



Highlights of [GAO-10-7](#), a report to the Chairman, Subcommittee on Health Care, Committee on Finance, U.S. Senate

Why GAO Did This Study

The Department of Labor (DOL) Black Lung Benefits Program provides medical and income assistance to coal miners who suffer total disability or death due to lung disease caused by coal dust. To provide insight into DOL's administration of the Black Lung Benefits Program, GAO is reporting on (1) how long it takes to process and resolve black lung benefits claims; (2) at what rate and for what reasons black lung claims and appeals are denied by DOL; and (3) what barriers, if any, confront miners or their survivors in pursuing their claims. GAO collected and analyzed black lung claims and appeals data and interviewed officials at relevant federal agencies, national organizations, and selected local organizations at two sites.

What GAO Recommends

GAO recommends that DOL implement several administrative changes, including creating a measure to improve the agency's ability to track performance and improving the DOL form used to document claimant medical evaluations. GAO also recommends that DOL evaluate the potential for proposing, to Congress, several structural changes to the program, including strategies for increasing claimant representation and improving requirements for documenting evidence. DOL agreed with most of the recommendations and will begin to evaluate potential structural changes, but disagreed that DOL should track performance through the claims and appeals process.

[View GAO-10-7 or key components.](#)
For more information, contact Andrew Sherrill at (202) 512-7215 or sherrilla@gao.gov.

BLACK LUNG BENEFITS PROGRAM

Administrative and Structural Changes Could Improve Miners' Ability to Pursue Claims

What GAO Found

In fiscal year 2008, DOL issued decisions on claims in less than 1 year on average at each stage of adjudication, yet according to officials and experts, the appeals and remands (claims sent back to the prior stage of review for further consideration or development) that follow decisions can keep claims in the system for years. Although DOL does not track how long all claims remain in the claims and appeals process, we examined 763 miner claims filed between 2001 and 2008 that were ultimately awarded benefits by mine companies. We found that mine companies agreed to pay benefits for about 73 percent of these claims within 3 years from the date of the initial claim, roughly 24 percent of claims in 3 to 6 years, and the remaining 4 percent in 6 to 8 years. The program also contains financial incentives for both miners and mining companies to keep claims in the appeals process. For example, some miners may extend the appeals process to maintain their payment of interim benefits. Factors that add additional time to the appeals process also include allowing time for claimants to find legal representation and waiting until there are sufficient cases in rural areas before sending a judge to hold a hearing.

In 2008, most claims (87 percent) were initially denied. Few claimants are able to prove they meet all of the program's eligibility requirements, and for certain cases, required conditions are difficult to prove. For example, some miners—those with a history of smoking—develop lung disease associated with long-term exposure to coal mine dust but which frequently cannot be detected by X-ray. Though current science does not allow a medical distinction between lung disease caused by smoking and by coal mine dust, regulations require that claimants establish that their lung disease is significantly related to or substantially aggravated by coal dust. In such cases, judges told us they rely heavily on nonclinical evidence, such as physician credentials, length of depositions, and level of sophistication of evidence presented by claimants and mine operators to determine claimant eligibility. According to some DOL administrative law judges, mining company doctors are usually better credentialed and produce lengthier and more sophisticated medical reports and evaluations.

GAO found that coal miners face a number of challenges pursuing federal black lung claims, including finding legal representation and developing sound medical evidence to support their claims. DOL officials identified miners' lack of resources, the low probability of success, and high litigation costs for their cases as factors that contribute to the difficulties miners face in finding legal representatives. Miners also encounter challenges in developing sound medical evidence. DOL administrative law judges said medical evidence prepared by DOL-approved doctors for claimants does not always provide sound or thorough evidentiary support for their claims. Further, various practices of medical testing, a key measure of black lung-related disability, may contribute to inaccurate disability test readings.