

UNITED STATES DEPARTMENT OF LABOR OFFICE OF ADMINISTRATIVE LAW JUDGES



BLACK LUNG BENEFITS ACT EVIDENCE SUMMARY FORM

Case Name :	
Case No.:	

Evidence submitted in support of position of: Claimant Employer Director (check one)

Signature of submitter:	Address of submitter:		
<u>s/</u>			
^ Signature of Representative, Attorney, or Party			
^ Printed Name of Representative, Attorney, or Party	Phone:		Fax:

Date of this submission:	
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I. Chest x-ray evidence

A. Initial evidence. A party may submit no more than two chest x-ray *interpretations* in support of its position. 20 C.F.R. § 725.414(a)(2)(i) and (3)(i) (2001).

Exhibit No.	Physician	B-Reader (B)/ Board Cert. (BCR)	Date of X-ray study	Date of Reading	Film Quality	Reading

OWCP Evaluation. The Department is required to provide the miner with a chest x-ray study as part of the complete pulmonary evaluation. 20 C.F.R. § 725.406(a) (2001).

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B. Rehabilitative evidence is permitted ONLY if opposing party has presented a rereading which “tends to undermine” a specific x-ray exhibit set forth above. In such a case, the proponent of the x-ray exhibit “shall be entitled to submit an additional statement from the physician who originally interpreted the chest X-ray.” 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rehabilitation of Exhibit No.	Comments

For use by the Director only. The Director may submit rehabilitative evidence if any party submits evidence which “tends to undermine” the findings of the Department-sponsored chest x-ray study.

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C. Rebuttal evidence. A party may offer no more than one physician’s interpretation of *each chest x-ray study* submitted by opposing party. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	B-Reader (B)/ Board Cert. (BCR)	Date of X-ray study	Date of Reading	Film Quality	Reading

For rebuttal of Department-sponsored chest x-ray study only.

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II. Pulmonary function studies

A. Initial evidence. A party may submit the results of no more than two pulmonary function studies in support of its position. 20 C.F.R. § 725.414(a)(2)(i) and (3)(i) (2001).

Exhibit No.	Physician	Date of study	Tracings present?	Flow-volume loop?	Broncho-dilator?	FEV1	FVC/MVV	Coop. and Comp. Noted?

OWCP Evaluation. The Department is required to provide the miner with a pulmonary function study as part of the complete pulmonary evaluation. 20 C.F.R. § 725.406(a)(2001).

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B. Rehabilitative evidence is permitted ONLY if opposing party has presented evidence which “tends to undermine” a specific pulmonary function study exhibit set forth above. In such a case, the proponent of the pulmonary function study exhibit “shall be entitled to submit an additional statement from the physician who . . . administered the objective testing.” 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rehabilitation of Exhibit No.	Comments

For use by the Director only. The Director may submit rehabilitative evidence if any party submits evidence which “tends to undermine” the findings of the Department-sponsored pulmonary function study.

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C. Rebuttal evidence. A party may offer no more than one physician’s assessment of each pulmonary function study offered by the opposing party. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rebuttal of Exhibit No.	Comments

For rebuttal of Department-sponsored pulmonary function study only.

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III. Blood gas studies

A. Initial evidence.

A party may submit the results of no more than two blood gas studies in support of its position. 20 C.F.R. § 725.414(a)(2)(i) and (3)(i) (2001).

Exhibit No.	Physician	Date of Study	Altitude	Resting(R) Exercise(E)	PCO2	PO2	Comments

OWCP Evaluation. The Department may provide the miner with a blood gas study as part of the complete pulmonary evaluation. 20 C.F.R. § 725.406(a) (2001).

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B. Rehabilitative evidence is permitted ONLY if opposing party has presented evidence which “tends to undermine” a specific blood gas study set forth above. In such a case, the proponent of the blood gas study exhibit “shall be entitled to submit an additional statement from the physician who . . . administered the objective testing.” 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rehabilitation of Exhibit No.	Comments

For use by the Director only. The Director may submit rehabilitative evidence if any party submits evidence which “tends to undermine” the findings of the Department-sponsored blood gas study.

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C. Rebuttal evidence. A party may offer no more than one physician’s assessment of each blood gas study offered by the opposing party. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rebuttal of Exhibit No.	Comments

For rebuttal of Department-sponsored blood gas study only.

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IV. Medical reports

The parties are notified that “medical reports” may only be based on medical evidence which is admissible consistent with the evidentiary limitations at 20 C.F.R. § 725.414(a)(2)(i), (3)(i), and (c) (2001). 20 C.F.R. §§ 725.414(a)(2)(i) and 725.457(d) (2001). Medical reports are defined in the regulations as:

A physician’s written assessment of the miner’s respiratory or pulmonary condition. A medical report may be prepared by the physician who examined the miner and/or reviewed the available admissible evidence. A physician’s written assessment of a single objective test, such as a chest X-ray or a pulmonary function test, shall not be considered a medical report for purposes of this section.

20 C.F.R. § 725.414(a)(1) (2001).

A. Initial evidence. A party may submit no more than two medical reports in support of its position. 20 C.F.R. § 725.414(a)(2)(i) and (3)(i) (2001).

Exhibit No.	Physician	Date of Medical Report	Comments

OWCP Evaluation. The Department is required to provide the miner with a complete pulmonary evaluation. 20 C.F.R. § 725.406(a) (2001).

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B. Rehabilitative evidence is permitted ONLY if opposing party has presented “rebuttal evidence” which “tends to undermine” the conclusion of a physician who prepared one of the above-listed medical reports. It is noted that “rebuttal evidence” may consist of “no more than one physician’s interpretation of each chest X-ray, pulmonary function test, blood gas study, autopsy or biopsy” submitted by the opposing party. In such a case, the proponent is entitled to submit an “additional statement” from the physician who prepared the medical report explaining his or her conclusion in light of the rebuttal evidence. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rehabilitation of Exhibit No.	Comments

For use by the Director only. The Director may submit rehabilitative evidence if any party submits evidence which “tends to undermine” the findings of the Department-sponsored medical opinion.

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V. Autopsy evidence

A. Initial evidence. A party may submit no more than one autopsy report in support of its position. 20 C.F.R. § 725.414(a)(2)(i) and (3)(i) (2001).

Exhibit No.	Physician	Date of Autopsy Report	Comments

B. Rehabilitative evidence is permitted ONLY if opposing party has presented evidence which “tends to undermine” the autopsy report. In such a case, the proponent of the report shall be entitled to submit an “additional statement” from the physician who prepared the autopsy report explaining his or her conclusions in light of the rebuttal evidence. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rehabilitation of Exhibit No.	Comments

C. Rebuttal evidence. A party may offer no more than one physician’s interpretation of the opposing party’s autopsy report. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rebuttal of Report Dated:	Comments

VI. Biopsy evidence

A. Initial evidence. A party may submit no more than one report of *each biopsy* in support of its position. 20 C.F.R. § 725.414(a)(2)(i) and (3)(i) (2001).

Exhibit No.	Physician	Date of Biopsy Report	Comments

B. Rehabilitative evidence is permitted ONLY if opposing party has presented evidence which “tends to undermine” a particular biopsy report. In such a case, the proponent of the report shall be entitled to submit an “additional statement” from the physician who prepared the biopsy report explaining his or her conclusions in light of the rebuttal evidence. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rehabilitation of Exhibit No.	Comments

C. Rebuttal evidence. A party may offer no more than one physician’s interpretation of each biopsy report submitted by the opposing party. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rebuttal of Report Dated:	Comments

VII. "Other medical evidence" under § 718.107

A. Initial evidence. A party may submit "other medical evidence" under § 718.107, such as CT-scans, and "[t]he party submitting the test or procedure . . . bears the burden to demonstrate that the test or procedure is medically acceptable and relevant to establishing or refuting a claimant's entitlement to benefits." 20 C.F.R. § 718.107(b) (2001).

Exhibit No.	Physician	Type of Record	Date of Activity	Comments

B. Rehabilitative evidence is permitted ONLY if opposing party has presented evidence which "tends to undermine" a specific test or study set forth above. In such a case, the proponent of the study or test "shall be entitled to submit an additional statement from the physician who . . . administered the objective testing." 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rehabilitation of Exhibit No.	Comments

C. Rebuttal evidence. A party may offer no more than one physician's assessment of each test or study offered by the opposing party. 20 C.F.R. § 725.414(a)(2)(ii) and (3)(ii) (2001).

Exhibit No.	Physician	Date of Report	Rebuttal of Exhibit No.	Comments

VIII. Hospitalization records and treatment notes

The amended regulations provide that, notwithstanding the evidentiary limitations contained at 20 C.F.R. § 725.414(a)(2) and (a)(3), "any record of a miner's hospitalization for a respiratory or pulmonary or related disease may be received into evidence." 20 C.F.R. § 725.414(a)(4) (2001).

Exhibit No.	Beginning and Ending Dates of Hospitalization/ Treatment	Name of Hospital/Physician	Nature of Treatment