficient residual respiratory capacity" to perform his last coal mining job as a shuttle car operator. *Id*.

In his report of the December 19, 2013 examination, Dr. Forehand also reviewed medical reports from Drs. Jarboe and Castle dated September 22, 2012 and March 19, 2013, respectively. Claimant's Exhibit 5; Employer's Exhibits 1, 2. Dr. Forehand indicated that "each of [claimant's] five ventilatory studies reveals an obstructive ventilatory pattern," and that the most recent pulmonary function study, which he had just administered, produced qualifying values for total disability when compared to the values used by the Department of Labor (DOL).[8] Claimant's Exhibit 5. Dr. Forehand concluded that claimant has "insufficient respiratory capacity" to perform his last coal mine job. *Id*. After acknowledging that Drs. Jarboe and Castle described claimant's pulmonary function study results as normal, Dr. Forehand stated, "[h]ad [claimant's] FEV1 been normal for his age, he would have had sufficient residual ventilatory capacity to perform the work expected of him." *Id*. Dr. Forehand did not otherwise address the opinions of Drs. Jarboe and Castle that the values set forth in the regulations are not relevant to claimant because they end at age seventy-one, while claimant was either eighty-five or eighty-six years old when he performed the newly submitted pulmonary function studies. *Id*.; Employer's Exhibits 5, 6.

Dr. Jarboe examined claimant on August 30, 2012, and submitted a medical report dated September 22, 2012, in which he discussed the results of his examination and reviewed Dr. Forehand's 2012 medical report. Employer's Exhibit 1. Dr. Jarboe stated that the pulmonary function study that he obtained was normal for a man eighty-five years of age and that claimant "retains the functional respiratory capacity to perform his last coal mining job." *Id*. Dr. Jarboe acknowledged that Dr. Forehand's January 17, 2012 pulmonary function study demonstrated "significantly lower pulmonary function," but attributed the variable results to claimant's "underlying congestive heart failure due to cardiomyopathy." *Id*.

[8] Using the values set forth in the regulations for a seventy-one year-old man who is sixty-six inches tall, Dr. Forehand stated that the pulmonary function studies he obtained on January 17, 2012 and December 19, 2013, demonstrated the presence of an "obstructive ventilatory pattern," a "significant respiratory impairment," a "partially reversible obstructive ventilatory pattern," and "air trapping consistent with obstructive lung disease." Director's Exhibit 13; Claimant's Exhibit 5.

In a supplemental report dated April 20, 2014, Dr. Jarboe reviewed Dr. Castle's April 11, 2013 report and Dr. Forehand's December 19, 2013 report. Employer's Exhibit 6. Dr. Jarboe again observed that claimant's pulmonary function studies showed variability over time due to claimant's congestive heart failure. *Id*. Dr. Jarboe also stated that Dr. Forehand erred by relying on the values set forth in the regulations for a man who is seventy-one years old rather than applying predicted values for a man who is eighty-five or eight-six years old. *Id*. Dr. Jarboe concluded that it was still his opinion that claimant "retains the functional pulmonary capacity to perform his last coal mining job." *Id*.

Dr. Castle examined claimant on March 19, 2013, and in a report dated April 11, 2013, discussed the results of the examination and his review of the 2012 reports submitted by Drs. Forehand and Jarboe. Employer's Exhibit 2. Dr. Castle stated that the pulmonary function study he conducted and the January 17, 2012 study obtained by Dr. Forehand were invalid due to excess variability in the flow volume curves. *Id*. Based on Dr. Jarboe's valid August 30, 2012 pulmonary function study, which produced non-qualifying results pursuant to Appendix B of 20 C.F.R. Part 718 for a seventy-one year-old man of claimant's height, Dr. Castle found that claimant had "essentially normal pulmonary function." *Id*. He further indicated that the variability in claimant's pulmonary function study values was due to "congestive heart failure and/or obesity." *Id*. Dr. Castle concluded: "[Claimant] is disabled as a whole man because of his advanced age, atherosclerotic cardiovascular disease with chronic congestive heart failure, and other medical problems unrelated to coal mine dust exposure. It is my opinion that he does not retain the respiratory capacity to perform his previous coal mining employment duties." *Id*.

In a supplemental report dated April 7, 2014, Dr. Castle addressed Dr. Forehand's December 19, 2013 report. Employer's Exhibit 5. Dr. Castle noted that the pulmonary function study obtained by Dr. Forehand appeared to be valid but stated that Dr. Forehand erred by failing to use predicted normal values for a man who is eighty-five or eighty-six years of age. *Id*. He then explained that he used the Knudson prediction equations taken from an article in the *American Review of Respiratory Disease* to calculate the predicted values for claimant, and that when these values are applied, claimant's pulmonary function study results are normal for a man of his age. *Id*. Dr. Castle stated that claimant is "disabled as a whole man because of his advanced age, atherosclerotic heart disease with chronic congestive heart failure, and other medical problems unrelated to coal dust exposure." *Id*.

The administrative law judge determined that the physicians' opinions were reasoned and documented, and that they understood the exertional requirements of claimant's usual coal mine employment. Decision and Order at 12. The administrative

law judge observed: "Dr. Forehand diagnosed a respiratory impairment that is totally and permanently disabling;" Dr. Jarboe "opined that [c]laimant retain[s] the functional respiratory capacity to perform his last coal mine employment;" and "Dr. Castle concluded that [c]laimant does not retain the respiratory capacity to perform his prior coal mine employment job." *Id*. at 12-13. The administrative law judge then determined that the preponderance of medical opinions established that claimant has a totally disabling respiratory or pulmonary impairment under 20 C.F.R. §718.204(b)(2)(iv). Decision and Order at 13. Weighing the newly submitted evidence as a whole, the administrative law judge gave greatest weight to the medical opinion evidence and found that claimant established total disability at 20 C.F.R. §718.204(b)(2), a change in an applicable condition of entitlement at 20 C.F.R. §725.309, and invocation of the Section 411(c)(4) presumption. *Id.*

Employer contends that the administrative law judge erred in relying on Dr. Forehand's opinion to determine that claimant established total disability, despite the administrative law judge's finding that the pulmonary function studies cited by Dr. Forehand were insufficient to establish total respiratory or pulmonary disability. Employer also argues that the administrative law judge should have discredited Dr. Forehand's opinion because he did not address the fact that claimant's respiratory impairment "represents a transitory effect brought about by the claimant's well documented cardiac issues," "advanced age," and " lack of maximal effort . . . on relevant test procedures." Employer's Brief at 11-13. Employer also alleges that the administrative law judge mischaracterized Dr. Castle's opinion regarding the existence of a permanent, totally disabling respiratory or pulmonary impairment. Finally, employer maintains that the opinions of Drs. Castle and Jarboe are entitled to greatest weight on the issue of total disability, as they considered all available evidence and rendered conclusions that are well-reasoned and supported by the evidence of record.

Employer's contentions have merit, in part. Although the administrative law judge was not required to discredit the opinion of Dr. Forehand because he relied on pulmonary function studies that were insufficient to establish total disability, the administrative law judge was required to determine whether Dr. Forehand's diagnosis was documented and reasoned. *See* 20 C.F.R. §718.204(b)(2)(iv); *Eagle v. Armco, Inc.*, 943 F.2d 509, 511, 15 BLR 2-201, 2-204 (4th Cir. 1991); *Marsiglio v. Director, OWCP*, 8 BLR 1-190, 1-192 (1985); Decision and Order at 12. The administrative law judge stated that "each of the physicians . . . provided medical opinions that are documented and reasoned," but he did not set forth the rationale underlying this finding, as is required by the Administrative Procedure Act (APA).[9] Decision and Order at 13; *see Wojtowicz v.*

[9] The Administrative Procedure Act provides that every adjudicatory decision must be accompanied by a statement of "findings and conclusions, and the reasons or

Duquesne Light Co., 12 BLR 1-162, 1-165 (1989). This omission is not harmless, as there is an unresolved conflict between the administrative law judge's decision to credit the opinions of Drs. Castle and Jarboe in finding that claimant's pulmonary function study results "are not indicative of total disability" in an eighty-five or eighty-six year-old man *and* his decision to credit Dr. Forehand's diagnosis of a totally disabling respiratory or pulmonary impairment based on those same pulmonary function studies. Decision and Order at 12.

Accordingly, we must vacate the administrative law judge's crediting of Dr. Forehand's diagnosis of a totally disabling respiratory or pulmonary impairment and remand this case to the administrative law judge to reconcile his determinations under 20 C.F.R. §718.204(b)(2)(i), (iv). When weighing Dr. Forehand's opinion pursuant to 20 C.F.R. §718.204(b)(2)(iv), the administrative law judge must render a specific finding as to whether Dr. Forehand's diagnosis of total respiratory or pulmonary disability is reasoned and documented, in light of the objective evidence and Dr. Forehand's explanation of his diagnosis.[10] *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524, 533, 21 BLR 2-323, 2-335 (4th Cir. 1998). The administrative law judge must also set forth his findings in detail, including the underlying rationale, in accordance with the APA. *See Wojtowicz*, 12 BLR at 1-165.

Similarly, in crediting Dr. Castle's statement that claimant "does not retain the respiratory capacity to perform his previous coal mining employment duties," Employer's Exhibit 2 at 10, the administrative law judge did not address Dr. Castle's seemingly contrary view that when corrected for age, claimant's pulmonary function study results are "normal."[11] Employer's Exhibit 5 at 4. Because the administrative law

---

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 Black Lung Benefits Act by 30 U.S.C. §932(a).

[10] In determining whether Dr. Forehand's opinion is reasoned and documented, the administrative law judge should address Dr. Castle's statement that, "[s]ince Dr. Forehand did not consider correcting the values for [claimant's] age, it is quite interesting that he would conclude . . . '[h]ad [claimant's] FEV1 been normal for his age, he would have had sufficient residual ventilatory capacity to perform the work expected of him.'" Employer's Exhibit 5, *quoting* Claimant's Exhibit 5.

[11] Dr. Castle also stated that claimant's arterial blood gas studies "have been normal and have not demonstrated a disabling abnormality of blood gas transfer mechanisms." Employer's Exhibit 2 at 10.

judge did not resolve material issues regarding Dr. Castle's opinion on total disability, as required by the APA, we must vacate his finding that Dr. Castle diagnosed a totally disabling respiratory or pulmonary impairment under 20 C.F.R. §718.204(b)(2)(iv). *See Hicks*, 138 F.3d at 533, 21 BLR at 2-336; *Wojtowicz*, 12 BLR at 1-165.

On remand, the administrative law judge must reconsider Dr. Castle's opinion and determine whether he rendered a reasoned and documented opinion that claimant is totally disabled pursuant to 20 C.F.R. §718.204(b)(2)(iv). Once the administrative law judge reconsiders the medical opinions of Drs. Forehand and Castle, he must weigh them with Dr. Jarboe's opinion to determine whether claimant established total disability under 20 C.F.R. §718.204(b)(2)(iv) and whether the evidence supportive of a finding of total disability outweighs the contrary probative evidence. *See Fields v. Island Creek Coal Co.*, 10 BLR 1-19, 1-21 (1987); *Shedlock v. Bethlehem Mines Corp.*, 9 BLR 1-195, 1-198 (1986), *aff'd on recon*., 9 BLR 1-236 (1987) (en banc).

Because we have vacated the administrative law judge's crediting of the opinions of Drs. Forehand and Castle, we also vacate his finding that claimant established total disability pursuant to 20 C.F.R. §718.204(b)(2), a change in an applicable condition of entitlement at 20 C.F.R. §725.309, and invocation of the Section 411(c)(4) presumption.

If the administrative law judge finds on remand that claimant has not established total disability, he must deny benefits based on claimant's failure to establish an essential element of entitlement. *See Trent v. Director, OWCP*, 11 BLR 1-26, 1-27 (1987). Conversely, if the administrative law judge determines that claimant has established total disability, he can reinstate his findings that claimant established a change in an applicable condition of entitlement at 20 C.F.R. §725.309 and invoked the Section 411(c)(4) presumption.

II. Rebuttal of the Presumption

In the interest of judicial economy, we will address employer's contention that the administrative law judge erred in finding that employer failed to rebut the Section 411(c)(4) presumption. Where a claimant invokes the presumption, the burden shifts to employer to rebut the presumption by establishing that claimant has neither legal nor clinical pneumoconiosis,[12] or by establishing that "no part of the miner's respiratory or

[12] 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). 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

pulmonary total disability was caused by pneumoconiosis as defined in §718.201." 20 C.F.R. §718.305(d)(1)(i), (ii); *see W. Va. CWP Fund v. Bender*, 782 F.3d 129, 137, 25 BLR 2-689, 2-698 (4th Cir. 2015); *Minich v. Keystone Coal Mining Corp.*, 25 BLR 1-149, 1-154-46 (2015) (Boggs, J., concurring and dissenting).

A. Legal Pneumoconiosis

The administrative law judge determined that the opinions of Drs. Jarboe and Castle were insufficient to rebut the presumed existence of legal pneumoconiosis. Decision and Order at 15; Employer's Exhibits 1, 2, 5, 6. The administrative law judge found that Dr. Jarboe excluded claimant's lengthy coal dust exposure as a cause of his disease or impairment "without fully explaining his opinion." Decision and Order at 15. The administrative law judge determined that Dr. Castle's reluctance to diagnose legal pneumoconiosis in the absence of clinical pneumoconiosis was inconsistent with the regulations and with the preamble to the 2001 regulatory revisions indicating that obstructive lung disease due to coal dust exposure can occur even without x-ray evidence of pneumoconiosis.[13] *Id.* at 15, *citing* 20 C.F.R. §718.202(b); 65 Fed. Reg. 79,920, 79,939 (Dec. 20, 2000); *Harman Mining Co. v. Director, OWCP* [*Looney*], 678 F.3d 305, 313-14, 25 BLR 2-115, 2-128 (4th Cir. 2012). Thus, the administrative law judge concluded that the opinions of Drs. Jarboe and Castle were insufficient to disprove the existence of legal pneumoconiosis at 20 C.F.R. §718.305(d)(1)(i)(A). Decision and Order at 16.

Employer argues that, contrary to the administrative law judge's findings, Drs. Jarboe and Castle rendered reasoned and documented diagnoses of "significant cardiac disease that appears to affect [claimant's] pulmonary functioning in a transitory fashion to varying and fluctuating degrees." Employer's Brief at 14. Employer's contention is without merit. The administrative law judge's determination that neither physician adequately explained why coal dust could not also have contributed to claimant's respiratory or pulmonary impairment is supported by substantial evidence. *See Looney*,

---

that deposition caused by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(1).

[13] Dr. Castle stated that claimant "did not demonstrate any consistent physical findings indicating the presence of an interstitial pulmonary process." Employer's Exhibit 2. Dr. Castle further observed that claimant "does not have legal pneumoconiosis because he does not demonstrate the physiologic findings indicating the presence of coal workers' pneumoconiosis." *Id.*

678 F.3d at 316-17, 25 BLR at 2-133. Therefore, the administrative law judge rationally determined that the opinions of Drs. Jarboe and Castle did not satisfy employer's burden to rebut the presumption of legal pneumoconiosis at 20 C.F.R. §718.305(d)(1)(i)(A).[14] *See Island Creek Coal Co. v. Compton*, 211 F.3d 203, 211, 22 BLR 2-162, 2-175 (4th Cir. 2000); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441, 21 BLR 2-269, 2-274 (4th Cir. 1997).

B. Total Disability Causation

Concerning rebuttal of the presumed fact that claimant's totally disabling respiratory impairment is due to pneumoconiosis, the administrative law judge stated:

> Since neither physician adequately explains why pneumoconiosis or the [forty] years of coal mine employment and coal dust exposure, that each physician considered, had no part in causing [c]laimant's respiratory or pulmonary impairment, I find that these opinions are not well-reasoned for assessing the cause of [c]laimant's respiratory or pulmonary impairment. Furthermore, I find that the reasoning of both Dr. Jarboe and Dr. Castle is flawed. Both Dr. Jarboe and Dr. Castle stated that [c]laimant does not have legal pneumoconiosis, which is contrary to my finding that Employer failed to disprove legal pneumoconiosis.

Decision and Order at 16.

Employer argues that the opinions of Drs. Jarboe and Castle are reasoned and documented and should have been credited as sufficient to rebut the presumed fact of disability causation. Employer further asserts that claimant's pulmonary impairment is "due to the residual effects of his significant cardiac disease and not coal mine dust exposure." Employer's Brief at 15 (emphasis in original).

The administrative law judge's discrediting of the opinions of Drs. Jarboe and Castle under 20 C.F.R. §718.305(d)(1)(ii) was rational and supported by substantial evidence. *See Compton v. Island Creek Coal Co.*, 211 F.3d 203, 207-208, 22 BLR 2-162, 2-168 (4th Cir. 2000); *Hicks*, 138 F.3d at 528, 21 BLR at 2-326. Because the administrative law judge reasonably determined that their opinions are not credible to disprove the existence of legal pneumoconiosis at 20 C.F.R. §718.305(d)(1)(i)(A), he also

[14] Because employer has not rebutted the presumed existence of legal pneumoconiosis, it is not necessary to address its arguments concerning the existence of clinical pneumoconiosis. *See* 20 C.F.R. §718.305(d)(1)(i).

reasonably concluded that their opinions as to whether claimant's total respiratory or pulmonary disability was caused by legal pneumoconiosis are not entitled to probative weight at 20 C.F.R. §718.305(d)(1)(ii). *See Big Branch Resources, Inc. v. Ogle*, 737 F.3d 1063, 1070, 25 BLR 2-431, 2-452 (6th Cir. 2013); *see also Scott v. Mason Coal Co.*, 289 F.3d 263, 269-70, 22 BLR 2-372, 2-383-84 (4th Cir. 2002); *Toler v. Eastern Associated Coal Corp.*, 43 F.3d 109, 116, 19 BLR 2-70, 2-83-84 (4th Cir. 1995); Decision and Order at 24-25. We therefore affirm the administrative law judge's determination that employer failed to establish that no part of claimant's respiratory disability was caused by legal pneumoconiosis under 20 C.F.R. §718.305(d)(1)(ii). Thus, we affirm the administrative law judge's finding that employer failed to establish rebuttal of the Section 411(c)(4) presumption. If the administrative law judge determines on remand that claimant has invoked the Section 411(c)(4) presumption, he may reinstate the award of benefits.

Accordingly, the administrative law judge's Decision and Order Awarding Benefits is affirmed in part and vacated in part, and the case is remanded to the administrative law judge for further proceedings consistent with this opinion.

SO ORDERED.

BETTY JEAN HALL, Chief
Administrative Appeals Judge

GREG J. BUZZARD
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge