U.S. Department of Labor

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

BRB No. 18-0389 BLA-A

JOHN CHESTER GOBLE	)	
	)	
Claimant-Petitioner	)	
	)	
v.	)	
	)	
LEFT BEAVER COAL COMPANY	)	DATE ISSUED: 08/28/2019
	)	
and	)	
	)	
OLD REPUBLIC INSURANCE COMPANY	)	
	)	
Employer/Carrier-Respondents	)	
	)	
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 Peter B. Silvain, Jr., Administrative Law Judge, United States Department of Labor.

John Earl Hunt, Allen, Kentucky, for claimant.

Laura Metcoff Klaus (Greenberg Traurig LLP), Washington, D.C., for employer/carrier.

Jeffrey S. Goldberg (Kate S. O'Scannlain, Solicitor of Labor; Barry H. Joyner, Associate Solicitor; Michael J. Rutledge, Counsel for Administrative Litigation and Legal Advice), Washington, D.C., for the Director, Office of Workers' Compensation Programs, United States Department of Labor.

Before: BUZZARD, GILLIGAN, and ROLFE, Administrative Appeals Judges.

PER CURIAM:

Claimant appeals the Decision and Order Denying Benefits (2015-BLA-05205) of Administrative Law Judge Peter B. Silvain, Jr., rendered on a claim filed on August 16, 2013, pursuant to the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (2012) (the Act).

Because claimant did not establish at least fifteen years of coal mine employment,[1] he did not invoke 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). Turning to whether claimant is entitled to benefits under 20 C.F.R. Part 718, the administrative law judge found he did not establish clinical pneumoconiosis but did establish legal pneumoconiosis in the form of pulmonary impairments due in part to coal mine dust exposure. 20 C.F.R. §718.202(a)(4). He also found claimant established a totally disabling respiratory or pulmonary impairment based on the pulmonary function studies, 20 C.F.R. §718.204(b)(2)(i), but not the arterial blood gas studies or medical opinions. 20 C.F.R. §718.204(b)(2)(ii), (iv). Finally, he found claimant did not establish that his total disability is due to pneumoconiosis and thus denied benefits. 20 C.F.R. §718.204(c).

On appeal, claimant contends the administrative law judge erred in finding the arterial blood gas studies do not establish total disability and the medical opinions do not establish disability causation. He also contends he was not provided a complete pulmonary evaluation as required under the Act.[3] Employer/carrier (employer) responds in support of

[1] This case arises within the jurisdiction of the United States Court of Appeals for the Sixth Circuit because claimant's coal mine employment was in Kentucky. *See Shupe v. Director, OWCP*, 12 BLR 1-200, 1-202 (1989) (en banc); Director's Exhibit 3; Hearing Transcript at 23.

[2] Under Section 411(c)(4), claimant is entitled to a rebuttable presumption that he is totally disabled due to pneumoconiosis if he has 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.

[3] We affirm, as unchallenged on appeal, the administrative law judge's findings that claimant established less than fifteen years of coal mine employment and did not establish

the denial of benefits. It also contends the administrative law judge erred in finding legal pneumoconiosis and total disability. The Director, Office of Workers' Compensation Programs (the Director) has filed a limited response brief,[4] arguing that she satisfied her obligation to provide claimant with a complete pulmonary evaluation.

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. 33 U.S.C. §921(b)(3), as incorporated by 30 U.S.C. §932(a); *O'Keeffe v. Smith, Hinchman & Grylls Associates, Inc.*, 380 U.S. 359 (1965).

To be entitled to benefits under the Act, claimant must establish he has pneumoconiosis, his pneumoconiosis arose out of coal mine employment, he has a totally disabling respiratory or pulmonary impairment, and his total disability is due to pneumoconiosis. 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

We reject employer's argument[5] that the administrative law judge erred in finding claimant established legal pneumoconiosis.[6] Employer's Brief at 19-22. To establish legal

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clinical pneumoconiosis. *See Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983); Decision and Order at 4, 21.

[4] Although the Director, Office of Workers' Compensation Programs (the Director) filed the initial appeal, it was dismissed at her request. *Goble v. Left Beaver Coal Co.*, BRB No. 18-0389 BLA (Aug. 3, 2018) (Order) (unpub.). Claimant's cross-appeal is the only appeal before the Board.

[5] Although not raised in a cross-appeal, employer's argument is properly before the Board, as the argument is supportive of the administrative law judge's decision denying benefits. 20 C.F.R §802.212(b); *see Malcomb v. Island Creek Coal Co.*, 15 F.3d 364, 370 (4th Cir. 1994); *Whiteman v. Boyle Land & Fuel Co.*, 15 BLR 1-11, 1-18 (1991) (en banc).

[6] "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 that is significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b).

pneumoconiosis, claimant must demonstrate that he has a chronic lung disease or impairment "significantly related to, or substantially aggravated by, dust exposure in coal mine employment." 20 C.F.R. §718.201(b).

Dr. Rasmussen diagnosed chronic obstructive pulmonary disease (COPD) and emphysema based on the pulmonary function testing[7] and a blood gas exchange impairment based on the arterial blood gas testing. Director's Exhibit 9 at 71-77. He concluded that claimant has legal pneumoconiosis because his coal mine dust exposure is a significant "co-contributor" to all of these impairments along with his history of cigarette smoking and occupational exposure to wood dust, paint fumes, and dry wall dust in non-coal mine employment. *Id*. He explained there is "no way by physical, physiologic[,] or radiographic means to separate the potential effects of these substances." *Id*. at 77. Drs. Leslie and Sikder diagnosed legal pneumoconiosis in the form of a disabling obstructive respiratory impairment due solely to coal mine dust exposure. Claimant's Exhibits 5-8, 17-18. Dr. Zaldivar excluded legal pneumoconiosis, and diagnosed COPD and asthma due to exposure to cigarette and wood smoke.[8] Employer's Exhibit 5. Dr. Vuskovich also excluded legal pneumoconiosis, and diagnosed inherited asthma aggravated by environmental exposures. Employer's Exhibits 6, 7, 13.

The administrative law judge found Dr. Rasmussen's opinion reasoned and documented and entitled to probative weight. Decision and Order at 22. He assigned no weight to Dr. Leslie's opinion because it is not reasoned or documented, and no weight to Dr. Sikder's opinion because she relied on an inaccurate smoking history and evidence outside of the record.[9] *Id*. at 22-23. He assigned reduced weight to Drs. Zaldivar and

[7] Dr. Rasmussen also opined that claimant's pulmonary function testing is consistent with asthma. Director's Exhibit 9 at 9, 71.

[8] Dr. Zaldivar noted that claimant has a mild diffusion impairment and "[n]ormal cardiopulmonary response to exercise, which was limited by a subjective sensation of shortness of breath that was not physiologically justified." Employer's Exhibit 5 at 34.

[9] Claimant argues that the opinions of Drs. Leslie and Sikder should have been credited because they are his treating physicians. Claimant's Brief at 18-19. Contrary to claimant's argument, treating physicians are entitled to "the deference they deserve based on their power to persuade," *Eastover Mining Co. v. Williams*, 338 F.3d 501, 513 (6th Cir. 2003), and the administrative law judge was required to assess whether their opinions are reasoned and documented. *Director, OWCP v. Rowe*, 710 F.2d 251, 255 (6th Cir. 1983). Because claimant raises no specific challenge to the administrative law judge's credibility findings, we affirm his finding that the opinions of Drs. Leslie and Sikder are entitled to

Vuskovich because their explanations are unpersuasive and inconsistent with the medical science accepted by the Department of Labor (DOL) in the preamble to the 2001 revised regulations. *Id*. at 24-25.

We reject employer's argument that the administrative law judge erred in discrediting the opinions of Drs. Zaldivar and Vuskovich. Employer's Brief at 21-22. He noted both doctors relied on the bronchoreversibility evidenced by claimant's pulmonary function testing to diagnose asthma and exclude a diagnosis of legal pneumoconiosis.[10] Decision and Order at 24-25. He permissibly found neither doctor explained how claimant's response to bronchodilators "exclude[s] coal mine dust as a contributing factor [of his impairment], especially in light of the fact that [bronchodilators] did not appear to completely reverse [claimant's] obstruction, indicating that there was an irreversible component of the impairment." Decision and Order at 25; *see Crockett Colleries, Inc. v. Barrett*, 478 F.3d 350, 356 (6th Cir. 2007).

The administrative law judge also noted that Dr. Zaldivar excluded legal pneumoconiosis by relying on "medical literature finding that exposure to wood smoke and cigarette smoke" during adolescence "produces detrimental, lifelong, changes in the lungs, such as COPD and asthma, even when the exposure is limited to a short and remote period of time."[11] Decision and Order at 24. Moreover, Dr. Zaldivar stated that "there is

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no weight. *Sarf v. Director, OWCP*, 10 BLR 1-119, 1-120-21 (1987); *Fish v. Director, OWCP*, 6 BLR 1-107, 1-109 (1983).

[10] Specifically, Dr. Zaldivar opined that the pulmonary function testing he conducted indicates claimant has "[m]oderate airway obstruction with significant improvement after bronchodilator, but slightly less than the 12% requirement for bronchospasm." Employer's Exhibit 5 at 34. Dr. Vuskovich also reviewed the results of Dr. Zaldivar's pulmonary function testing and noted that the FEV1 value "improved" by eleven percent after bronchodilator which he stated is "consistent with asthma." Employer's Exhibit 7 at 7-8. He stated that "[b]ronchodilator therapy is considered significant if therapy affects [twelve percent] or greater increase . . . in the FEV1 result. This magnitude of change shows that there is a substantial reversible component to an obstructive impairment." *Id*. at 4.

[11] The administrative law judge permissibly found Dr. Zaldivar's reasoning that wood and cigarette smoke exposure in adolescence produces "detrimental" and "lifelong" effects insufficient to address "why coal dust exposure could not have also contributed to, or aggravated," claimant's obstructive respiratory impairment. Decision and Order at 24-25; *see Crockett Colleries, Inc. v. Barrett*, 478 F.3d 350, 356 (6th Cir. 2007) (administrative law judge permissibly rejected medical opinion where physician failed to adequately

no similar literature in the field of occupational lung diseases" to support the same changes "from coal or silica exposure." Employer's Exhibit 5 at 3. Contrary to employer's argument, the administrative law judge permissibly found this reasoning was in conflict with the medical science accepted by the DOL, recognizing that coal mine dust exposure can be additive with smoking in causing clinically significant airways obstruction and "coal miners have an increased risk of developing COPD." Decision and Order at 25 (internal quotations omitted); *see Cent. Ohio Coal Co. v. Director, OWCP* [*Sterling*], 762 F.3d 483, 491 (6th Cir. 2014); *A&E Coal Co. v. Adams*, 694 F.3d 798, 801 (6th Cir. 2012); 65 Fed. Reg. 79,920, 79,940-43 (Dec. 20, 2000).

Dr. Vuskovich also excluded legal pneumoconiosis based on his opinion that claimant has inherited asthma. Employer's Exhibit 7 at 9-10. He explained that claimant's sister has asthma and there is an "increased prevalence of asthma among first degree relatives of persons with asthma (20% to 25% for subjects with asthmatic first degree relatives versus 4% for the general population)." *Id*. Moreover, he noted that asthma is typically triggered by the immune system's reaction to environmental factors. *Id*. The administrative law judge permissibly found Dr. Vuskovich's opinion unpersuasive because it is based upon generalities and is not specific to claimant's case. *See Consolidation Coal Co. v. Director, OWCP* [*Beeler*], 521 F.3d 723, 726 (7th Cir. 2008); *Knizer v. Bethlehem Mines Corp.*, 8 BLR 1-5, 1-7 (1985); Decision and Order at 25.

We also reject employer's argument that Dr. Rasmussen's opinion is insufficient to establish that claimant has legal pneumoconiosis because he was unable to allocate the effects of cigarette smoke, wood smoke, and coal mine dust exposures on claimant's COPD, emphysema, and blood gas exchange impairment. Employer's Brief at 19-20. A physician need not apportion a precise percentage of a miner's lung disease to various exposures to establish legal pneumoconiosis, provided he has credibly diagnosed a chronic respiratory or pulmonary impairment that is "significantly related to, or substantially aggravated by dust exposure in coal mine employment." 20 C.F.R. §718.201(a)(2); *see Cornett v. Benham Coal, Inc.*, 227 F.3d 569, 576-77 (6th Cir. 2000) (because coal dust need not be the sole cause of the miner's respiratory or pulmonary impairment, legal pneumoconiosis can be proven based on a physician's opinion that coal dust and smoking were both causal factors and that it was impossible to allocate between them); *Consolidation Coal Co. v. Williams*, 453 F.3d 609, 622 (4th Cir. 2006).

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explain why coal dust exposure did not exacerbate claimant's smoking-related impairments).

Further, contrary to employer's arguments, the administrative law judge permissibly found Dr. Rasmussen's opinion well-reasoned and supported by the objective testing,[12] because "his reasoning and explanation in support of his conclusions [is] more compete and thorough" than the contrary opinions and is "in better accord with the evidence underlying his opinion, the overall weight of the medical evidence of record, and the premises underlying the regulations." Decision and Order at 26; *see Martin v. Ligon Preparation Co.*, 400 F.3d 302, 305 (6th Cir. 2005); *Cornett*, 227 F.3d at 576-77; *Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185 (6th Cir. 1989).

The administrative law judge assesses the credibility of the medical opinions, *Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1072-73 (6th Cir. 2013), and the Board cannot reweigh the evidence or substitute its inferences for those of the administrative law judge. *Anderson*, 12 BLR at 1-113. As substantial evidence supports the administrative law judge's credibility determinations, we affirm his finding that the medical opinion evidence establishes that claimant has legal pneumoconiosis in the form of COPD/emphysema and a blood gas exchange impairment. 20 C.F.R. §718.202(a)(4); *see Martin*, 400 F.3d at 305; Decision and Order at 26.

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 pulmonary function studies, arterial blood gas studies, 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 administrative law judge 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).

[12] We reject employer's argument that Dr. Rasmussen relied exclusively on an invalid pulmonary function study. Employer's Brief at 20. As the administrative law judge noted, after Dr. Gaziano invalidated the September 25, 2013 study conducted by Dr. Rasmussen, claimant "returned to Dr. Rasmussen for the administration of a new test" taken on December 12, 2013. Decision and Order at 10; Director's Exhibit 9. "Following the new [study], Dr. Rasmussen submitted a supplemental report, stating that the test was 'performed adequately' and 'revealed moderate, but reversible airway obstruction.'" Decision and Order at 10, *quoting* Director's Exhibit 9.

Arterial Blood Gas Studies

We agree with claimant that the administrative law judge did not adequately explain his decision to give greatest weight to the March 27, 2014 non-qualifying arterial blood gas studies. Claimant's Brief at 19. Before weighing the blood gas studies, he considered three pulmonary function studies taken on December 12, 2013, April 9, 2014, and March 17, 2016. Decision and Order at 7-8. In finding that the pulmonary function studies establish total disability, the administrative law judge indicated he would assign greater weight to "the most recent evidence of record" where it is consistent with the principle that "pneumoconiosis is [a] progressive and irreversible" disease. Decision and Order at 28. He assigned controlling weight to the March 17, 2016 pulmonary function study because it was more recent by almost two years and consistent with the principle that pneumoconiosis is progressive and irreversible.[13] *Id*. at 28-29.

He then considered two arterial blood gas studies dated September 25, 2013[14] and March 27, 2014. The September 25, 2013 blood gas study had qualifying values at rest

[13] The administrative law judge also assigned controlling weight to the qualifying pre-bronchodilator results over the non-qualifying post-bronchodilator results. Decision and Order at 28-29.

[14] The administrative law judge addressed the validity of the September 25, 2013 arterial blood gas study. Decision and Order at 29-30. Dr. Vuskovich questioned the reliability of this study because the CO2 "electrode reported substantially below average" pCO2 values at rest and during exercise, indicating that claimant was "vigorously" hyperventilating. Employer's Exhibit 7 at 5. He opined that the electrode was inaccurate because claimant was either resting or was exercising with a respiratory rate of nineteen "breaths per minute." *Id*. The administrative law judge found Dr. Vuskovich "fail[ed] to identify any specific non-compliance with the technical aspect of the test" and rejected the opinion as "speculative." *Id*. He also noted that Dr. Gaziano provided an impartial validation of the study and "the technician administering the test affirmed that the equipment was calibrated before and after each test." *Id*. Employer argues the administrative law judge erred in crediting Dr. Gaziano's opinion based on his finding that the doctor was "impartial" and erred in crediting the notations of the administering technician. Employer's Brief at 22. Employer, however, does not challenge the administrative law judge's finding that Dr. Vuskovich's invalidation of this study is "speculative." *Id*. Thus this credibility finding is affirmed. *Skrack*, 6 BLR at 1-711. The party who challenges the probative value of an objective study must demonstrate how the study is unreliable. *See Orek v. Director, OWCP*, 10 BLR 1-51, 1-57 (1987). Because employer has not met its burden to establish that this study is invalid through Dr. Vuskovich's opinion, we need not address its argument that the administrative law judge

and with exercise. Director's Exhibit 9. The March 27, 2014 study had non-qualifying values at rest and with exercise. Employer's Exhibit 5. He credited the March 27, 2014, non-qualifying results because the study is more recent. *Id*. at 30. However, because this study evidences an improvement in claimant's condition, the administrative law judge's decision to credit it because it is more recent by six months conflicts with his previous statement that he would credit more recent objective evidence when it is consistent with the principle that pneumoconiosis is a progressive and irreversible disease. *See Sunny Ridge Mining Co. v. Keathley*, 773 F.3d 734, 737-40 (6th Cir. 2014); *Woodward v. Director, OWCP*, 991 F.2d 314, 319-20 (6th Cir. 1993).

Based on these conflicting credibility findings, we hold that the administrative law judge has not has not adequately explained, as required by the Administrative Procedure Act (APA),[15] his rationale for resolving the conflict in the blood gas study evidence. Therefore, we must vacate his finding that the blood gas study evidence does not establish total disability and remand the case for further consideration. 20 C.F.R. §718.204(b)(2)(ii). The administrative law judge must resolve the conflict in the blood gas studies and set forth his findings in detail, including the underlying rationale. *See Wojtowicz v. Duquesne Light Co.*, 12 BLR 1-162, 1-165 (1989). If he again credits the March 27, 2014 non-qualifying study over the qualifying September 25, 2013 study, he must adequately explain why a study taken six months after the previous study is more probative of claimant's pulmonary or respiratory condition. *See also Stanley Director, OWCP*, 7 BLR 1-386, 1-389 (1984); *Tokarcik v. Consolidation Coal Co*., 6 BLR 1-666, 1-668 (1983).

Medical Opinions

The administrative law judge considered the medical opinions of Drs. Rasmussen, Leslie, Sikder, Zaldivar and Vuskovich. Dr. Rasmussen indicated that claimant's objective testing reveals a "moderate loss of lung function" evidenced by "minimal post-bronchodilator spirometric impairment, likely reduced diffusing capacity[,] and moderate impairment in oxygen during light exercise." Director's Exhibit 9 at 72. He opined that claimant is totally disabled because he has a "disabling degree of respiratory interference with his work capacity" and, based "principally by his impairment in oxygen transfer

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erred in crediting the findings of Dr. Gaziano and the administering technician. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984).

[15] The Administrative Procedure Act (APA), 5 U.S.C. §557(c)(3)(A), as incorporated into the Act by 30 U.S.C. §932(a), requires the administrative law judge to set forth his "findings and conclusions, and the reasons or basis therefor, on all the material issues of fact, law, or discretion presented on the record." 5 U.S.C. §557(c)(3)(A).

during light exercise," does "not retain the pulmonary capacity to perform his regular coal mine employment." *Id*. Dr. Leslie opined that claimant is totally disabled because he does not possess the "respiratory capacity" to perform his usual coal mine employment. Claimant's Exhibit 5. Dr. Sikder opined that claimant is totally disabled because his "FEV1 is 35%." Claimant's Exhibit 6. Drs. Zaldivar and Vuskovich opined that claimant is not totally disabled by a respiratory or pulmonary impairment. Employer's Exhibit 5, 7.

The administrative law judge found Dr. Rasmussen's opinion unpersuasive because the preponderance of the arterial blood gas study evidence "does not support a finding of disability due to the non-qualifying results of the most recent [March 27, 2014] study." Decision and Order at 31. *Id*. He rejected the opinions of Drs. Leslie and Sikder as not reasoned or documented. *Id*. at 31-32. He discredited the opinions of Drs. Zaldivar and Vuskovich because he found their opinions not adequately explained. *Id*. at 32-33. Moreover, he found Dr. Vuskovich did not indicate any understanding of the exertional requirements of claimant's usual coal mine employment. *Id*.

Because the administrative law judge's failure to properly resolve the conflict in the blood gas study evidence may affect whether the medical opinion evidence establishes total disability, we must vacate his finding that claimant failed to establish total disability.[16] 20 C.F.R. §718.204(b)(2)(iv). He must reconsider his weighing of the medical opinion evidence, taking into consideration the physicians' respective credentials, the explanations for their conclusions, the documentation underlying their medical judgment, and the

[16] The administrative law judge's additional reasons for discrediting Dr. Rasmussen's opinion are not rational. *See Tenn. Consol. Coal Co. v. Crisp*, 866 F.2d 179, 185 (6th Cir. 1989); *Rowe*, 710 F.2d at 255. He found that Dr. Rasmussen discussed the post-bronchodilator December 12, 2013 pulmonary function study results, but faulted the doctor for not addressing the qualifying pre-bronchodilator results when concluding that claimant is totally disabled. Decision and Order at 31. Qualifying pulmonary function study results, however, support a finding that a miner is totally disabled and thus do not detract from a medical opinion that a miner is totally disabled. 20 C.F.R. §718.204(b)(2). He also found that Dr. Rasmussen was "equivocal" and "vague" as to whether claimant is totally disabled in light of the normal and completely reversible December 12, 2013 post-bronchodilator results. *Id*. The administrative law judge specifically found, however, that pre-bronchodilator tests are entitled to controlling weight on the basis that post-bronchodilator tests "do[] not provide an adequate assessment of the miner's disability . . . ." Decision and Order at 28 n.67, *quoting* 45 Fed. Reg. 13,678, 13,682 (Feb. 29, 1980). He thus has not explained how Dr. Rassmussen's failure to address the post-bronchodilator results undermines his opinion that claimant is totally disabled. Therefore these credibility findings are vacated.

sophistication of, and bases for, their opinions. *See Crisp*, 866 F.2d at 185; *Director, OWCP v. Rowe*, 710 F.2d 251, 255 (6th Cir. 1983).

DISABILITY CAUSATION

To establish disability causation, claimant must prove that 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 of a miner's totally disabling impairment if it has "a material adverse effect on the miner's respiratory or pulmonary condition," or if it "[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 Arch on the Green, Inc. v. Groves*, 761 F.3d 594, 599 (6th Cir. 2014).

Dr. Rasmussen opined that claimant's "legal pneumoconiosis (i.e. COPD and gas exchange impairment caused in part by coal mine dust exposure) . . . contributes significantly to [claimant's] impaired function." Director's Exhibit 9 at 7. In weighing this opinion, the administrative law judge reiterated his findings that the pulmonary function studies establish total disability but the arterial blood gas studies do not. Decision and Order at 35-36. He found Dr. Rasmussen's opinion insufficient to establish that pneumoconiosis is a substantially contributing cause of claimant's "impaired ventilator[y] function" evidenced by pulmonary function testing. *Id.* He explained that Dr. Rasmussen diagnosed total disability "principally" on claimant's arterial blood gas testing which revealed "impaired blood gas transfer," and focused on the cause of this blood gas exchange impairment rather than the pulmonary function testing impairment.[17] *Id.*

Because the administrative law judge's failure to properly resolve the conflict in the blood gas study evidence may affect whether the medical opinion evidence establishes disability causation, we must vacate his finding that claimant failed to establish total disability due to pneumoconiosis. 20 C.F.R. §718.204(c)(2). He must reconsider his weighing of the medical opinion evidence, taking into consideration the physicians' respective credentials, the explanations for their conclusions, the documentation

[17] The administrative law judge rejected Dr. Sikder's opinion that claimant's disabling obstructive respiratory impairment is due to coal mine dust exposure for the same reasons she discredited the opinion on legal pneumoconiosis as discussed above. Decision and Order at 35.

underlying their medical judgment, and the sophistication of, and bases for, their opinions.[18] *See Crisp*, 866 F.2d at 185; *Rowe*, 710 F.2d at 255.

[18] We reject claimant's argument that the Director did not fulfill her obligation to provide him with a complete pulmonary evaluation because the administrative law judge found Dr. Rasmussen's opinion insufficient to establish disability causation. Claimant's Brief at 21. The Act requires that "[e]ach miner who files a claim . . . be provided an opportunity to substantiate his or her claim by means of a complete pulmonary evaluation." 30 U.S.C. §923(b), as implemented by 20 C.F.R. §§718.101(a), 725.406. A complete pulmonary evaluation includes a "report of physical examination, a pulmonary function study, a chest radiograph, and, unless medically contraindicated, a blood gas study." 20 C.F.R. §725.406(a). The Director is not required, however, to provide an evaluation sufficient to meet claimant's burden of proof. *See Greene v. King James Coal Mining, Inc.*, 575 F.3d 628, 642 (6th Cir. 2009). We agree with the Director that Dr. Rasmussen's examination constitutes a complete pulmonary evaluation because he "administered all of the tests and recorded all of the relevant information" and "fully addressed every fact at issue and explained his conclusions." Director's Brief at 2; *see Greene*, 575 F.3d at 642.

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

SO ORDERED.

GREG J. BUZZARD
Administrative Appeals Judge

RYAN GILLIGAN
Administrative Appeals Judge

JONATHAN ROLFE
Administrative Appeals Judge