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[Payment of Black Lung Benefits to Widows Who also Receive State Workmen's Compensation Payments]. HRD-78-157; B-164031(4).
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Report to Rep. Carl D. Perkins, Chairman, House Committee on Education and Labor; Sen. Harrison A. Williams, Jr., Senate Committee on Human Resources; by Eimer B. Staats, Comptroller General.

Issue Area: Federally Sponsored or Assisted Income Security Programs: Payment Processes, Procedures, and Systems (1309).
Contact: Human Resources Div.

Budget Function: Income Security: Public Assistance and Other Income Supplements (604).

Organization Concerned: Department of Health, Education, and Welfare; Department of Labor; Social Security Administration.

Congressional Relevance: House Committee on Education and Labor; Senate Committee on Human Resources. Rep. Carl D. Perkins; Sen. Harrison A. Williams, Jr.

Authority: Federal Coal Mine Health and Safety Act of 1969, as amended (30 U.S.C. 801). Black Lung Benefits Reform Act of 1977 (P.L. 95-239).

An examination was conducted of the black lung benefits the Social Security Administration; the Department of Health, Education, and Welfare; and the Department of Labor paid to miners and eligible survivors of miners who also received State workmen's compensation payments. During May 1978, Social Security paid \$33.6 million in black lung benefits to 145,257 widows and their dependents, and the Department of Labor paid \$216,000 to 933 widows and their dependents. In Pennsylvania and Kentucky, where the examination was performed, most of the workmen's compensation awards to miners were for disability due to pneumoconiosis. None of the benefits Social Security paid to widows of miners in Pennsylvania and Kentucky was reduced when they received State workmen's compensation payments; this was because Social Security considered the State payments as death benefits. In contrast, the Department of Labor routinely reduces black lung benefits to widows when they receive State workmen's compensation because of their husband's deaths. The Federal Coal Mine Health and Safety Act of 1969 should be amended so that comparable treatment will be provided to widows receiving benefits from State workmen's compensation because of their husband's deaths. (RRS)

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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

B-164031(4)

SEPTEMBER 6, 1978

The Honorable Carl D. Perkins
Chairman, Committee on Education and Labor
House of Representatives

The Honorable Harrison A. Williams
Chairman, Committee on Human Resources
United States Senate

We recently examined the black lung benefits the Social Security Administration; Department of Health, Education, and Welfare; and the Department of Labor paid to miners and eligible survivors of miners who also received State workmen's compensation payments. We noted that none of the benefits Social Security paid to widows of miners in Pennsylvania and Kentucky were reduced when they received State workmen's compensation payments because Social Security considered the State payments as death benefits. In contrast, we noted that the Department of Labor routinely reduces black lung benefits to widows when they receive State workmen's compensation because of their husbands' deaths.

In the Labor portion of the Federal black lung program, the Congress provided that black lung payments to widows should be reduced when they also receive State compensation benefits because of their husbands' deaths. However, the Congress did not provide for a reduction of black lung payments because of the receipt of State death benefits in the Social Security Administration portion of the program. We believe the Congress should reconsider its position on this matter and enact legislation which would provide that widows of miners who receive benefits from either Social Security or the Department of Labor be treated the same.

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(105031)

PRESENT LEGISLATION AND
ITS IMPACT ON WIDOWS

Title IV of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801), as amended, authorizes the payment of black lung benefits. Under part B of the act, Social Security is responsible for processing miners' and survivors' claims filed before July 1, 1973, initial survivors' claims filed before January 1, 1974, and certain survivors' claims filed within 6 months of the death of a miner or widow entitled under part B or a miner who died before January 1, 1974. Part C of the act is administered by the Department of Labor and covers all other claims for black lung benefits.

Before the enactment of the Black Lung Benefits Reform Act of 1977 (Public Law 95-239, effective March 1, 1978), section 412(b) of the Federal Coal Mine Health and Safety Act of 1969 provided for the reduction of part B benefits as follows:

"* * * benefit payments under this section to a miner or his widow * * * shall be reduced * * * by an amount equal to any payment received by such miner or his widow * * * under the workmen's compensation * * * laws of his State on account of the disability of such miner * * *."

In 1971, the Department of Health, Education, and Welfare's General Counsel considered whether State workmen's compensation benefits paid on account of the death of an employee to his survivors constitute benefits paid "on account of the disability of such miner," and are thereby subject to the above reduction provision. The General Counsel held that in the absence of a specific reduction provision aimed expressly at State payments received on account of the miner's death, State death payments are not intended to be included within the term "disability," and, therefore, cannot be used to reduce the black lung benefit payment.

Part C, however, contains specific language in section 422(g) concerning State benefits paid because of a miner's death, as follows:

"The amount of benefits payable under this section shall be reduced * * * by the amount of any compensation received under or pursuant to any Federal or State workmen's compensation law because of death or disability due to pneumoconiosis." (Underscoring provided.)

The Black Lung Benefits Reform Act brought part B partially into agreement with part C by providing that part B benefits should be reduced by State workmen's compensation benefits paid for a disability due to pneumoconiosis. Pneumoconiosis refers to a class of diseases caused by inhaling such substances as coal dust, quarry dust, or textile fiber. In enacting this legislation, however, the Congress did not consider the issue of whether part B benefits should also be reduced by State workmen's compensation benefits paid to a widow as a death benefit.

During May 1978, Social Security paid \$33.6 million in black lung benefits to 145,251 widows and their dependents. The Department of Labor paid \$216,000 to 933 widows and their dependents. In Pennsylvania and Kentucky, where we made our review prior to enactment of the Black Lung Benefits Reform Act, we noted that most of the workmen's compensation awards to miners were for disability due to pneumoconiosis.

We identified 296 widows in Pennsylvania and Kentucky who received \$66,140 monthly or about \$794,000 annually in part B benefits and also received State workmen's compensation benefits totaling \$56,220 monthly or about \$675,000 annually. The Federal benefit for these cases was not reduced because Social Security considered the State payments as death benefits. In contrast, the Department of Labor identified seven widows in Pennsylvania and Kentucky in May 1978 who received part C benefits and also State workmen's compensation payments due to their husbands' pneumoconiosis. In all seven cases, black lung benefits were reduced because the workmen's compensation payments were made as a result of their husbands' deaths.

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CONCLUSION

Social Security does not reduce a widow's black lung benefit for State workmen's compensation due to the death of her husband from pneumoconiosis. In contrast, the Department of Labor does. We believe that it would be more equitable if all widows were treated the same, regardless of which Federal agency is paying black lung benefits.

RECOMMENDATION TO THE COMMITTEES

We recommend that the Federal Coal Mine Health and Safety Act of 1969 be further amended so that comparable treatment will be provided to widows receiving benefits under parts B or C and State workmen's compensation death benefits due to their husbands' pneumoconiosis. Specific legislative language needed to amend the law is not being provided because we believe the Congress must decide whether widows receiving these benefits should be treated the same, and if so, whether the reduction provision in part B or part C should be applied with respect to State workmen's compensation death payments provided to widows.

Sincerely yours,



Comptroller General
of the United States