

# Black Lung Benefits: An Administrative Review\*

*On June 8, 1971, the Secretary of Health, Education, and Welfare transmitted to Congress the first annual report on the operation of the black lung benefit program. An abridged form of the report, with the major portions excerpted essentially verbatim, is presented here.*

ON DECEMBER 30, 1969, President Nixon signed into law the Federal Coal Mine Health and Safety Act of 1969 (Public Law 91-173) enacted by the 91st Congress.

Title IV of the Act is entitled "Black Lung Benefits." Part B of Title IV . . . provides for monthly cash benefit payments from general tax funds to coal miners totally disabled due to pneumoconiosis arising out of employment in underground coal mines and to widows of coal miners who died of the disease.

Primary responsibility for the administration of Part B benefit provisions has been delegated to the Social Security Administration. This responsibility is limited to claims filed before 1973 with exceptions for widows under certain circumstances. In 1973, administrative responsibility for other new claims (and for continuation of miners' benefits awarded on claims filed in 1972) will shift to the Department of Labor. Under Part C of Title IV of the Act, these claims will be processed through workmen's compensation agencies in States which have enacted legislation to provide the prescribed coverage and comparable benefit payments. In States which have not enacted such legislation, these claims will be processed through the Department of Labor.

## **BLACK LUNG BENEFITS PAYABLE**

### **Purpose of Benefit Provisions**

The Act states the objectives of Title IV as follows:

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\* Adapted by the Bureau of Disability Insurance from the *First Annual Report to Congress on the Administration of Part B of Title IV of the Federal Coal Mine Health and Safety Act of 1969*, Social Security Administration, 1971.

Congress finds and declares that there are a significant number of coal miners living today who are totally disabled due to pneumoconiosis arising out of employment in one or more of the Nation's underground coal mines; that there are a number of survivors of coal miners whose deaths were due to this disease; and that few States provide benefits for death or disability due to this disease to coal miners or their surviving dependents. It is, therefore, the purpose of this title to provide benefits, in cooperation with the States, to coal miners who are totally disabled due to pneumoconiosis and to the surviving dependents of miners whose death was due to such disease; and to ensure that in the future adequate benefits are provided to coal miners and their dependents in the event of their death or total disability due to pneumoconiosis.

### **Types of Benefits**

The Act provides two basic benefits: (1) to coal miners totally disabled due to pneumoconiosis arising out of employment in underground coal mines and (2) to widows of underground coal miners who were entitled to benefits based on such disability or died due to pneumoconiosis. The age of the miner or widow does not matter and, until 1973, it does not matter how long ago the disability began or when the miner died.

Benefits are not paid directly to wives and children, but the amount of benefits payable to a miner or widow is increased where there are qualified dependents. Benefits may be paid only from the month a claim is filed.

Where a miner found to be totally disabled is employed or self-employed, his benefits are subject to reduction under the social security annual earnings retirement test. Earnings of widows, wives, and children do not require a reduction in the amount of black lung benefits payable. Black lung benefits of a miner or widow are reduced by the amount of State workmen's compensation, unemployment compensation, or State disability insurance payments received based on the miner's disability.

The amount of the basic black lung benefit payable monthly to an entitled miner or widow is defined as 50 percent of the current minimum monthly payment payable to a totally disabled Federal employee in grade GS-2 under the Federal Employees' Compensation Act. If the miner

or widow has qualified dependents, the benefit amount is increased based on the number of such dependents—50 percent of the basic benefit for one dependent, 75 percent for two dependents, and 100 percent for three or more dependents. Since the benefit rate is indirectly tied to Federal employee salary scales, benefit increases are automatically payable when Federal salaries are increased. There have been two such increases totaling approximately 12 percent since enactment. The basic black lung benefit is now \$153.10 a month for a miner or widow and may rise to \$306.10 if there are three or more dependents.

## **IMPLEMENTING THE PROGRAM**

### **Immediate Problems**

When the Act was signed, the Social Security Administration had virtually no advance notice that it might be involved in the administration of the benefit provisions in Part B. The law was made effective with the date of its signature by the President, with benefits to begin for eligible claimants with the month in which they filed their claims, and with no provision for payment of benefits in any case prior to the time of filing.

The Social Security Administration was therefore faced with the urgent need for quick action on several fronts. First, potential beneficiaries needed to be told about the program and urged to file promptly to avoid possible loss of benefits. Second, the Act required the publication, within 3 months of the date of enactment, of a body of administrative regulations for determining when a person should be considered totally disabled due to coal worker's pneumoconiosis and when death could be found to be due to pneumoconiosis. Third, administrative procedures, regulations, and other mechanisms had to be devised for taking applications, developing evidence, determining factors of entitlement, and making benefit payments.

On the day the Act was signed, every social security district office received by teletype informational material for widely publicizing the new benefit provisions and emergency instructions for accepting applications. Some 18,000 applications

were filed in the first week after enactment. In the first month almost 100,000 applications were filed by miners and widows. The huge initial volume of claims presented immediate operating problems of major dimensions.

### **Development of Medical Evidence**

The Administration was limited at the start in processing claims to final decisions until basic legal and policy issues were resolved. In the meantime, an intensive effort was launched to gather evidence pertinent to the claims. Because most claimants for black lung benefits had previously filed claims for social security benefits, a good deal of evidence was available in social security retirement, disability, and survivor records. In addition, arrangements were made to tap other valuable sources of evidence, including workmen's compensation claims files, United Mine Workers of America and United Mine Workers of America Welfare and Retirement Fund records and State vital statistic records.

The inclusion in the Act of widows' benefits required the development of evidence with respect to cause of death. In large numbers of claims death occurred many years ago. Thousands of death certificates were secured directly from State vital statistics departments at program expense.

As a result of these activities, in a large number of allowed claims it was not necessary to go back to the applicant for any additional information or evidence, and the claimants were thus spared much effort and inconvenience.

Where payment of fees was involved in obtaining existing evidence, procedures were established for reimbursing the applicant or paying the source directly. In spite of these efforts, tens of thousands of claims required current medical examinations for proper evaluation. As provided in the law, the Administration enlisted the aid of the State agencies with which it has agreements in the administration of the social security disability insurance program, under which the State agencies agreed to secure necessary medical examinations, at program expense, for black lung applicants.

Where the evidence obtained from existing

sources was insufficient for a proper claims decision, arrangements were made through the State agencies to have claimants examined by qualified physicians and medical facilities as close to the claimant's residence as possible. With the concentration of so large a volume of claims in areas with very limited medical resources for this purpose, it was necessary to take extraordinary steps to enlarge the available facilities. The State agencies engaged the services of many additional specialists. They also arranged to have medical examination units with appropriate equipment and qualified professional and technical staff moved between selected locations to facilitate the examination of large numbers of applicants with a minimum of travel and inconvenience.

By the end of April 1971, over 180,000 medical examinations of applicants (primarily X-rays and pulmonary function tests) had been arranged by State agencies (table 1). Payments totaling over \$3 million were made from program funds for these examinations.

#### BASIC ELIGIBILITY REQUIREMENTS

The law directed the Secretary to promulgate the regulations concerning standards for determining total disability and death due to pneumoconiosis. These were published in the Federal Register on April 7, 1970. The regulations were developed in connection with many interested organizations and individuals, including the Public Health Service, the Department of Labor, the United Mine Workers of America, and the Social Security Administration Medical Advisory Committee.

TABLE 1.—Number of medical examinations scheduled by major coal mining States for applicants for black lung benefits, by type of examination, January 1970–April 1971

States (ranked by total number of examinations)	Total	X-ray examinations	Pulmonary function tests
Total:			
United States.....	182,512	114,305	68,207
8 States.....	162,512	102,305	60,207
All other States (estimated).....	20,000	12,000	8,000
West Virginia.....	43,762	28,341	15,421
Pennsylvania.....	39,647	21,499	18,148
Kentucky.....	31,278	19,091	12,187
Virginia.....	11,673	8,421	3,252
Alabama.....	10,572	7,246	3,326
Ohio.....	9,278	6,893	2,385
Tennessee.....	8,288	5,607	2,681
Illinois.....	8,014	5,207	2,807

#### Determining Total Disability Due to Pneumoconiosis

The Act prescribes that the term "total disability" shall not provide more restrictive criteria than those applicable under the social security disability program. There is clearly expressed congressional intent that, initially, the criteria should be those now applied under the Social Security Act. Also, the President, in signing the Act into law, directed such application.

Accordingly, the regulations reflect adaptation of the basic evaluation criteria followed under the social security disability program to the extent that they are applicable to cases in which pneumoconiosis is the disabling impairment.

There are differences, however, in the concepts underlying black lung benefits and those provided under the social security disability program. Social security disability benefits are payable to insured workers who are disabled, regardless of the impairment and of whether there was a causal connection with employment. On the other hand, black lung benefits may be paid to an applicant only if he is totally disabled due to pneumoconiosis and only if his pneumoconiosis arose out of underground coal mine employment.

The law contains a rebuttable presumption (an assumption that may be overturned by evidence to the contrary) that pneumoconiosis was due to employment in the mine when the miner was employed for 10 or more years in an underground coal mine. The problem of causal connection remains if the applicant is disabled by pneumoconiosis and was employed in an underground coal mine for less than 10 years. In this event, the evidence must show affirmatively that the disease was due to such employment. The regulations reflect an interpretation that employment in an underground coal mine includes not only work performed under the surface in extracting the coal, but also work above the surface.

With respect to the requirement that the miner be totally disabled due to pneumoconiosis, it was necessary to establish diagnostic criteria for determining the presence of the disease, criteria for measuring its severity in terms of its effect on an applicant's ability to work, and criteria establishing the level of severity that would be considered totally disabling within the meaning of the law.

Under published regulations a miner is found to be totally disabled if he meets an irrebuttable presumption described in the law—i.e., that X-ray or pathological findings show that he has what is commonly referred to as “complicated” pneumoconiosis. Alternatively, he can be found to be totally disabled if (1) he meets certain medical criteria showing severe breathing impairment due to pneumoconiosis or (2) he has another serious condition resulting from pneumoconiosis, e.g., cor pulmonale.

If he is not disabled by any of these prescribed medical criteria, he may nevertheless be found to be totally disabled if he has pneumoconiosis and such functional breathing limitation as to prevent him from engaging in any type of substantial gainful activity consistent with his vocational competence. Under this evaluation guide the older, long-term miner with minimal education and skills, who is shown to be unable to do heavy work because of pneumoconiosis, will ordinarily be found to be totally disabled.

#### **Standards for Determining Death Due to Pneumoconiosis**

For a widow to qualify for benefits under the program, her husband must have been entitled to benefits or it must be established that his death was due to pneumoconiosis arising out of his underground coal mine employment.

The law provides an irrebuttable presumption that death was due to pneumoconiosis if the miner had complicated pneumoconiosis. It provides a rebuttable presumption that a miner’s death was due to pneumoconiosis if he had at least 10 years of employment in an underground coal mine and died of a “respirable disease.”

In line with statutory intent, the regulations provide that death will be found due to pneumoconiosis, in the absence of evidence to the contrary, when death is ascribed to chronic dust disease or other chronic disease of the lung (with certain exceptions) and the miner was employed for 10 years or more in underground coal mines.

#### **OTHER ELIGIBILITY REQUIREMENTS**

In addition to the regulations summarized above, it was necessary to develop a substantial

body of policies and procedures to implement the other provisions of the law and to reflect these in published regulations. These remaining regulations were published with notice of proposed rule making on March 4, 1971.

The statute requires that for a claim to be considered the claimant needs also to file a claim under the applicable State workmen’s compensation law, except where such filing would clearly be futile. To expedite the handling of black lung claims, instructions were issued to permit processing these claims without awaiting final disposition of a State workmen’s compensation claim. Federal black lung benefits are not paid unless a State claim, if required, is filed. Once such a claim is filed, Federal benefits are payable effective with the original month of entitlement, subject to retroactive offset adjustment later if the State claim is paid. Every effort has been made to advise applicants when State filing would be unnecessary because it would be futile.

The law provides no retroactivity in benefit payments. Since payment periods are calendar months, a claim filed in a given month has been construed as having been filed for the entire month. Thus, an entitled claimant gets a full month’s benefit even if he files the last day of the month.

In addition, the application form for a miner’s benefit claim contains a “protective writing” which may serve to prevent the loss of benefits to the widow should she delay filing her claim. Without this special administrative provision, a widow would have to file in the same month of her husband’s death or lose benefits.

#### **BENEFIT ADJUSTMENTS AND OFFSETS**

Experience in the first year of program operations shows that substantial numbers of applicants for black lung benefits are also in receipt of social security cash benefits. Over 75 percent of all those awarded miners’ black lung benefits are also receiving social security disability, retirement, or survivor benefits. Generally speaking, this means the black lung beneficiary gets both types of benefits in full. However, both the Social Security Act and the Federal Coal Mine Health and Safety Act contain provisions

which are designed to reduce overlapping with other types of benefits.

The Social Security Act has since 1965 contained a "workmen's compensation offset" provision. For people who become disabled after June 1, 1965, and are under age 62, the Act limits the amount of combined income from social security disability insurance benefits and State or Federal workmen's compensation payments. The amount that may be received is either 80 percent of the worker's average current earnings before he became disabled, or 100 percent of the amount of total family benefits under the social security disability benefits program, whichever is higher. If the combined benefits would exceed this amount, the social security disability benefits are reduced by the amount of the excess. This is not a dollar-for-dollar offset.

As a result of this provision, some current social security disability insurance beneficiaries have these benefits reduced when they become entitled to Federal black lung benefits. Most miner applicants are aged 62 or older, however, and the offset therefore does not apply to them. Reduction of social security disability benefits has occurred in less than 5 percent of allowed miners' black lung claims. In most instances where reduction is necessary, only a partial reduction rather than total offset of the social security disability benefit is required.

The Federal Coal Mine Health and Safety Act contains a somewhat similar offset provision with similar intent, but a different method of application. The amount of Federal black lung benefits payable is reduced if the miner or widow is receiving benefits under a State program based on the miner's disability. This is a dollar-for-dollar offset. For example, if a miner is receiving \$120 a month under a State program, the Federal benefit is reduced by that amount. As of April 30, 1971, less than 5,000 recipients under the Federal program were receiving reduced benefits because of the receipt of such State benefits.

#### **ADMINISTRATIVE ARRANGEMENTS**

The Act states that the Secretary, in carrying out the provisions of Part B of Title IV, shall to the maximum extent feasible utilize the per-

sonnel and procedures he uses in determining entitlement to disability benefits under the Social Security Act. Under this provision, program administration authority was delegated by the Secretary to the Social Security Administration with the major responsibility within the Administration assigned to the Bureau of Disability Insurance, which carries primary responsibility for the administration of the regular social security disability program. Other Social Security Administration components, such as the Bureau of District Office Operations (which is responsible for the management of the Administration's network of more than 860 district and branch offices), and the Bureau of Hearings and Appeals play important operating roles.

The processing of black lung claims is handled in largely the same manner as regular social security disability claims. Some modifications in the process are necessary because of certain unique characteristics of the black lung claims workload, e.g., a very large one-time backlog of claims applications mainly limited to a small number of States.

#### **Social Security District Offices**

The primary point of public contact and service in the administration of the black lung benefit program is the local social security district office. Trained staff in the offices answer inquiries about the program, explain the eligibility requirements, and give guidance and assistance to claimants on furnishing available medical and other evidence needed to document claims. Where necessary, the district office will obtain evidence from existing sources on behalf of a claimant.

District offices advise each claimant on his rights and obligations under the law as a beneficiary. They furnish denied claimants with detailed explanations of the reason for the denial and the evidence on which it was based. On request, the evidence on the claim is made available for inspection by the claimant or his representative. The claimant is informed of his rights of appeal and, if dissatisfied with the decision on his claim, is assisted in providing any additional evidence that may be pertinent to the further review of his claim. He is also advised as to obtaining

reimbursement for reasonable medical expenses incurred in establishing his claim.

### State Agencies

Many cases require medical evidence beyond that available from existing records. To obtain this evidence, the Social Security Administration enlisted the assistance of the State agencies which work with the Administration in the disability insurance program. Under special agreements, these agencies are responsible for arranging for necessary medical examinations, involving primarily X-rays and pulmonary function tests. These examinations are performed by qualified local or medical facilities convenient to the applicant and at no cost to him.

### Bureau of Disability Insurance

In addition to responsibility for overall program direction and policy formulation, the Bureau of Disability Insurance determines the adequacy of claims documentation, makes initial and reconsideration determinations, notifies claimants of the decision, determines the amount of offsets and reductions where applicable, certifies payments to the Treasury Department Disbursing Office in allowed claims, and is responsible for continued maintenance of the beneficiary rolls.

### Bureau of Hearings and Appeals

Under the law and regulations, claimants have certain appeal rights in the event of adverse decisions. Hearings provided as a part of such rights are conducted by hearing examiners in the Bureau of Hearings and Appeals and their decisions are subject to review by, or appeal to, the Appeals Council of the Bureau of Hearings and Appeals.

## OPERATING EXPERIENCE

### Claims Filed

By April 30, 1971, a total of 286,000 claims had been filed under the Act. Of these claims,

two-thirds were concentrated in three States—Pennsylvania, West Virginia, and Kentucky. Adding five other States—Virginia, Alabama, Illinois, Ohio, and Tennessee—accounts for about 90 percent of all applications filed. By April 30, 1971, new claims were continuing to be received at an average rate of over 2,000 a week (table 2).

TABLE 2.—Number and percent of claims for black lung benefits, by type of claim, major coal mining States, through April 30, 1971

States (ranked by total number of claims)	Total		Miners' claims		Widows' claims	
	Number	Percent	Number	Percent	Number	Percent
<b>Total:</b>						
United States.....	286,100	100.0	192,600	67.3	93,500	32.7
8 States.....	251,800	88.0	169,400	67.3	82,400	32.7
All other States.....	34,300	12.0	23,200	67.5	11,100	32.5
<b>3 leading States.....</b>	<b>181,500</b>	<b>63.4</b>	<b>120,300</b>	<b>66.3</b>	<b>61,200</b>	<b>33.7</b>
Pennsylvania.....	93,600	32.7	54,800	58.5	38,800	41.5
West Virginia.....	56,700	19.8	41,400	73.0	15,300	27.0
Kentucky.....	31,200	10.9	24,100	77.3	7,100	22.7
Virginia.....	16,900	5.9	12,400	73.3	4,500	26.7
Alabama.....	15,700	5.5	10,900	69.7	4,800	30.3
Illinois.....	15,700	5.5	9,800	62.2	5,900	37.8
Ohio.....	12,300	4.3	8,800	71.3	3,500	28.7
Tennessee.....	9,700	3.4	7,200	74.1	2,500	25.9

### Claims Processed

Because of the necessity for developing regulations, policies, and procedures, as well as securing supporting medical and nonmedical evidence, it was expected that it would take some time before the first claims could be processed to completion. The first claims processed were completed in April 1970. By the end of the next month, some 10,000 claims—all allowances—had been completed, and the rate of processing increased rapidly thereafter. By April 30, 1971, when the claims received in the first year of the program had largely been processed, over 245,000 claims had been completed. Total beneficiaries under the program, including dependents, were 190,000 (table 3).

### Current Status of Operations

The backlog of initial claims filed in the first year of program operations has been virtually eliminated. For claims now being filed, processing time should be more in line with regular social security disability claims experience, an

average of about 10–12 weeks from filing to completion. However, while the initial claims load has been largely processed, there is developing a substantial group of claims in which the denied claimant is exercising his right to request reconsideration. (See section on reconsideration, hearings, and appeals.)

### Claims Decisions

Of the claims completed by April 30, 1971, 120,000 were allowances (68,000 miners and 52,000 widows) and 125,000 were denials (96,000 miners and 29,000 widows) (table 3).

Of the miners approved for benefits, more than 95 percent are aged 55 or older; more than 71 percent are aged 65 or older. Among the eight major coal mining States, the miner beneficiaries in three (West Virginia, Kentucky, and Virginia) are somewhat younger on the average (table 4).

Most miners' claims were denied because X-ray evidence did not disclose the presence of pneumoconiosis. Most widows' claims were denied because there was no evidence that the miner's death was due to pneumoconiosis or qualifying "respirable disease" (table 5).

### Benefits Disbursed

By April 30, 1971, total cumulative disbursements since enactment of the program had reached

over \$273 million and monthly recurring payments were over \$21 million.

Considering augmentation for dependents, the average monthly benefit paid to a miner or widow was \$187.26 (table 3).

For fiscal year 1972, disbursements are expected to approach \$400 million and total beneficiaries at the end of the year will approximate 260,000 (160,000 miners and widows and 100,000 dependents).

### Administrative Expenses

The manpower estimated for administration of the black lung program for calendar year 1970 was 260 man-years. The estimates in the 1972 congressional budget for fiscal years 1971 and 1972 are 1,310 man-years and 585 man-years, respectively. The man-years derived from these sources are budgeted as follows:

Type of manpower	Fiscal year 1971		Fiscal year 1972	
	Social Security Administration	State agencies	Social Security Administration	State agencies
Total.....	1,310	154	585	36
Permanent full-time positions.....	751	154	524	36
Temporary positions.....	262			
Overtime.....	297		61	

Obligations estimated for the Social Security Administration are \$15.7 million for fiscal year 1971 and \$8.5 million for fiscal year 1972. In

TABLE 3.—Number of claims for black lung benefits, number of current beneficiaries, and average monthly amount of family benefits, major coal-mining States, through April 30, 1971

[Numbers in thousands]

Claim and benefit status	United States, total	Major coal mining States									All other States
		Total, 8 States	Pennsylvania	West Virginia	Kentucky	Virginia	Alabama	Illinois	Ohio	Tennessee	
<b>Number of claims:</b>											
Filed, total.....	286.1	251.8	93.6	56.7	31.2	16.9	15.7	15.7	12.3	9.7	34.3
Processed.....	245.8	217.6	83.5	45.5	28.0	14.4	14.7	13.3	9.8	8.4	28.2
Miners.....	165.0	146.0	48.7	33.3	21.6	10.8	10.2	8.1	7.1	6.2	19.0
Widows.....	80.8	71.6	34.8	12.2	6.4	3.6	4.5	5.2	2.7	2.2	9.2
Allowed.....	120.4	108.4	57.8	20.0	8.0	5.2	5.1	5.8	3.3	3.2	12.0
Miners.....	68.6	62.5	32.4	12.5	4.7	3.0	3.0	3.2	1.7	2.0	6.1
Widows.....	51.8	45.9	25.4	7.5	3.3	2.2	2.1	2.6	1.6	1.2	5.9
Denied.....	125.4	109.2	25.7	25.5	20.0	9.2	9.6	7.5	6.5	5.2	16.2
Miners.....	96.4	83.5	16.3	20.8	16.9	7.8	7.2	4.9	5.4	4.2	12.9
Widows.....	29.0	25.7	9.4	4.7	3.1	1.4	2.4	2.6	1.1	1.0	3.3
<b>Number of beneficiaries:</b>											
Total current.....	189.4	172.3	82.1	36.8	15.4	9.8	8.8	8.5	5.2	5.7	17.1
Miners.....	65.0	59.2	29.9	12.0	4.6	3.0	3.0	3.1	1.7	1.9	5.8
Widows.....	51.7	45.8	25.3	7.5	3.3	2.2	2.1	2.6	1.6	1.2	5.9
Dependents.....	72.7	67.3	26.9	17.3	7.5	4.6	3.7	2.8	1.9	2.6	5.4
Average family benefit.....	\$187.26	\$188.04	\$179.38	\$201.09	\$196.72	\$208.15	\$197.44	\$188.14	\$183.96	\$202.24	\$180.20

TABLE 4.—Percentage distribution of black lung allowed and denied claims of miner applicants, by age of applicant at filing, major coal mining States

State	Total <sup>1</sup>	Age at filing <sup>2</sup>				
		Under 40	40-54	55-59	60-64	65 and over
All miner applicants						
United States.....	100.0	0.9	12.0	12.4	18.1	56.6
Pennsylvania.....	100.0	1.1	5.4	9.7	17.7	67.1
West Virginia.....	100.0	1.4	19.3	15.3	19.0	45.0
Kentucky.....	100.0	2.4	19.8	15.6	18.5	43.7
Alabama.....	99.9	.2	9.7	12.5	20.0	57.5
Illinois.....	100.0	0	3.3	5.4	13.5	77.8
Virginia.....	100.0	2.7	20.9	17.1	19.2	40.1
Ohio.....	99.8	.3	12.8	14.3	18.8	53.6
Tennessee.....	100.0	1.6	16.4	14.6	18.4	49.0
Miners with allowed claims						
United States.....	99.9	( <sup>3</sup> )	4.8	8.1	15.9	71.1
Pennsylvania.....	100.0	( <sup>3</sup> )	3.0	7.1	15.7	74.2
West Virginia.....	99.8	( <sup>3</sup> )	9.0	11.1	18.1	61.6
Kentucky.....	99.7	( <sup>3</sup> )	9.6	12.4	18.4	59.3
Alabama.....	100.0	( <sup>3</sup> )	2.9	6.1	15.1	75.9
Illinois.....	100.0	( <sup>3</sup> )	1.0	2.3	8.8	87.9
Virginia.....	99.6	( <sup>3</sup> )	11.1	14.6	19.5	54.4
Ohio.....	100.0	( <sup>3</sup> )	3.8	8.6	14.8	72.8
Tennessee.....	99.6	( <sup>3</sup> )	5.6	9.3	16.7	68.0
Miners with denied claims						
United States.....	99.6	2.1	17.6	15.4	17.7	46.8
Pennsylvania.....	100.0	.3	7.9	13.5	24.5	53.8
West Virginia.....	99.7	2.5	25.2	19.6	17.0	35.4
Kentucky.....	99.3	2.9	21.4	15.7	15.0	44.3
Alabama.....	98.9	.6	12.0	16.6	13.1	56.6
Illinois.....	100.0	0	3.3	3.4	16.1	77.2
Virginia.....	100.0	6.3	23.3	16.9	16.9	36.6
Ohio.....	100.0	0	14.5	11.8	19.1	54.6
Tennessee.....	100.0	2.9	23.6	14.7	16.2	42.6

<sup>1</sup> May not add to 100 percent because of exclusion of unknowns.  
<sup>2</sup> Based on 5-percent sample of claims processed through April 1971.  
<sup>3</sup> Less than 0.1 percent.

addition, obligations by State agencies for the development of medical evidence to support valid determinations regarding the existence of a disability are estimated at \$5.4 million in fiscal year 1971 and \$1.1 million in fiscal year 1972.

## RECONSIDERATION, HEARINGS, AND APPEALS

Denied applicants may request administrative reconsideration and if still dissatisfied, may ask for a hearing before a hearing examiner of the Bureau of Hearings and Appeals. There are also further appeal rights to the Appeals Council and, in some cases, to the Federal courts.

As individuals are notified of the disallowances of their claims and many of them exercise their

TABLE 5.—Percentage distribution of black lung claims of miners and widows, by basis for denial, April 1971

Basis for denial	Denied claims
<i>Miners</i>	
Total.....	100.0
Chest X-ray (or biopsy) does not establish pneumoconiosis.....	62.3
Pneumoconiosis not disabling—miner not working.....	29.8
Pneumoconiosis not disabling—miner working <sup>1</sup> .....	2.4
No employment in Nation's underground coal mines.....	2.0
Other (application withdrawn, etc.).....	3.5
<i>Widows</i>	
Total percent.....	100.0
No evidence that miner's death was due to pneumoconiosis or respirable disease.....	88.3
Evidence conclusive that pneumoconiosis or respirable disease was not cause of death.....	9.1
Deceased not employed in the Nation's underground coal mines.....	2.4
Other (application withdrawn, etc.).....	.2

<sup>1</sup> Statutory definition not met (section 411 (c) (3) of the Act).

right to request reconsideration, a substantial additional workload is developing in taking the necessary action to thoroughly reconsider (and in some cases, supplement) the evidence in their claims and make a new decision in each appealed case.

As of April 30, 1971, 125,000 claims were denied and over 50,000 requests for reconsideration were received. Allowing for a reasonable lag between the denial notice and the request for reconsideration, the current rate of request for reconsideration is estimated at over 50 percent.

In projecting further into the future, it appears most likely that the workload of requests for hearings will be very large and will severely tax the resources of social security hearing examiners. Plans are already being implemented, however, to gear up the hearing process and take whatever special measures will be required to handle the large influx of new hearing requests.

It also appears likely that the Federal district courts in the coal mining region will eventually receive a substantial volume of litigation from this claims workload.

## SIGNIFICANT PROBLEMS AND ISSUES

### Diagnosis of Pneumoconiosis

To establish the occupational connection with coal worker's pneumoconiosis, the regulations provide that there must be X-ray evidence of pneumoconiosis in the living applicant (or, in



TABLE 6.—Percentage distribution of miner applicants for black lung benefits,<sup>1</sup> by claims status and social security beneficiary status

Social security beneficiary status	Total	With claims allowed	With claims denied
Total.....	100.0	100.0	100.0
Receiving no social security benefits.....	30.0	24.7	34.6
Receiving some social security benefits.....	70.0	75.3	65.4
Disability.....	18.2	12.8	22.9
Retirement.....	51.6	62.2	42.3
Survivor.....	.2	.3	.2

<sup>1</sup> Based on 145,000 initial miners' claims processed.

a rare case, a biopsy). This is based on the prevailing medical judgment that in the absence of positive X-ray evidence, the disease does not exist or exists to a degree that would have no significant effect on the claimant's functional capacity.

There is some minority medical opinion to the effect that disabling pneumoconiosis may exist in the absence of "positive" X-ray evidence. However, this issue was considered by the Social Security Administration through extensive consultation with a wide range of medical specialists. The requirement was included in the regulations as reflecting the overwhelming medical judgment on the issue.

Regulations require X-rays to be taken in conformance with acceptable medical standards and to be classified in accordance with the International Labor Organization or the Union Internationale Contra Cancer classification system for pneumoconiosis. X-rays of good diagnostic quality can be classified reliable according to these systems.

Where existing X-ray evidence is not available for a proper determination, State agencies are responsible through special agreement for making arrangements with qualified radiologists locally to provide X-rays of claimants at program expense. Most of these radiologists have participated in the special training courses sponsored by the Public Health Service in cooperation with the American College of Radiology and the American College of Chest Physicians to improve the technique for taking X-rays and classifying them according to the UICC and ILO systems.

### Medical Tests for Determining Eligibility

The regulations provide that where pneumoconiosis is shown to be present by X-ray but

TABLE 7.—Number of black lung claims filed and allowed, total cumulative payments since enactment, and total monthly payments as of April 30, 1971, by State of current beneficiary residence

State	Claims filed	Claims allowed	Total cumulative payments since enactment	Total monthly payments
U.S. total.....	286,109	120,416	\$273,700,626	\$21,842,240
Alabama.....	15,700	5,120	2,941,261	1,007,579
Alaska.....	16	4	9,812	765
Arizona.....	370	178	334,986	32,995
Arkansas.....	2,070	559	1,300,664	105,575
California.....	1,400	516	1,152,673	92,119
Colorado.....	1,740	402	787,222	69,563
Connecticut.....	700	341	595,732	58,041
Delaware.....	300	126	228,645	19,964
District of Columbia.....	210	52	90,898	9,336
Florida.....	2,380	994	2,222,942	187,194
Georgia.....	190	83	133,306	13,733
Hawaii.....	2	1	2,336	153
Idaho.....	46	12	29,471	1,911
Illinois.....	15,700	5,820	10,888,606	1,071,255
Indiana.....	5,260	1,317	2,746,725	241,636
Iowa.....	1,385	495	705,073	92,145
Kansas.....	333	93	130,496	15,717
Kentucky.....	31,200	8,020	20,585,518	1,542,203
Louisiana.....	29	16	22,690	2,636
Maine.....	6	3	3,425	429
Maryland.....	3,360	1,301	2,118,593	203,569
Massachusetts.....	110	34	55,574	6,284
Michigan.....	3,080	830	1,556,677	139,213
Minnesota.....	31	10	20,920	1,979
Mississippi.....	58	19	29,046	3,401
Missouri.....	430	84	129,936	14,833
Montana.....	230	73	91,307	11,404
Nebraska.....	19	6	3,164	688
Nevada.....	59	24	31,742	3,470
New Hampshire.....	8	5	3,821	841
New Jersey.....	2,500	1,510	3,044,486	255,507
New Mexico.....	600	180	337,106	33,429
New York.....	2,420	930	1,847,485	161,713
North Carolina.....	730	256	486,609	45,854
North Dakota.....	12	7	8,917	1,252
Ohio.....	12,300	3,300	6,703,135	655,906
Oklahoma.....	1,120	395	703,207	72,132
Oregon.....	72	25	44,875	4,182
Pennsylvania.....	93,600	57,810	125,190,690	9,916,300
Puerto Rico.....	5	2	5,284	882
Rhode Island.....	12	6	11,341	1,070
South Carolina.....	120	42	76,796	7,826
South Dakota.....	5	2	4,541	382
Tennessee.....	9,700	3,200	7,684,546	630,784
Texas.....	200	76	135,301	13,399
Utah.....	1,100	330	463,194	59,834
Vermont.....	1	1	1,757	153
Virginia.....	16,900	5,200	13,948,462	1,052,203
Washington.....	340	99	166,594	16,163
West Virginia.....	56,700	20,000	52,760,253	3,922,031
Wisconsin.....	90	32	55,283	5,361
Wyoming.....	1,100	475	977,533	85,746

the disease has not progressed to a complicated stage, other medical tests are necessary to determine whether the effects of the disease have reached totally disabling proportions.

To evaluate an applicant's reduced ability to work due to pneumoconiosis, the regulations call for conventional pulmonary function tests which measure his capacity to move air into and out of his lungs. These are relatively simple, accurate and widely accepted medical tests. They are commonly used for diagnostic treatment and functional evaluation purposes and have been regularly used in the social security disability program.

Breathing impairment may also result from reduction in an individual's capacity to transfer oxygen from his lungs into his blood stream. Tests for this type of impairment are more difficult to conduct and less widely used. They involve greater physical exertion on the part of the subject and require more extensive equipment and highly trained professional personnel to administer. Medical resources to perform these tests are in extremely short supply in most of the areas in which black lung claimants are concentrated.

The Social Security Administration and the Public Health Service are collaborating in a pilot project to evaluate the effectiveness and feasibility of providing testing of this type for black lung claimants. The project will assess results and identify any problems encountered in such exercise testing on a relatively large scale for claimants under this program. This is expected to lead the way to additional methods and criteria for evaluating total disability due to pneumoconiosis under this program, as well as to the availability of more adequate medical facilities in the coal mine areas to perform this testing.

### **Standards of Disability Determinations**

In line with congressional intent and the direction given by the President, every effort has been made to establish disability evaluation criteria consistent with those under the regular social security disability program. However, some problems existed in implementing the statutory requirement of total disability due to pneumoconiosis.

An individual's ventilatory ability may be compromised by many diseases other than coal worker's pneumoconiosis. Emphysema commonly affects this ability; neurological, muscular, infectious, or degenerative disease may do so also. From a purely medical standpoint, it is impossible in most situations to determine what portion of an individual's reduced ventilatory capacity is due to coal worker's pneumoconiosis and what portion is due to one or more other diseases he has. Nevertheless, to assure fullest equity to claimants under these circumstances, favorable disability determinations have been made where

a claimant has a serious breathing impairment and has pneumoconiosis.

However, some miners have emphysema or chronic bronchitis, and may be severely disabled as a result, but do not have pneumoconiosis. Under the law, claims from such miners must be denied.

Claimants frequently find it difficult to understand the basis for the distinction between these allowed and denied claims, particularly if the miner denied because he does not have pneumoconiosis is severely disabled and worked long years in underground coal mine employment. Conversely, some misunderstanding among applicants also results from the fact that it is possible for a miner to have complicated pneumoconiosis and therefore meet the statutory presumption of disability, even though he does not have a severe breathing impairment.

### **Death Due to Pneumoconiosis**

Widows' claims under the Act present two special problems: first, obtaining evidence of the presence of pneumoconiosis in claims where the miner may have died many years in the past; and, second, establishing a causal relationship between the disease and death, unless the miner was entitled to benefits under the Act or had the complicated stage of the disease.

The first problem was reduced substantially by the statutory provision that if the miner was employed for 10 years or more in underground coal mines and died of a "respirable disease" there is a rebuttable presumption that his death was due to pneumoconiosis. The regulations define "respirable disease" as a chronic lung disease (with certain exceptions), thus permitting the approval of claims where the miner may have had pneumoconiosis but the condition was not so diagnosed.

With respect to the second problem, the Social Security Administration has interpreted the requirement that death must have been "due" to the disease to mean that the disease was a significant contributory factor in causing death. Death is usually not due directly to coal worker's pneumoconiosis, but the disease may be a contributory factor. However, when multiple disease

processes are present and death occurs, it is frequently not medically possible to distinguish which disease actually "caused" death or how much each contributed. Unless death is due to trauma or clearly results from an acute disease process, the Social Security Administration has ordinarily held that pneumoconiosis or "respirable disease," if present, was a significant contributory factor in causing death.

With the application of these liberal rules, claims which have been denied consist largely of those in which either (1) there is no evidence that the miner had chronic lung disease, or (2) the miner died as the result of trauma or clearly from an acute disease unrelated to pneumoconiosis and there is no evidence that he had the complicated stage of the disease.

## CONCLUSION

While substantial progress has been made in implementing this new and important benefit program, and pending workloads now approximate normal levels, it is recognized that a great deal of activity still lies ahead.

It is apparent that more needs to be known about pneumoconiosis as a disease entity—its cause, techniques for diagnosis, its disabling effects, and how to measure them, and its relationship to other diseases of the lung—so that evaluation policies can be refined to advance the objectives of the program. Toward this end, the Administration is analyzing its case experience and will continue to seek out new medical knowledge and professional guidance. It is working with the Public Health Service to contribute to medical research to be carried out under Title V of the Act under the leadership of the Public Health Service.

In conclusion, it is fitting to acknowledge that the Social Security Administration has been assisted in implementing the black lung benefit program by Members of Congress, the

Public Health Service, the Department of Labor, the Department of Interior and other components of the Federal Government, State workmen's compensation and occupational disease agencies, the United Mine Workers of America and other representatives of miner and widow claimants, the United Mine Workers of America Welfare and Retirement Fund, the Social Security Administration Medical Advisory Committee, representatives of the coal industry, a wide range of professional and technical specialists in the field, and many others. Such liaison and consultation will continue to be utilized in assuring equitable and effective administration of the program.

## Proposed Revisions

Several changes are being considered by Congress to modify and broaden the extent of coverage of the Act. Under one proposal benefits would be provided to double orphans—the children of a deceased miner whose mother is either deceased or does not qualify as a widow under the law and the children of a widow who was entitled to black lung benefits at the time she died. These children have not been eligible for benefits because the Act specifically provides benefits only to disabled miners and their widows with an increase in the miner's or widow's benefit if there are eligible dependents.

Other proposed changes would (1) require that black lung benefits not be considered workmen's compensation payments for offset against benefits paid under the Social Security Act, (2) extend Part B provisions through December 31, 1974, (3) prohibit denial of black lung benefits solely on the basis of X-rays, and (4) authorize regulations consistent with the Social Security Act's provisions governing overpayment, underpayment, representative payee, and claimant's representation. Another proposed revision would change the definition of disability under the Act to an occupational concept.