



# U.S. Department of Labor

## Office of Administrative Law Judges



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## 30 United States Code

### § 902. Definitions

For purposes of this subchapter -

- \* (a) The term 'dependent' means -
  - \* (1) a child as defined in subsection (g) of this section without regard to subparagraph (2)(B)(ii) thereof; or
  - \* (2) a wife who is a member of the same household as the miner, or is receiving regular contributions from the miner for her support, or whose husband is a miner who has been ordered by a court to contribute to her support, or who meets the requirements of section 416(b)(1) or (2) of title 42. The determination of an individual's status as the 'wife' of a miner shall be made in accordance with section 416(h)(1) of title 42 as if such miner were the 'insured individual' referred to therein. The term 'wife' also includes a 'divorced wife' as defined in section 416(d)(1) of title 42 who is receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to her support from such miner.
- \* (b) The term 'pneumoconiosis' means a chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment.
- \* (c) The term 'Secretary' where used in part B means the Secretary of Health and Human Services, and where used in part C means the Secretary of Labor.
- \* (d) The term 'miner' means any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal. Such term also includes an individual who works or has worked in coal mine construction or transportation in or around a coal mine, to the extent such individual was exposed to coal dust as a result of such employment.
- \* (e) The term 'widow' includes the wife living with or dependent for support on the miner at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of section 416(c)(1), (2), (3), (4), or (5), and section 416(k) of title 42, who is not married. The determination of an individual's status as the 'widow' of a miner shall be made in accordance with section 416(h)(1) of title 42 as if such miner were the 'insured individual' referred to therein. Such term also includes a 'surviving divorced wife' as defined in section 416(d)(2) of title 42 who for the month preceding the month in which the miner died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contributions to her support from the miner at the time of his death.
- \* (f)(1) The term 'total disability' has the meaning given it by regulations of the Secretary of Health and Human Services for claims under part B of this subchapter, and by regulations of the Secretary of Labor for claims under part C of this subchapter, subject to the relevant provisions of subsections (b) and (d) of section [923](#) of this title, except that -
  - \* (A) in the case of a living miner, such regulations shall provide that 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 in which he or she previously engaged with some regularity and over a substantial period of time;
  - \* (B) such regulations shall provide that (i) a deceased miner's employment in a mine at the time of death shall not be used as conclusive evidence that the miner was not totally disabled; and
  - \* (ii) in the case of a living miner, if there are changed circumstances of employment indicative of reduced ability to perform his or her usual coal mine work, such miner's employment in a mine shall not be used as conclusive evidence that the miner is not totally disabled;
  - \* (C) such regulations shall not provide more restrictive criteria than those applicable under section 423(d) of title 42; and

\* (D) the Secretary of Labor, in consultation with the Director of the National Institute for Occupational Safety and Health, shall establish criteria for all appropriate medical tests under this subsection which accurately reflect total disability in coal miners as defined in subparagraph (A).

\* (2) Criteria applied by the Secretary of Labor in the case of -

\* (A) any claim which is subject to review by the Secretary of Health and Human Services, or subject to a determination by the Secretary of Labor, under section 945(a) of this title;

\* (B) any claim which is subject to review by the Secretary of Labor under section 945(b) of this title; and

\* (C) any claim filed on or before the effective date of regulations promulgated under this subsection by the Secretary of Labor; shall not be more restrictive than the criteria applicable to a claim filed on June 30, 1973, whether or not the final disposition of any such claim occurs after the date of such promulgation of regulations by the Secretary of Labor.

\* (g) The term 'child' means a child or a step-child who is -

\* (1) unmarried; and

\* (2)(A) under eighteen years of age, or

\* (B)(i) under a disability as defined in section 423(d) of title 42,

\* (ii) which began before the age specified in section 402(d)(1)(B)(ii) of title 42, or, in the case of a student, before he ceased to be a student; or

\* (C) a student. The term 'student' means a 'full-time student' as defined in section 402(d)(7) of title 42, or a 'student' as defined in section 8101(17) of title 5. The determination of an individual's status as the 'child' of the miner or widow, as the case may be, shall be made in accordance with section 416(h)(2) or (3) of title 42 as if such miner or widow were the 'insured individual' referred to therein.

\* (h) The term 'fund' means the Black Lung Disability Trust Fund established by section 9501 of title 26.

\* (i) For the purposes of subsections (c) and (j) of section 932 of this title, and for the purposes of paragraph (7) of subsection (d) of section 9501 of title 26, the term 'claim denied' means a claim -

\* (1) denied by the Social Security Administration; or

\* (2) in which (A) the claimant was notified by the Department of Labor of an administrative or informal denial more than 1 year prior to March 1, 1978, and did not, within 1 year from the date of notification of such denial, request a hearing, present additional evidence or indicate an intention to present additional evidence, or (B) the claim was denied under the law in effect prior to March 1, 1978, following a formal hearing or administrative or judicial review proceeding.

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