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30 United States Code

§ 923. Filing of notice of claim

- (a) Promulgation of regulations; time requirement

Except as otherwise provided in section [924](#) of this title, no payment of benefits shall be made under this part except pursuant to a claim filed therefor on or before December 31, 1973, in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe.

- (b) Utilization of personnel and procedures; evidence required to establish claim; medical evidence; affidavits; autopsy reports; reimbursement of expenses

In carrying out the provisions of this part, the Secretary shall to the maximum extent feasible (and consistent with the provisions of this part) utilize the personnel and procedures he uses in determining entitlement to disability insurance benefit payments under section 223 of the Social Security Act (42 U.S.C. 423), but no claim for benefits under this part shall be denied solely on the basis of the results of a chest roentgenogram. In determining the validity of claims under this part, all relevant evidence shall be considered, including, where relevant, medical tests such as blood gas studies, X-ray examination, electrocardiogram, pulmonary function studies, or physical performance tests, and any medical history, evidence submitted by the claimant's physician, or his wife's affidavits, and in the case of a deceased miner, other appropriate affidavits of persons with knowledge of the miner's physical condition, and other supportive materials. Where there is no medical or other relevant evidence in the case of a deceased miner, such affidavits, from persons not eligible for benefits in such case with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981, shall be considered to be sufficient to establish that the miner was totally disabled due to pneumoconiosis or that his or her death was due to pneumoconiosis. In any case, other than that involving a claim filed on or after the effective date of the Black Lung Benefits Amendments of 1981, in which there is other evidence that a miner has a pulmonary or respiratory impairment, the Secretary shall accept a board certified or board eligible radiologist's interpretation of a chest roentgenogram which is of a quality sufficient to demonstrate the presence of pneumoconiosis submitted in support of a claim for benefits under this subchapter if such roentgenogram has been taken by a radiologist or qualified technician, except where the Secretary has reason to believe that the claim has been fraudulently represented. In order to insure that any such roentgenogram is of adequate quality to demonstrate the presence of pneumoconiosis, and in order to provide for uniform quality in the roentgenograms, the Secretary of Labor may, by regulation, establish specific requirements for the techniques used to take roentgenograms of the chest. Unless the Secretary has good cause to believe that an autopsy report is not accurate, or that the condition of the miner is being fraudulently misrepresented, the Secretary shall accept such autopsy report concerning the presence of pneumoconiosis and the stage of advancement of pneumoconiosis. Claimants under this part shall be reimbursed for reasonable medical expenses incurred by them in establishing their claims. For purposes of determining total disability under this part, the provisions of subsections (a), (b), (c), (d), and (g) of section 221 of such Act (42 U.S.C. 421(a) to (d), (g)) shall be applicable. The provisions of sections 204, 205(a), (b), (d), (e),

- (g), (h), (j), (k), (l), and (n), 206, 207, and 208 of the Social Security Act (42 U.S.C. 404, 405(a), (b), (d), (e), (g), (h), (j),
- (k), (l), and (n), 406, 407, 408) shall be applicable under this part with respect to a miner, widow, child, parent, brother, sister, or dependent, as if benefits under this part were benefits under title II of such Act (42 U.S.C. 401 et seq.). Each miner who files a claim for benefits under this subchapter shall upon request be provided an opportunity to substantiate his or her claim by means of a complete pulmonary evaluation.
- (c) Filing of claim for workmen's compensation; necessity; exceptions

No claim for benefits under this section shall be considered unless the claimant has also filed a claim under the applicable State workmen's compensation law prior to or at the same time his claim was filed for benefits under this section; except that the foregoing provisions of this paragraph shall not apply in any case in which the filing of a claim under such law would clearly be futile because the period within which such a claim may be filed thereunder has expired or because pneumoconiosis is not compensable under such law, or in any other situation in which, in the opinion of the Secretary, the filing of a claim would clearly be futile.

- (d) Employment termination and benefits entitlement

No miner who is engaged in coal mine employment shall (except as provided in section [921](#)(c)(3) of this title) be entitled to any benefits under this part while so employed. Any miner who has been determined to be eligible for benefits pursuant to a claim filed while such miner was engaged in coal mine employment shall be entitled to such benefits if his or her employment terminates within one year after the date such determination becomes final.

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