

BLBA: 20 CFR § 725.405 Development of medical evidence; scheduling of medical examinations and tests.

(a) Upon receipt of a claim, the district director shall ascertain whether the claim was filed by or on account of a miner as defined in §725.202, and in the case of a claim filed on account of a deceased miner, whether the claim was filed by an eligible survivor of such miner as defined in subpart B of this part.

(b) In the case of a claim filed by or on behalf of a miner, the district director shall, where necessary, schedule the miner for a medical examination and testing under §725.406.

(c) In the case of a claim filed by or on behalf of a survivor of a miner, the district director shall obtain whatever medical evidence is necessary and available for the development and evaluation of the claim.

(d) The district director shall, where appropriate, collect other evidence necessary to establish:

(1) The nature and duration of the miner's employment; and

(2) All other matters relevant to the determination of the claim.

(e) If at any time during the processing of the claim by the district director, the evidence establishes that the claimant is not entitled to benefits under the Act, the district director may terminate evidentiary development of the claim and proceed as appropriate.

BLBA: 20 CFR § 725.406 Medical examinations and tests.

(a) The Act requires the Department to provide each miner who applies for benefits with the opportunity to undergo a complete pulmonary evaluation at no expense to the miner. A complete pulmonary evaluation includes a report of physical examination, a pulmonary function study, a chest roentgenogram and, unless medically contraindicated, a blood gas study.

(b) As soon as possible after a miner files an application for benefits, the district director will provide the miner with a list of medical facilities and physicians in the state of the miner's residence and states contiguous to the state of the miner's residence that the Office has authorized to perform complete pulmonary evaluations. The miner shall select one of the facilities or physicians on the list, *provided* that the miner may not select any physician to whom the miner or the miner's spouse is related to the fourth degree of consanguinity, and the miner may not select any physician who has examined or provided medical treatment to the miner within the twelve months preceding the date of the miner's application. The district director will make arrangements for the miner to be given a complete pulmonary evaluation by that facility or physician. The results of the complete pulmonary evaluation shall not be counted as evidence submitted by the miner under §725.414.

(c) If any medical examination or test conducted under paragraph (a) of this section is not administered or reported in substantial compliance with the provisions of part 718 of this

subchapter, or does not provide sufficient information to allow the district director to decide whether the miner is eligible for benefits, the district director shall schedule the miner for further examination and testing. Where the deficiencies in the report are the result of a lack of effort on the part of the miner, the miner will be afforded one additional opportunity to produce a satisfactory result. In order to determine whether any medical examination or test was administered and reported in substantial compliance with the provisions of part 718 of this subchapter, the district director may have any component of such examination or test reviewed by a physician selected by the district director.

(d) After the physician completes the report authorized by paragraph (a), the district director will inform the miner that he may elect to have the results of the objective testing sent to his treating physician for use in preparing a medical opinion. The district director will also inform the claimant that any medical opinion submitted by his treating physician will count as one of the two medical opinions that the miner may submit under §725.414 of this part.

(e) The cost of any medical examination or test authorized under this section, including the cost of travel to and from the examination, shall be paid by the fund. No reimbursement for overnight accommodations shall be authorized unless the district director determines that an adequate testing facility is unavailable within one day's round trip travel by automobile from the miner's residence. The fund shall be reimbursed for such payments by an operator, if any, found liable for the payment of benefits to the claimant. If an operator fails to repay such expenses, with interest, upon request of the Office, the entire amount may be collected in an action brought under section 424 of the Act and §725.603 of this part.

BLBA: 20 CFR § 725.701 - Availability of medical benefits.

(a) A miner who is determined to be eligible for benefits under this part or part 727 of this subchapter (see § 725.4(d)) is entitled to medical benefits as set forth in this subpart as of the date of his or her claim, but in no event before January 1, 1974. No medical benefits shall be provided to the survivor or dependent of a miner under this part.

(b) A responsible operator, other employer, or where there is neither, the fund, shall furnish a miner entitled to benefits under this part with such medical, surgical, and other attendance and treatment, nursing and hospital services, medicine and apparatus, and any other medical service or supply, for such periods as the nature of the miner's pneumoconiosis and disability requires.

(c) The medical benefits referred to in paragraphs (a) and (b) of this section shall include palliative measures useful only to prevent pain or discomfort associated with the miner's pneumoconiosis or attendant disability.

(d) The costs recoverable under this subpart shall include the reasonable cost of travel necessary for medical treatment (to be determined in accordance with prevailing United States government mileage rates) and the reasonable documented cost to the miner or medical provider incurred in communicating with the employer, carrier, or district director on matters connected with medical benefits.

(e) If a miner receives a medical service or supply, as described in this section, for any pulmonary disorder, there shall be a rebuttable presumption that the disorder is caused or aggravated by the miner's pneumoconiosis. The party liable for the payment of benefits may rebut the presumption by producing credible evidence that the medical service or supply provided was for a pulmonary disorder apart from those previously associated with the miner's disability, or was beyond that necessary to effectively treat a covered disorder, or was not for a pulmonary disorder at all.

(f) Evidence that the miner does not have pneumoconiosis or is not totally disabled by pneumoconiosis arising out of coal mine employment is insufficient to defeat a request for coverage of any medical service or supply under this subpart. In determining whether the treatment is compensable, the opinion of the miner's treating physician may be entitled to controlling weight pursuant to § 718.104(d). A finding that a medical service or supply is not covered under this subpart shall not otherwise affect the miner's entitlement to benefits.

BLBA: 20 CFR § 725.704 Notification of right to medical benefits; authorization of treatment.

(a) Upon notification to a miner of such miner's entitlement to benefits, the Office shall provide the miner with a list of authorized treating physicians and medical facilities in the area of the miner's residence. The miner may select a physician from this list or may select another physician with approval of the Office. Where emergency services are necessary and appropriate, authorization by the Office shall not be required.

(b) The Office may, on its own initiative, or at the request of a responsible operator, order a change of physicians or facilities, but only where it has been determined that the change is desirable or necessary in the best interest of the miner. The miner may change physicians or facilities subject to the approval of the Office.

(c) If adequate treatment cannot be obtained in the area of the claimant's residence, the Office may authorize the use of physicians or medical facilities outside such area as well as reimbursement for travel expenses and overnight accommodations.