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STATEMENT OF  
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BEFORE THE  
SUBCOMMITTEE ON OVERSIGHT  
COMMITTEE ON WAYS AND MEANS  
UNITED STATES HOUSE OF REPRESENTATIVES  
ON THE  
[BLACK LUNG PROGRAM AND  
AND  
BLACK LUNG DISABILITY TRUST FUND]

Mr. Chairman and Members of the Subcommittee:

We are pleased to be here today to discuss the results of ongoing work related to the Department of Labor's approval of black lung benefit claims and the computer model used by Labor to predict the financial condition of the Black Lung Disability Trust Fund. We have previously issued a report entitled "Legislation Allows Black Lung Benefits to Be Awarded Without Adequate Evidence of Disability" (HRD-80-81, July 28, 1980) that discusses the Social Security Administration's approval of black lung benefit claims.

We conducted these assignments at the request of Congressman John Erlenborn.

#### BACKGROUND

Black Lung Benefits Program - The Federal Coal Mine Health and Safety Act of 1969 established the first program at any governmental level to provide benefits to victims of a single occupational disease. This act, which the Congress amended in 1972 and 1977, provides for monthly payments to eligible miners totally disabled due to pneumoconiosis--commonly called "black lung"--and to their survivors.

Under the 1969 act, the Secretary of the Department of Health and Human Services 1/ had responsibility for prescribing standards to determine whether a miner's total disability or death was due to black lung.

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1/Before May 4, 1980, the Department of Health, Education, and Welfare.

This act also contained dates, which the 1972 amendments changed, that shifted responsibility for processing claims and administering the program from the Social Security Administration (SSA) to the Department of Labor. Labor became responsible for processing living miner claims filed after June 30, 1973, and most survivor claims filed after December 31, 1973.

Amendments to the act in 1972 were implemented with the clear congressional intention of making more individuals eligible for program benefits. These amendments extended black lung benefits to surface coal miners and eased the requirements for medical evidence to establish total disability. For the most part, the 1972 provisions were made retroactive to December 1969.

The 1977 amendments 1/--the Black Lung Benefits Reform Act of 1977--made a number of changes to remove restrictive provisions in the old law which prevented a large number of claimants from receiving benefits. These amendments broadened the definition of pneumoconiosis to include respiratory and pulmonary impairments arising out of coal mine employment. They also required a re-review of all previously denied or pending black lung claims using (1) the new requirements contained in the amendments and (2) standards promulgated by Labor that would not be more restrictive than the criteria applicable to a claim filed with SSA on June 30, 1973. The 1977 amendments also required Labor in consultation with the National Institute for Occupational Safety and Health (NIOSH) to

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1/Actually enacted on March 1, 1978.

establish criteria for all appropriate medical tests that accurately reflect total disability in coal miners.

Since the enactment of the black lung benefit program in 1969 to December 1980 SSA has paid over \$9 billion in benefits from appropriated funds to almost 400,000 claimants, out of the 537,000 miners and survivors who filed claims with SSA.

From July 1973 through April 1981, Labor has approved over 94,700 claims out of the more than 282,500 claims it reviewed (includes SSA claims rereviewed under the 1977 amendments). During this period Labor has paid benefits of over \$1.75 billion from the Black Lung Disability Trust Fund for about (1) 90,000 of the 94,700 claims approved by Labor and (2) 24,500 claims approved by SSA.<sup>1/</sup> Responsible coal mine operators have paid the rest of these claims.

Black Lung Disability Trust Fund - The Black Lung Benefits Revenue Act of 1977--companion legislation to the Black Lung Benefits Reform Act of 1977--established the Black Lung Disability Trust Fund and shifted fiscal responsibility for black lung benefit payments from the Federal Government to the Trust Fund. This Fund pays all administrative expenses related to the black lung benefits program and all black lung benefits when no responsible mine operator can be assigned liability for such benefits or when coal mine employment ceased prior to January 1, 1970. The Trust Fund is partially financed by a tax on coal sold by producers. Because black lung benefit payments currently exceed revenues generated by the tax on coal, the

<sup>1/</sup>Under the 1977 amendments, claims reviewed and approved by SSA are paid from the Trust Fund.

Trust Fund also receives advances from the Treasury that are repayable with interest.

From April 1, 1978, when the fund was established to March 31, 1981, the fund has paid approximately \$1.9 billion for administrative expenses and for benefits to eligible claimants and their survivors. During this period, the Trust Fund received coal tax revenues of over \$.7 billion and advances of about \$1.2 billion from the Treasury.

#### SCOPE AND METHODOLOGY

For this review, we analyzed 450 randomly selected claims of which 205 represented approvals, to determine (1) Labor's basis for approval and (2) the adequacy of the medical evidence used to establish disability or death due to black lung. These 205 approved claims consisted of 153 claims re-reviewed under the 1977 amendments and 52 new claims. We also determined the effect that Labor's March 1980 standards for determining total disability--developed in consultation with NIOSH--would have had on the approved claims.

Our medical advisor discussed the diagnosis of pneumoconiosis and the adequacy and reliability of tests used to determine disability from black lung with a number of respiratory and pulmonary specialists. He also established the criteria that we used to determine whether the claims approved by Labor had adequate medical evidence to establish disability or death from black lung. (See appendix I.) Moreover, he reviewed, in detail, those cases in which there were questions related to the adequacy of the medical evidence to establish disability.

MEDICAL EVIDENCE GENERALLY INADEQUATE  
TO ESTABLISH DISABILITY OR DEATH DUE  
TO BLACK LUNG

Our review of the 205 black lung claims approved by Labor indicated that in 172 cases (84 percent), the medical evidence was not adequate to establish disability or death from black lung. The approval of these claims was not contrary to the law, however, the approval was based either on provisions in the amended black lung legislation or on interim standards contained in regulations promulgated by Labor in August 1978.

Information in the case files indicated that many of these claimants had medical disorders, which included respiratory and pulmonary impairments. However, this information also indicated that Labor approved most of these claims based on provisions in the law or in regulations which we believe do not adequately ensure that benefits are provided only to miners totally disabled from black lung or to their survivors.

For 33 of the 205 approved claims, we agreed that the medical evidence adequately established disability or death from black lung. For these claims, x-rays or biopsies showed the presence of black lung, most test results established disability, or the death certificate or autopsy confirmed that death was due to black lung.

The amended black lung legislation contains the following provisions that Labor used as a basis for approving claims:

- Presumptions of (1) black lung, disability or death due to black lung based on years of coal mine employment

- or (2) disability based on medical evidence of complicated pneumoconiosis;
- Medical evidence such as x-rays, pulmonary function studies, or blood gas studies;
- Affidavits from spouses or others, and
- Medical opinions based on the results of a physical examination.

Examples of claims approved by Labor are contained in appendix II.

Benefits awarded based on presumptions

Labor used presumptions to approve 104 (51 percent) of the 205 claims even though the case files contained inadequate medical evidence to support determinations of disability or death from black lung. Labor approved 16 of the 104 claims based on provisions of the law which allow presumptions of (1) black lung, disability, or death due to black lung based on years of coal mine employment and (2) total disability based on medical evidence of complicated pneumoconiosis.

In addition to the presumptions specifically mentioned in the black lung legislation, the 1977 amendments required Labor to promulgate interim regulations for reviewing claims which "shall not be more restrictive than the criteria" used by SSA before July 1, 1973. These regulations contained "interim presumptions" that were even more liberal than those contained in the black lung legislation. In commenting on these regulations

in the Federal Register, Labor stated, "The Department does not agree with the view that the interim standards" (containing the interim presumptions) "cannot as a matter of law be more favorable to claimants than SSA's standards. The Act requires only that the Department's standards be no more restrictive than those applied by SSA." Of the 205 claims approved by Labor, we found that Labor approved 88 of them on the basis of the interim presumptions contained in these regulations.

Our review also showed that the 104 claims approved using presumptions contained either no medical evidence or medical evidence which conflicted with the presumption of black lung or disability or death due to black lung. Although four of the five legislative presumptions and Labor's interim presumptions can be rebutted, we found this rarely occurred. According to Labor officials, the congressional intent of the 1977 amendments was to make more individuals eligible for program benefits and to resolve doubt in favor of the claimants.

Benefits awarded based on  
inadequate medical evidence

Labor approved 55 (27 percent) of the 205 claims on the basis of medical evidence that was inconclusive for establishing disability or death due to black lung. We found these claims contained medical evidence in the files that conflicted with the evidence that was used to determine total disability or death from black lung. According to Labor officials, these claims were approved without trying to



resolve this conflicting medical evidence because the intent of the black lung legislation is to give the benefit of any doubt to the claimant. Based on our discussions with pulmonary and respiratory specialists, black lung can be diagnosed and disability determined with a high degree of accuracy and reliability. In our opinion, conflicting medical evidence can be resolved by the parties who disagree or by third party arbitrators.

Examples of conflicting medical evidence that we found in the files showed that:

- Chest x-ray results differed, that is, one x-ray was interpreted as positive for black lung while another was not.
- The same x-ray was interpreted both positively and negatively for black lung.
- X-rays indicated black lung was present and the file contained some medical evidence that supported a disability determination as well as other medical evidence that did not support such a determination.

With regard to x-ray evidence of pneumoconiosis, the 1977 amendments provide that, where other evidence of pulmonary or respiratory impairments exist, Labor is required--if various conditions are met--to accept the positive reading of the x-ray by the claimant's physician. Labor cannot have other experts re-read these x-rays if the x-rays (1) are of acceptable quality, (2) were taken by a qualified technician,

(3) were initially interpreted by a board certified or board eligible radiologist, and (4) were not fraudulently misrepresented.

Benefits awarded based on affidavits

Seven of the 205 claims approved by Labor, were based on affidavits describing the deceased miner's physical condition. We found that the case files for these claims contained either no other medical evidence of disability or death from black lung or medical evidence that indicated the miner had not been disabled or had not died from black lung. The act requires Labor to consider affidavits as relevant medical evidence in determining the validity of claims. The act also states that where there is no medical or other relevant evidence in the case of a deceased miner, affidavits shall be considered sufficient to establish that the miner was totally disabled from black lung.

Benefits awarded based on medical opinions without adequate collaborating medical evidence

Labor approved 6 of the 205 claims (3 percent) on the basis of a physician's medical opinion. However, we found that the case files contained either (1) no medical evidence of black lung or disability from black lung other than the physician's statement, or (2) medical evidence that conflicted with the medical opinion used to approve the claim.

The law requires Labor to consider all relevant evidence, including evidence submitted by a claimant's physician, in

determining the validity of claims. In our opinion, physicians' statements, in the absence of supporting data, are not adequate medical evidence to establish disability or death due to black lung.

BROADENED DEFINITION OF PNEUMOCONIOSIS

The 1977 amendments also expanded the definition of pneumoconiosis to include its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment. Labor's regulations state that for purposes of this definition a disease arising out of coal mine employment includes any chronic pulmonary disease resulting in respiratory or pulmonary impairment significantly related to, or aggravated by, dust exposure in coal mine employment. We found claimants were awarded benefits for asthma or other respiratory conditions which, according to our medical advisor, may be aggravated but are not usually caused by coal mine employment.

In addition, Labor awarded benefits to miners for respiratory conditions such as asthma and bronchitis which do not usually permanently damage the lungs. Once the miner is removed from the coal mine, the condition could improve or be eliminated.

LABOR'S NEW "718" STANDARDS WILL  
NOT RESOLVE PROBLEMS RELATED TO  
INADEQUATE MEDICAL EVIDENCE

For claims filed after March 30, 1980, Labor applied new standards for determining total disability from black lung. While these new standards will reduce the claims approval

rate, we believe that the previously discussed problems of inadequate medical evidence to establish disability or death from black lung will continue.

The 1977 amendments to the black lung legislation required Labor, in consultation with the National Institute of Occupational Safety and Health, to establish criteria for all appropriate medical tests which accurately reflect total disability in living coal miners. This criteria--contained in regulations (20 CFR 718) which became effective on March 31, 1980--will result in fewer approved claims because it provides more stringent test values for determining disability. In addition, these new regulations automatically revoked Labor's August 1978 regulations that contained more liberal presumptions for determining disability or disease than those contained in the black lung legislation.

We applied these new standards to the claims in our sample and found that the claims approval rate would have decreased by almost 50 percent--from 205 to 111 approvals. While these new regulations (1) establish more stringent standards to be applied in determining whether a miner is totally disabled and (2) specify the procedures and requirements to be followed in conducting medical examinations and in administering medical tests, the provisions in the law which permit the use of presumptions, affidavits, and inconclusive or conflicting medical evidence still exist. In our opinion, Labor would still have approved 88 of the 111 claims using these provisions. The remaining 23 claims in our opinion had adequate medical evidence of disability or death due to black lung.

ASSUMPTIONS AFFECT PROJECTIONS OF  
TRUST FUND FINANCIAL CONDITION

Our review of the computer-based model that Labor is currently using to predict the financial condition of the Black Lung Disability Trust Fund indicates that the model contains a reasonably good set of procedures for estimating the Trust Fund's financial condition. However, without casting any aspersions on the reasonableness of Labor's model, we should point out that good estimating procedures will not necessarily result in an accurate forecast of what will happen in the future.

Labor's model contains a large number of variables--that is, estimates of different conditions that will effect the financial condition of the fund. In our <sup>opinion</sup> review, several of these variables would seem to have a fairly significant impact on the forecast of future financial condition. These would be variables such as the number of miners who will file claims in future years, anticipated coal production, tax rates on coal produced, interest rates on the amounts the fund owes the treasury, and interest rates assessed responsible mine operators, which by the way is only 6 percent. For each variable, Labor assigns a future value based in essence on its judgment of what they think will take place in the future. In addition, over time, Labor has found that additional variables--conditions not earlier considered--should also be factored into their projections. Adding these new variables results in a revision of the model. Thus, the model is dynamic--over time, different values are

given to the variables in the model, and new variables may be added as experience demonstrates the need. Labor's latest Trust Fund model contains estimated values for over 80 different variables.

By assigning different values for only a few of the variables used to project the Fund's financial condition in future years, our analysis indicated that the financial condition could be significantly different than that predicted by Labor. Labor projected in early 1981, for the new Administration's budget proposals, that the Trust Fund would have a deficit of \$2.22 billion in 1983, a deficit of \$4.77 billion in 1995 and a deficit over \$1.71 billion in 2010. As of March 1981, the Fund owed the Treasury about \$1.2 billion.

The following example demonstrates how estimates of the Fund's future financial condition can vary depending on the values assigned to the variables.

--Labor estimated that interest rates on funds borrowed from the Treasury--the Trust Fund owes Treasury the amount borrowed plus interest--would fluctuate between 9.75 percent in 1981 to 6.8 percent in 1987 and then level off to 7.6 percent from 1988 until 2010. Although Labor's estimates appear reasonable, we reestimated the Fund's condition using higher and lower interest rate assumptions.

By assuming future interests rates of 9 percent for the entire period through 2010, which would assume an error of roughly 20 percent in Labor's estimate, the Fund

would have a deficit of \$5.02 billion in 1995 and \$2.46 billion in 2010.

Conversely, if future interest rates are 20 percent lower than the 7.6 percent used by Labor--say roughly 6 percent--the Fund would to have an estimated deficit of \$4.16 billion in 1995 and a surplus of \$.13 billion in 2010.

### CONCLUSIONS

The Federal Coal Mine Health and Safety Act as amended and regulations promulgated by Labor, permitted Labor to (1) use presumptions based on years of coal mine employment to establish disability or death from black lung, (2) approve claims when there was contradictory or inconclusive medical evidence, and (3) accept affidavits to establish disability or death from black lung. However, in a significant number of these cases we believe there was inadequate medical evidence of disability or death from black lung in the claimant's file. Although these files contained evidence that many claimants had medical disorders, including pulmonary and respiratory impairments; the medical evidence to establish disability or death from black lung frequently conflicted with other evidence in the files, or in some cases, was nonexistent. Therefore, we believe there is not enough assurance that black lung benefits are going to miners who are totally disabled from black lung or to their survivors.

In addition, we believe that some claimants are receiving benefits for respiratory and pulmonary impairments that may

be aggravated by, but are not usually caused by, coal mine employment. In fact, some of these impairments may clear up once the miner is removed from the mine environment.

In our opinion, Labor's new standards that apply to claims filed after March 1980 will result in fewer approved claims. However, because these new standards do not address the provisions in the amended legislation for approving benefits the problems that relate to inadequate medical evidence will continue.

No one knows when the Black Lung Disability Trust Fund will have a surplus or when the Fund will start receiving sufficient revenues to begin paying back the funds it borrowed from the Treasury. While the Trust Fund model can predict when these events will occur, these predictions are based on judgments as to what will likely happen in the future. Thus, it is important for the Congress, particularly the Ways and Means Committee of the House, and the Senate Finance Committee, to periodically assess the judgments that are used by Labor in making its projections.

We expect to issue our reports on the matters we have discussed today this fall. This concludes my prepared statement. We will be happy to answer any questions that the Subcommittee has relating to our review of Labor's approval of black lung benefit claims.



CRITERIA FOR ESTABLISHING  
DISABILITY OR DEATH FROM BLACK LUNG

LEGISLATIVE CRITERIA

According to the Federal Coal Mine Health and Safety Act, as amended, for a coal miner or his survivors to be eligible for benefits, the miner must have been totally disabled due to pneumoconiosis or his death must have been due to pneumoconiosis. The Act defines pneumoconiosis as a "chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairment arising out of coal mine employment." According to the Act, "a miner shall be considered totally disabled when pneumoconiosis prevents him or her from engaging in gainful employment requiring the skills and abilities comparable to those of any employment in a mine or mines \* \* \*."

The Act requires that all relevant evidence be considered in determining the validity of claims. This evidence includes X-ray examinations, electrocardiograms, pulmonary function studies, physical performance tests, blood gas studies and any medical history evidence submitted by the claimant's physician or affidavits from a surviving spouse. The black lung legislation also contains numerous provisions, related to findings of disability or death from pneumoconiosis based on years of coal mine employment, that were incorporated in regulations prepared by the Department of Labor.

GAO CRITERIA

We reviewed the case files for the following information which enabled us to conclude whether medical evidence was adequate to establish total disability or death from black lung or whether there was a question relating to medical evidence.

- Medical evidence indicating that the miner had pneumoconiosis: X-rays, autopsies, and biopsies establish the presence of pneumoconiosis. We recognize that X-rays sometimes will not detect simple pneumoconiosis.
- Medical evidence indicating that the miner was disabled, including X-rays indicating complicated pneumoconiosis; autopsy and biopsy reports; lung function studies and exercise blood gas studies; and statements of disability by physicians which indicated medical evidence existed to support disability or death from black lung.
- Medical evidence indicating that the miner died from pneumoconiosis or other respiratory or pulmonary impairment, including death certificates and autopsy reports that listed a respiratory or pulmonary impairment as the primary or secondary cause of death.

EXAMPLES OF CLAIMS APPROVED BY LABOR <sup>1/</sup>Benefits Approved Based on Presumptions

Examples of claims Labor approved based on presumptions while the medical evidence (physical examination or medical test) was inadequate to establish disability or death due to black lung.

--In July 1973, Labor received a claim for black lung benefits from a 53 year old former miner with 20 years proven coal mine employment. In July 1973, a pulmonary function test indicated that the claimant was disabled and an x-ray showed that he did not have pneumoconiosis. In December 1973, a physician who examined the claimant said, "The claimant suffers dyspnea and cough as a consequence of the restrictive ventilatory defect associated with his massive obesity" (5'9", 304 lbs.). The physician also said that he found no definite evidence of parenchymal lung disease. Labor denied the claim in September 1974 citing no evidence of pneumoconiosis. Labor automatically reviewed the claim under the 1977 amendments. The claimant's x-ray showed no evidence of pneumoconiosis and the physician's medical opinion indicated that obesity caused the claimant's problem. Labor in November 1979, approved the claim under its interim presumption of a disease arising out of coal mine employment. The positive pulmonary function test

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<sup>1/</sup>Labor's approval of these claims was not contrary to the law; however the approval was based either on provisions in the amended black lung legislation or on interim standards contained in Labor regulations.

established the presence of a disability. The miner received a retroactive lump sum payment of \$21,906 and monthly benefit payments of \$381.

--In November 1978, Labor received a claim for black lung benefits from a 71 year old former miner with 10 years proven coal mine employment. In May 1979, a physician examined the claimant and the claimant had a positive x-ray for simple pneumoconiosis, a negative pulmonary function test and a negative blood gas test for disability. A B-reader re-read the x-ray for quality and found no evidence of pneumoconiosis. The physician stated that the claimant showed "symptoms of chronic bronchitis of a mild nature but no objective pulmonary impairment." While all the medical tests showed the claimant was not disabled, Labor approved the claim on April 7, 1980, citing the positive x-ray and its interim presumption of disability arising out of coal mine employment. The miner received a retroactive lump sum payment of \$6,114 and a monthly benefit payment of \$381.

--In February 1977, a 54-year-old former miner with 10 years proven coal mine employment submitted a claim to Labor for black lung benefits. An April 1977 physician's examination concluded that the claimant had advanced general arteriosclerosis that made him unfit for physical work. The physician also stated that the claimant had a mild degree of coal miner's pneumoconiosis that was not

disabling. In April 1977, an x-ray showed simple pneumoconiosis and a pulmonary function test indicated no disability. However, a B-reader later re-read this x-ray as negative for pneumoconiosis. On November 15, 1977, the claimant died from cancer. Labor denied the claim on January 24, 1978, because the evidence failed to show the miner was disabled due to black lung. On January 4, 1978, the claimant's widow filed and her claim was reviewed under the 1977 amendments. In June 1979, Labor approved the widow's claim using the 10 years presumption of death due to coal worker's pneumoconiosis, the positive x-ray, and the physician's diagnosis of pneumoconiosis. The widow received a retroactive lump sum payment of \$8,045 and a monthly benefit payment of \$232.

--A 61-year-old miner filed with Labor for benefits in October 1978. He reported 42 years coal mine employment. During 1979, the claimant took a pulmonary function test and a blood gas test--both with negative results. An April 1979 x-ray was interpreted as positive for pneumoconiosis but re-read by a B-reader (for quality) as negative in May 1979. In May 1979, a physician examined the miner and diagnosed a mild to moderate chronic obstructive pulmonary disease and pneumoconiosis. In August 1979, another x-ray was taken and interpreted as negative and another physical examination indicated

the claimant was "neither partially nor totally disabled from coal workers pneumoconiosis. While all medical tests for disability proved negative, Labor approved the claim in June 1979, based on the interim presumption of disability related to years of coal mine employment, the positive x-ray interpretation, and the physician's diagnosis. The miner received a retroactive lump-sum payment of \$4,854 and a monthly benefit payment of \$381.

--In October 1973, Labor received a claim for black lung benefits from a 69-year-old former miner with 24 years established coal mine employment. An October 1973 pulmonary function test indicated that the claimant was disabled. In January 1975, a 1973 x-ray was interpreted as negative for pneumoconiosis. In November 1976 additional tests were conducted that resulted in a positive pulmonary function test, a negative blood gas test, a negative x-ray interpretation for pneumoconiosis, and the physicians' comments that the "claimant is disabled but not on respiratory basis." In December 1979, Labor approved the claim based on the interim presumption of disease related to the years of coal mine employment and the positive pulmonary function studies. The miner received a retroactive lump sum payment of \$21,906 and a monthly payment of \$381.

Benefits Approved Based on  
Conflicting Medical Evidence

Examples of claims Labor approved based on conflicting medical evidence.

--A 58 year old former miner with 10 year proven coal mine employment filed for black lung benefits with SSA in March 1972 and Labor in April 1977. Based on SSA's review of a September 1970 x-ray (negative), a March 1971 x-ray (negative), and a September 1972 pulmonary function test (no disability), SSA denied the claim in May 1973 citing the lack of medical evidence of disability due to black lung.

Based on Labor's review of the above evidence and the following:

- (1) a June 1973 X-ray (negative and reread as negative), a November 1976 X-ray (positive and reread as negative), a July 1977 X-ray (negative);
- (2) a June 1973 pulmonary function test (disabled), a November 1974 pulmonary function test (no disability), a July 1977 pulmonary function test (no disability), July 1979 pulmonary function and blood gas tests (no disability);  
and
- (3) a June 1973 physical examination (chronic bronchitis, emphysema, and disabled),  
an October 1976 physical examination (totally

disabled due to moderately severe black lung) a July 1977 physical examination (no black lung disability) and a December 1978 physical examination (diabetes, mellitus, coronary heart disease, arthritis, and myocardial infraction).

Labor denied the claim in January 1978 and June 1979 citing a lack of medical evidence of disability due to black lung.

In September 1980, Labor rereviewed and approved the claim citing the medical tests and physical examinations that indicated the miner was disabled due to black lung. The miner received a retroactive lump sum payment of \$25,716 and monthly benefit payments of \$381.

--In June 1976, a 60-year-old miner with 11 years of coal mine employment applied for black lung benefits with Labor. The miner was given a physical examination in October 1976 that included a pulmonary function test that indicated the miner was not disabled and an x-ray that showed the miner had simple pneumoconiosis. The physician diagnosed the miner as having early simple pneumoconiosis but stated he did not consider him having any disability. Labor initially denied the claim in June 1977 citing no evidence of disability.

The miner's claim was re-reviewed under the 1977 amendments. A blood gas test given in March 1979 to the claimant indicated



that he was disabled, however, another blood gas test given in May 1979 indicated the miner was not disabled. Labor approved the claim in June 1979 citing the positive chest x-ray as evidence of pneumoconiosis, the March 1979 blood gas test as evidence of disability, and the miner's 11 years of coal mine employment as the cause of his condition. The claimant received \$11,619 in retroactive lump-sum benefits and a monthly benefit of \$348.

--In June 1978, a 70-year-old former miner with 10 years established coal mine employment applied to Labor for black lung benefits. In February 1979 the claimant took a pulmonary function test that indicated the claimant was disabled and a blood gas test that indicated the claimant was not disabled. The X-ray taken during the same month was interpreted as positive for pneumoconiosis and re-read by a B-reader in March 1979 as negative. A physician examined the claimant in February 1979 and diagnosed pulmonary fibrosis and chronic bronchitis due to coal mine employment. Labor denied the claim in June 1979 citing a lack of disability and causality, but approved the claim 1 month later stating that disability, disease and causality had been established. The miner received a retroactive lump-sum payment of \$4,799 and monthly benefit payment of \$348.

Benefits Approved Based on Medical  
Opinions Without Adequate Collaborating  
Medical Evidence

Example of claims approved by Labor based on medical opinions.

--In February 1974, Labor received an application for black lung benefits from a 76-year-old former coal miner with 11 years proven coal mine employment. In January 1975 a physician concluded from a physical examination that the claimant had slight pneumoconiosis with no impairment. The claimant's X-ray was negative for pneumoconiosis and his pulmonary function study indicated no disability. Labor initially denied the claim in April 1975 citing no evidence of pneumoconiosis or disability. The miner appealed the decision and had another physician examine him in late April 1975. This physician stated that the claimant had chronic bronchitis and was impaired. The claimant's X-ray and pulmonary function test again indicated no pneumoconiosis or disability. Labor denied the claim a second time in September 1976 citing no evidence of pneumoconiosis or disability. The miner died on December 30, 1978, and his death certificate listed the cause of death as an intracranial hemorrhage brought about by a brain tumor.

In January 1980, the decedent's widow filed a survivor claim with Labor under the 1977 amendments. Information

in the file dated March 1980, stated "the treating physician reported an X-ray [taken in 1972, but not in the file] showing minimum interstitial fibrosis, but no treatment for chronic obstructive pulmonary disease. Labor approved the claim in April 1980 citing "the weight of the evidence establish the presence of a disabling respiratory condition." The widow received a retroactive lump sum payment of \$18,548 and a monthly benefit payment of \$254.

--In July 1973, Labor received a claim for black lung benefits from a 73-year old former miner. The miner had 5-years coal mine employment established by a co-worker's affidavit. In July 1973, the claimant was given a pulmonary function test which indicated he was not disabled. A chest X-ray, in December 1973, showed that the claimant had simple pneumoconiosis. A physician examined this miner in 1974 and stated that he had chronic bronchitis and pneumoconiosis due to his coal mine employment. The physician also said the miner was moderately impaired. A blood gas test in April 1975 indicated that the miner was not disabled. Labor initially denied the claim in December 1975 citing no evidence of total disability. Labor reviewed the claim under the 1977 amendments and in May 1979 awarded the miner \$19,404 in retroactive lump-sum benefits and a monthly benefit payment of \$348.

Labor approved the claim citing the positive X-ray as evidence of black lung and the physical examination as evidence of disability due to coal mine employment.

Benefits Approved Based on Affidavits

An example of a claim approved by Labor based on affidavits.

--In June 1973, a 57-year-old former miner with 11 years of coal mine employment filed with SSA for black lung benefits. In August 1973, a pulmonary function study indicated no disability and an X-ray showed no evidence of pneumoconiosis. SSA denied the claim (date unavailable) because the claimant lacked evidence of disability due to black lung. The claimant died on September 28, 1977. The death certificate listed his cause of death as myocardial infarction due to arterio sclerotic cardiovascular heart disease. SSA rereviewed the miner's claim under the 1977 amendments and again denied the claim in February 1979 citing a lack of medical evidence.

Labor also re-reviewed the miner's claim under the 1977 amendments and denied the claim in June 1980 citing no evidence of disease or disability.

In the meantime, the claimant's widow had filed a survivor claim with Labor in October 1977. The widow submitted an affidavit from herself, the

decedent's brother-in-law, and a friend stating that the miner was asthmatic, had anthrosilicosis and was disabled. On June 2, 1980, (the same day Labor denied the living miner claim) Labor approved the survivor claim on the basis of the affidavits. The widow received a retroactive lump-sum payment of \$7,660 and a monthly benefit payment of \$254.

#### Benefits Approved Based on Sufficient

##### Medical Evidence

Examples of claims approved by Labor on the basis of sufficient medical evidence.

--A 76-year-old former miner with 16 years coal mine employment filed for black lung benefits with Labor in February 1978. The claimant submitted the findings of a blood gas test and physical examination given in October 1977. The blood gas test showed the miner was disabled and the doctor diagnosed the claimant as having chronic obstructive lung disease and being totally disabled. An October 1978 blood gas test again showed the claimant was disabled and a chest x-ray given at the same time indicated the miner had simple pneumoconiosis. In September 1978 Labor awarded the claimant \$3,077 in retroactive lump-sum benefits and a monthly benefits of \$439. The claim was approved on the basis of the medical evidence and the physicians diagnosis which indicated the miner was disabled due

to simple pneumoconiosis caused by his coal mine employment.

--During January 1976, a 57 year old miner with over 20 years proven coal mine employment applied to Labor for black lung benefits. During August 1973, the claimant had an X-ray interpreted as positive and a blood gas test indicating disability. In February 1976, the August 1973 X-ray was re-read by a B-reader as positive and a pulmonary function test indicated disability. Based on a February 1976 physical examination, a physician diagnosed disability from coal worker's pneumoconiosis that was caused by the claimant's coal mine employment. In July 1979, Labor approved the claim, because the file contained evidence that the miner had the disease and was disabled. The claimant received \$7,955 in a lump-sum payment and \$245 in monthly benefit payments.

--In March 1961, a former miner died of arteriosclerosis. The miner's widow filed for black lung benefits with Labor in July 1979. An autopsy showed that the miner had severe multiple sclerosis, black mottling of the lungs, interstitial fibrosis, and emphysema. Labor approved the widow's claim in March 1980 citing the autopsy findings of interstitial fibrosis and black mottling of the lungs which our medical advisor

believed was evidence of pneumoconiosis. The miner's widow received \$15,366 in retroactive lump-sum benefits and a monthly benefit of \$254.