U.S. Department of Labor

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

BRB No. 14-0358 BLA

WILLIS L. BREWER Claimant-Respondent v. MARE DEVELOPMENT LLC and BRICKSTREET MUTUAL INSURANCE COMPANY Employer/Carrier-Petitioners DIRECTOR, OFFICE OF WORKERS' COMPENSATION PROGRAMS, UNITED STATES DEPARTMENT OF LABOR Party-in-Interest	)	DATE ISSUED: 07/30/2015 DECISION and ORDER

Appeal of the Decision and Order on Modification Awarding Benefits of Drew A. Swank, Administrative Law Judge, United States Department of Labor.

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

Christopher M. Green (Jackson Kelly PLLC), Charleston, West Virginia, for employer.

Rita Roppolo (M. Patricia Smith, Solicitor of Labor; Rae Ellen James, 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: HALL, Chief Administrative Appeals Judge, BOGGS and BUZZARD, Administrative Appeals Judges.

PER CURIAM:

Employer appeals the Decision and Order on Modification Awarding Benefits (2012-BLA-5196) of Administrative Law Judge Drew A. Swank, rendered on a claim filed pursuant to the provisions of the Black Lung Benefits Act, as amended, 30 U.S.C. §§901-944 (the Act).[1] The administrative law judge credited claimant with 31.60 years of coal mine employment and stated, "[f]or purposes of this decision, [c]laimant was employed in one or more underground mines for well over the statutorily-relevant fifteen years." Decision and Order at 7. Based on his finding that the pulmonary function study evidence was sufficient to establish total disability pursuant to 20 C.F.R. §718.204(b)(2)(i), the administrative law judge determined that claimant established a change in conditions pursuant to 20 C.F.R. §725.310. In addition, the administrative law judge found that claimant invoked the rebuttable presumption of total disability due to pneumoconiosis at amended Section 411(c)(4) of the Act, 30 U.S.C. §921(c)(4).[2] The administrative law judge further found that employer did not rebut the presumption. The administrative law judge also found that granting claimant's modification request would render justice under the Act. Accordingly, the administrative law judge awarded benefits.

On appeal, employer contends that, because the administrative law judge erred in finding that the pulmonary function study evidence, standing alone, was sufficient to establish total disability pursuant to 20 C.F.R. §718.204(b)(2), he also erred in finding that claimant invoked the amended Section 411(c)(4) presumption. Employer further asserts that the administrative law judge erred in determining that employer could establish rebuttal only by proving that claimant's total disability did not arise out of coal

[1] Claimant filed a claim on April 10, 2010, which was denied by the district director on October 21, 2010, because claimant did not establish any of the requisite elements of entitlement. Director's Exhibits 2, 24. Claimant took no further action on his claim until filing a request for modification on May 31, 2011, which the district director denied on September 20, 2011, because no additional evidence was submitted. Director's Exhibits 26, 28. Claimant requested a formal hearing and the case was referred to the Office of Administrative Law Judges. Director's Exhibits 29, 33.

[2] Under amended Section 411(c)(4), a miner is presumed to be totally disabled due to pneumoconiosis if: he or she establishes at least fifteen years of underground coal mine employment, or coal mine employment in conditions substantially similar to those in an underground mine; the irrebuttable presumption of total disability due to pneumoconiosis in 20 C.F.R. §718.304 cannot be established by x-ray; and the miner has a totally disabling respiratory or pulmonary impairment. 30 U.S.C. §921(c)(4), as implemented by 20 C.F.R. §718.305.

mine employment. In addition, employer argues that the administrative law judge erred in his consideration of the medical opinions of Drs. Castle and Zaldivar on rebuttal.[3]

Claimant responds, urging affirmance of the administrative law judge's award of benefits. The Director, Office of Workers' Compensation Programs (the Director), has filed a limited response, asserting that there is no dispute that claimant invoked the amended Section 411(c)(4) presumption, and agreeing with employer that the administrative law judge did not properly address rebuttal. The Director further maintains, however, that any error in the award of benefits is harmless if the Board affirms the administrative law judge's credibility findings with respect to the opinions of Drs. Castle and Zaldivar.[4]

The Board's scope of review is defined by statute. The administrative law judge's Decision and Order must be affirmed if it is supported by substantial evidence, is rational, and is in accordance with applicable law.[5] 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 Amended Section 411(c)(4) Presumption – Total Disability

Contrary to the Director's assertion that no party disputes that claimant invoked the amended Section 411(c)(4) presumption, employer alleges that the administrative law judge erred in basing his findings of total disability, and invocation, solely on the pulmonary function studies of record. Employer maintains that the administrative law judge was required to render findings as to the blood gas study evidence and medical opinion evidence, and weigh the evidence supportive of a finding of total disability against the contrary probative evidence. Employer also alleges, therefore, that the

[3] We affirm, as unchallenged by employer on appeal, the administrative law judge's findings that claimant established 31.60 years of coal mine employment, with over fifteen years of underground coal mine employment, and that the pulmonary function study evidence supported a finding of total respiratory disability pursuant to 20 C.F.R. §718.204(b)(2)(i). *Skrack v. Island Creek Coal Co.*, 6 BLR 1-710, 1-711 (1983).

[4] The Director expresses no opinion on whether the administrative law judge's weighing of the medical opinions is supported by substantial evidence. Director's Letter Brief at 3 n.3 (unpaginated).

[5] The record reflects that claimant's last coal mine employment was in West Virginia. Director's Exhibit 3. Therefore, 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).

administrative law judge did not comply with the Administrative Procedure Act, 5 U.S.C. §500 *et seq.*, as incorporated into the Act by 30 U.S.C. §932(a), which requires that the administrative law judge consider all relevant evidence, render findings on all material issues of fact or law, and set forth the rationale underlying his findings.[6]

After reviewing the arguments on appeal, the administrative law judge's findings, and the relevant evidence, we affirm the administrative law judge's determination that claimant established total disability under 20 C.F.R. §718.204(b)(2). In briefing this issue, employer has not explained how the consideration of the non-qualifying blood gas studies and the medical opinions would have changed the administrative law judge's finding. *See Shinseki v. Sanders*, 556 U.S. 396, 413 (2009) (Appellant must explain how the "error to which [it] points could have made any difference."). The administrative law judge found that, of the four pulmonary function studies of record, all but the earliest pre-bronchodilator study produced qualifying values.[7] Decision and Order at 20; Director's Exhibit 13; Claimant's Exhibits 2, 9; Employer's Exhibit 9. Accordingly, the administrative law judge rationally determined that claimant "has demonstrated by a preponderance of the evidence" that he is totally disabled pursuant to 20 C.F.R. §718.204(b)(2)(i).[8] Decision and Order at 20; *see Director, OWCP v. Greenwich Collieries* [*Ondecko*], 512 U.S. 267, 281, 18 BLR 2A-1, 2A-12 (1994).

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[6] Claimant contends that, in *Lane v. Union Carbide Corp.*, 105 F.3d 166, 170, 21 BLR 2-34, 2-47 (4th Cir. 1997), the Fourth Circuit held that total disability can be established under any one of the alternative methods set forth in 20 C.F.R. §718.204(b)(2). The court actually stated, "[t]he miner can establish total disability upon a mere showing of evidence that satisfies any one of the four alternative methods, but only '[i]n the absence of contrary probative evidence.'" *Lane*, 105 F.3d at 170, 21 BLR at 2-47, *quoting* 20 C.F.R. §718.204(c) (which now appears at 20 C.F.R. §718.204(b)(2)).

[7] A "qualifying" pulmonary function or blood gas study yields values that are equal to or less than the values specified in the tables at 20 C.F.R. Part 718, Appendix B. A "non-qualifying" study exceeds those values. *See* 20 C.F.R. §718.204(b)(2)(i).

[8] The administrative law judge noted that the heights recorded for claimant varied from 65 inches to 69 inches. Decision and Order at 18 n.19, 19. After expressing his disagreement with the Board's holding in *Protopappas v. Director, OWCP*, 6 BLR 1-221, 1-223 (1983) ("where there are substantial differences in the recorded heights among the pulmonary function studies of record, an administrative law judge must make a factual finding to determine a claimant's actual height."), the administrative law judge stated that he would, nevertheless, comply by using the shortest measured height of 65 inches when assessing whether the pulmonary function studies were qualifying. *Id*. at 18 n.19. The Board recently rejected the administrative law judge's method in *Floyd v. E. Assoc. Coal*

Relevant to 20 C.F.R. §718.204(b)(2)(iv),[9] the physicians who rendered medical opinions on the issue of total disability, Drs. Ranavaya, Zaldivar, Castle, Splan and Al-Jaroushi, all diagnosed a totally disabling pulmonary impairment, based on claimant's pulmonary function study results, regardless of the presence of nonqualifying blood gas studies.[10] Director's Exhibit 13; Claimant's Exhibits 2, 9; Employer's Exhibits 9, 13. In light of the administrative law judge's appropriate determination that the newly submitted pulmonary function studies are sufficient to establish total disability at 20 C.F.R. §718.204(b)(2)(i), and the unanimous conclusion in the newly submitted medical opinions that claimant's pulmonary function studies show that he is totally disabled, we affirm the administrative law judge's finding that claimant established total disability at 20 C.F.R. §718.204(b)(2). *See Tussey v. Island Creek Coal Co.*, 982 F.2d 1036, 1040-41,

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Co., BRB No. 14-0365 BLA, slip op. at 5-7 (June 18, 2015) (unpub.). The administrative law judge's reliance on an incorrect method for determining claimant's height does not require remand however, as he determined that the preponderance of the pulmonary function studies were qualifying and, therefore, sufficient to establish total disability at 20 C.F.R. §718.204(b)(2)(i). *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984); Decision and Order at 20. We note, however, that if claimant's average height of 66.75 inches was used, and rounded up to 66.9 inches to correspond to a height listed in the tables appearing in Appendix B to 20 C.F.R. Part 718, the earliest pre-bronchodilator study produced qualifying values, thereby rendering all of the pulmonary function studies qualifying. Director's Exhibit 13.

[9] The record contains no evidence of cor pulmonale with right-sided congestive heart failure. Thus, claimant could not establish total disability pursuant to 20 C.F.R. §718.204(b)(2)(iii).

[10] Dr. Ranavaya examined claimant on June 3, 2010 and reported that claimant's pulmonary function study revealed a moderate pulmonary impairment that is totally disabling. Director's Exhibit 13. Dr. Splan examined claimant on February 27, 2012 and indicated in his report that claimant's pulmonary function study results demonstrated that he has a totally disabling obstructive ventilatory defect, with severe air trapping. Claimant's Exhibit 2. Dr. Zaldivar examined claimant on October 10, 2012 and, based on claimant's pulmonary function study, diagnosed a significant pulmonary impairment that rendered him unable to perform his usual coal mine employment. Employer's Exhibit 9. Dr. Castle reviewed claimant's medical records and determined, in a report dated December 27, 2012, that claimant is totally disabled due to chronic bronchitis and emphysema. Employer's Exhibit 13. Dr. Al-Jaroushi examined claimant on October 20, 2013 and reported that, in light of his pulmonary function study results, claimant is totally disabled by a severe obstructive ventilatory defect with severe air trapping and reduced diffusion capacity. Claimant's Exhibit 9.

17 BLR 2-16, 2-22 (6th Cir. 1993); *Sheranko v. Jones & Laughlin Steel Corp.* 6 BLR 1-797 (1984). Accordingly, we further affirm the administrative law judge's determinations that claimant established a change in conditions under 20 C.F.R. §725.310 and invocation of the amended Section 411(c)(4) presumption. *W. Va. CWP Fund v. Bender*, 782 F.3d 129, 135, BLR (4th Cir. 2015); *Betty B Coal Co. v. Director, OWCP* [*Stanley*], 194 F.3d 491, 497, 22 BLR 2-1, 2-11 (4th Cir. 1999).

II. Rebuttal of the Section 411(c)(4) Presumption

The regulations promulgated by the Department of Labor (DOL) provide that, if claimant invokes the presumption of total disability due to pneumoconiosis at amended Section 411(c)(4), the burden of proof shifts to employer to rebut the presumption by affirmatively establishing that claimant does not suffer from either legal[11] or clinical[12] pneumoconiosis, or by establishing that no part of claimant's respiratory or pulmonary disability was caused by pneumoconiosis as defined in 20 C.F.R. §718.201. 20 C.F.R. §718.305(d)(1)(i), (ii); *see Bender*, 782 F.3d at 135.

In this case, the administrative law judge did not identify the rebuttal standards as set forth in the regulations. Rather, the administrative law judge stated that "once [the Section 411(c)(4) presumption is] invoked, the burden shifts to the party opposing entitlement to demonstrate by a preponderance of the evidence that either: (1) the miner's disability does not, or did not, arise out of coal mine employment; or (2) the miner does not, or did not suffer from pneumoconiosis." Decision and Order at 21. The administrative law judge further stated that, because "the issue of whether [c]laimant had

[11] Legal pneumoconiosis is defined as "any chronic lung disease or impairment and its sequelae arising out of coal mine employment. This definition includes, but is not limited to, any chronic restrictive or obstructive pulmonary disease arising out of coal mine employment." 20 C.F.R. §718.201(a)(2).

[12] Pursuant to 20 C.F.R. §718.201(a)(1), clinical pneumoconiosis is defined as:

> [T]hose diseases recognized by the medical community as pneumoconiosis, *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 that deposition caused by dust exposure in coal mine employment. This definition includes, but is not limited to, coal workers' pneumoconiosis, anthracosilicosis, anthracosis, anthrosilicosis, massive pulmonary fibrosis, silicosis or silicotuberculosis, arising out of coal mine employment.

20 C.F.R. §718.201(a)(1).

coal workers' pneumoconiosis was determined" when he found that claimant invoked the amended Section 411(c)(4) presumption, the only issue left to resolve was "whether [c]laimant's total disability arises from his coal workers' pneumoconiosis due to his past coal mine employment." *Id*.

The administrative law judge then considered the medical opinions of Drs. Zaldivar and Castle. He noted that Dr. Zaldivar "observed reversible airway obstruction and low diffusing capacity on [pulmonary function testing]" and opined that the miner's respiratory impairment was due to a combination of asthma, emphysema from smoking, and remodeling of the lungs "caused by frequent exacerbations of asthma, plus insufficient treatment of the bronchospasm." Decision and Order at 22, quoting Employer's Exhibit 19. The administrative law judge also noted that Dr. Zaldivar "opined that he was able to rule out coal dust exposure as the cause of the miner's respiratory impairment related to those conditions because 'coal dust exposure does not cause bronchospasm.'" *Id*. The administrative law judge specifically considered that Dr. Zaldivar opined that claimant does not have legal pneumoconiosis "because his clinical picture is one of a smoker and of an individual who has never been properly treated for bronchospasm." *Id*.

In determining the weight to accord Dr. Zaldivar's opinion, the administrative law judge stated:

> The causation opinion offered by [Dr.] Zaldivar in his report is unpersuasive and not entitled to weight because he relies on medical statistics which link COPD [chronic obstructive pulmonary disease]/emphysema and asthma in the general population to smoking, a position which ignores [the] fact that [c]laimant was not merely a smoker in the general population but was also exposed to coal mine dust for over 30 years. In support of his opinion that the miner's smoking history alone caused his emphysema and asthma which rendered him totally disabled, [Dr.] Zaldivar cites the proposition that smokers have a high risk of developing asthma and that smoking alone can cause emphysema and COPD, and he opined that claimant's clinical presentation is "the same as any individual who began to smoke early in life and was exposed to cigarette smoke as a youngster." While there is no dispute that cigarette smokers have a heightened risk of developing respiratory ailments such as COPD/emphysema, [Dr.] Zaldivar offers no explanation as to why this general notion when applied to [c]laimant who was also exposed to coal mine dust eliminates dust exposure as a cause of the miner's impairment.

Decision and Order at 26 (citations omitted). The administrative law judge concluded that Dr. Zaldivar's opinion was based on generalities and that his discussion of the

causative factors for bronchospasm and asthma were "internally inconsistent." *Id*. The administrative law judge therefore found that Dr. Zaldivar's opinion was "unpersuasive and entitled to no weight." *Id*. at 27.

With respect to Dr. Castle's opinion, the administrative law judge observed that he stated: "[c]laimant cannot have either clinical or legal pneumoconiosis because coal workers' pneumoconiosis causes a mixed, irreversible obstructive and restrictive ventilatory defect whereas [c]laimant's test results show only an obstructive impairment." Decision and Order at 27, citing Employer's Exhibit 13 at 18-19. The administrative law judge specifically found that Dr. Castle's requirement, that there be a restrictive impairment in order to diagnose legal pneumoconiosis, was contrary to the regulation at 20 C.F.R. §718.201(a)(2). Decision and Order at 27. The administrative law judge was also not persuaded by Dr. Castle's explanation that coal dust exposure did not contribute to or aggravate claimant's obstructive respiratory impairment, based solely on the diagnosis of asthma. *Id*. Thus, the administrative law judge found that Dr. Castle's opinion was insufficiently reasoned to rebut the amended Section 411(c)(4) presumption.

Employer contends that the administrative law judge erred in precluding it from establishing rebuttal by proving that claimant does not have legal pneumoconiosis under 20 C.F.R. §718.305(d)(1)(i)(A). Employer asserts that while the administrative law judge addressed the cause of claimant's respiratory disability, he failed to properly consider whether claimant's respiratory impairment was significantly related to or substantially aggravated by coal dust exposure, consistent with the regulatory definition of legal pneumoconiosis at 20 C.F.R. §718.201. Employer also contends that the administrative law judge's "reasoning concerning whether [employer] proved 'no part' of [claimant's] impairment was due to coal workers' pneumoconiosis cannot be applied to his absent pneumoconiosis finding to render this oversight harmless error," as the rule-out standard is not applicable to the issue of whether employer disproved the existence of legal pneumoconiosis. Employer's Brief at 12 n.9. Employer further contends that the administrative law judge did not give proper reasons for discrediting the opinions of Drs. Zaldivar and Castle.[13]

[13] The administrative law judge rejected Dr. Ranavaya's opinion, that claimant's chronic obstructive pulmonary disease is unrelated to coal dust exposure and was "most probably caused" by smoking, as equivocal. Employer asserts on appeal that the administrative law judge on remand should reconsider the weight to accord Dr. Ranavaya's opinion in light of the evidence as a whole, but employer does not identify with specificity in this appeal why the administrative law judge's credibility determination was improper. *Fish v. Director, OWCP*, 6 BLR 1-107 (1983) (Unless the party identifies errors and briefs its allegations in terms of the relevant law and evidence, the Board has no basis upon which to review the decision).

The Director, in response to employer's allegations of error, notes that the administrative law judge "appeared to believe, incorrectly, that invocation of the presumption irrevocably proves legal pneumoconiosis." Director's Letter Brief at 3 (unpaginated). Accordingly, the Director agrees with employer that the administrative law judge erred in omitting a specific finding under 20 C.F.R. §718.305(d)(1)(i), as to whether employer affirmatively disproved the existence of pneumoconiosis. Notwithstanding, the Director asserts that "these errors may be harmless if the Board finds that the administrative law judge properly discredited [employer's] doctors." *Id*.

Although the administrative law judge did not identify and apply the correct rebuttal standards under the regulations, the administrative law judge permissibly discredited employer's rebuttal evidence. As set forth *supra*, the administrative law judge's discussion of the evidence and his analysis of causation under the heading of his Decision entitled "*Cause of Total Disability*" subsumed consideration of whether the opinions of Drs. Zaldivar and Castle were sufficient to disprove that claimant had legal pneumoconiosis. Decision and Order at 20-28. Under the facts of this case, we are not persuaded that employer was precluded from establishing rebuttal based on the regulatory standards.[14]

As to the administrative law judge's specific credibility findings, we also reject employer's arguments. The evaluation of the credibility of the medical experts is a matter within the sound discretion of the administrative law judge and the Board will not reweigh the evidence or substitute its inferences for those of the administrative law judge, provided that the administrative law judge's findings are rational, supported by substantial evidence, and in accordance with law. *See Underwood v. Elkay Mining, Inc*., 105 F.3d 946, 949, 21 BLR 2-23, 2-28 (4th Cir. 1997); *Anderson v. Valley Camp of Utah, Inc*., 12 BLR 1-111, 1-113 (1989); *Worley v. Blue Diamond Coal Co.*, 12 BLR 1-20, 1-22 (1988).

We conclude that the administrative law judge acted within his discretion in rejecting Dr. Zaldivar's opinion that claimant does not have legal pneumoconiosis because Dr. Zaldivar did not adequately explain why claimant's thirty-one years of coal dust exposure did not contribute, along with cigarette smoking, to the miner's disabling obstructive pulmonary impairment. *See Milburn Colliery Co. v. Hicks*, 138 F.3d 524,

[14] The administrative law judge's analysis properly focused on the etiology of claimant's obstructive respiratory impairment, which impairment was also totally disabling. Because employer's physicians eliminated all contribution of coal mine dust exposure to claimant's obstructive impairment, employer's concern that the administrative law judge did not give proper consideration to whether coal dust exposure was a "substantial" or "significant" contributor is of no consequence.

528, 21 BLR 2-323, 2-326 (4th Cir. 1998); *Sterling Smokeless Coal Co. v. Akers*, 131 F.3d 438, 441, 21 BLR 2-269, 2-275-76 (4th Cir. 1997). The administrative law judge appropriately identified the rationale for his finding by citing Dr. Zaldivar's reliance on general statistics showing a causal link between smoking and asthma, chronic obstructive pulmonary disease/emphysema, and the fact that claimant's clinical presentation is "the same as any individual who began to smoke early in life and was exposed to second hand smoke," and noting that Dr. Zaldivar failed to explain how this analysis eliminated a contribution or aggravation from coal dust in claimant's particular case.[15] Decision and Order at 26, *quoting* Employer's Exhibit 9; *Akers*, 131 F.3d at 441, 21 BLR at 2-275-76; *see also Antelope Coal Co./Rio Tinto Energy America v. Goodin*, 743 F.3d 1331, 1345-46, 25 BLR 2-549, 2-568 (10th Cir. 2014); *Consolidation Coal Co. v. Director, OWCP* [*Beeler*], 521 F.3d 723, 24 BLR 2-97 (7th Cir. 2008); *Knizner v. Bethlehem Mines Corp.*, 8 BLR 1-5, 1-7 (1985). The administrative law judge further noted that Dr. Zaldivar contradicted himself as to whether coal dust exposure could cause bronchospasm. Decision and Order at 26-27. The administrative law judge observed correctly that Dr. Zaldivar initially stated at his deposition that coal dust exposure *does not* cause bronchospasm, but later qualified his opinion by stating that coal dust exposure *can* cause bronchospasm *if* dust levels are not controlled and the miner does not receive appropriate medication. Decision and Order at 26-27; Employer's Exhibit 19 at 8, 25-28.[16] We affirm, therefore, the administrative law judge's determination that Dr. Zaldivar's opinion, that claimant does not have legal pneumoconiosis and that claimant's disability has no casual relation to his coal mine employment, is not well-reasoned.

We further affirm the administrative law judge's credibility finding with regard to Dr. Castle's opinion. *See Hicks*, 138 F.3d at 528, 21 BLR at 2-326; *Akers*, 131 F.3d at 441, 21 BLR at 2-275-76. To the extent that Dr. Castle opined that claimant does not have legal pneumoconiosis because claimant does not have a combined obstructive *and* restrictive respiratory impairment, the administrative law judge properly found that Dr.

[15] Employer maintains that Dr. Zaldivar also supported his diagnoses with citations to two medical journal articles, one which addressed smoking and asthma in adolescents, and one which discussed the type of cellular and biochemical damage smoking causes in the lungs. Employer's Exhibit 9. We reject employer's argument, as it has not explained how these articles, which focused solely on the effects of smoking on the lungs, supported Dr. Zaldivar's determination that claimant's lengthy history of coal dust exposure played no role in his disabling pulmonary impairment. *See Island Creek Coal Co. v. Compton*, 211 F.3d 203, 210, 22 BLR 2-162, 2-174 (4th Cir. 2000).

[16] Although the administrative law judge cited only to page 25 of the transcript of Dr. Zaldivar's deposition, the physician's discussion of whether coal dust inhalation causes bronchospasm also appears at pages 8 and 26-28. Employer's Exhibit 19.

Castle's opinion is contrary to the regulations which do not required a combination of obstructive and restrictive impairments, and instead define legal pneumoconiosis to include "any chronic restrictive or obstructive pulmonary disease arising out of coal mine employment." Decision and Order at 27, citing 20 C.F.R. §718.201(a)(2). The administrative law judge also permissibly determined that Dr. Castle failed to persuasively explain why coal dust inhalation is not a contributing factor to claimant's obstructive impairment. *Westmoreland Coal Co. v. Cochran*, 718 F.3d 319, 324, 25 BLR 2-255, 2-258 (4th Cir. 2013) (Traxler, C.J., dissenting); Decision and Order at 27.

In conclusion, although the administrative law judge did not identify and apply the rebuttal standards at 20 C.F.R. §718.305(d)(1)(i) or (ii), the error ultimately is harmless, as he discredited employer's physicians on the grounds that they did not rationally explain their opinions. *See Larioni v. Director, OWCP*, 6 BLR 1-1276, 1-1278 (1984). Based on the administrative law judge's permissible determinations that the opinions of Drs. Zaldivar and Castle were not reasoned regarding whether coal mine dust contributed to claimant's obstructive respiratory impairment, employer's evidence is insufficient to rebut the presumed existence of legal pneumoconiosis. 20 C.F.R. §718.305(d)(1)(i)(A); *see Bender*, 782 F.3d at 135. Additionally, because the opinions of Drs. Zaldivar and Castle were rejected by the administrative law judge as not reasoned on the etiology of claimant's disability, they could not be credited as affirmatively establishing rebuttal of the presumed causal connection between pneumoconiosis and claimant's total pulmonary disability under 20 C.F.R. §718.305(d)(1)(ii).[17] *See Bender*, 782 F.3d at 135; *Big Branch Res., Inc. v. Ogle*, 737 F.3d 1063, 1069, 25 BLR 2-431, 2-446-47 (6th Cir. 2013); *Morrison*, 644 F.3d at 479-30, 25 BLR at 2-8-9. We therefore affirm the administrative law judge's finding that employer failed to rebut the amended Section 411(c)(4) presumption and affirm his award of benefits.

[17] Because the administrative law judge provided valid reasons for discrediting the opinions of Drs. Zaldivar and Castle, we need not address employer's remaining allegations of error regarding the administrative law judge's weighing of these opinions. *See Kozele v. Rochester & Pittsburgh Coal Co.*, 6 BLR 1-378, 1-382 n.4 (1983).

Accordingly, the administrative law judge's Decision and Order on Modification Awarding Benefits is affirmed.

SO ORDERED.

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BETTY JEAN HALL, Chief
Administrative Appeals Judge

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JUDITH S. BOGGS
Administrative Appeals Judge

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GREG J. BUZZARD
Administrative Appeals Judge