this subchapter, other benefits received by individuals who receive benefits under this subchapter, and benefits which would be received were State workers' compensation programs applicable in lieu of benefits under this subchapter, with study, together with appropriate recommendations, to be transmitted to Congress no later than eighteen months after Jan. 1, 1982.

§ 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'', except where expressly otherwise provided, 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),[1] 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, which were in effect on November 2, 2002, 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 arising under part B of this subchapter or subject to a determination by the Secretary of Labor under section 945(a)[1] of this title;

(B) any claim which is subject to review by the Secretary of Labor under section 945(b)[1] 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 stepchild 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.

[1] See References in Text note below.

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) for benefits under part B of this subchapter that was denied by the official responsible for administration of such part; 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.

(Pub. L. 91–173, title IV, §402, Dec. 30, 1969, 83 Stat. 792; Pub. L. 92–303, §§1(c)(2)–(4), 3(b), 4(a), May 19, 1972, 86 Stat. 151–153; Pub. L. 95–239, §2, Mar. 1, 1978, 92 Stat. 95; Pub. L. 96–88, title V, §509(b), Oct. 17, 1979, 93 Stat. 695; Pub. L. 97–119, title I, §104(b)(1), title II, §205(b), Dec. 29, 1981, 95 Stat. 1639, 1645; Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 103–296, title I, §108(i)(1), Aug. 15, 1994, 108 Stat. 1488; Pub. L. 107–275, §2(b)(1), Nov. 2, 2002, 116 Stat. 1925.)

REFERENCES IN TEXT

Section 416(c)(1), (2), (3), (4), or (5) of title 42, referred to in subsec. (e), was redesignated section 416(c)(1)(A), (B), (C), (D), and (E) by Pub. L. 108–203, title IV, §414(a)(2), (4), Mar. 2, 2004, 118 Stat. 529.

Section 945 of this title, referred to in subsec. (f)(2)(A), (B), was repealed by Pub. L. 107–275, §2(c)(1), Nov. 2, 2002, 116 Stat. 1926.

AMENDMENTS

2002—Subsec. (c). Pub. L. 107–275, §2(b)(1)(A), substituted '', except where expressly otherwise provided,'' for ''where used in part C''.

Subsec. (f)(1). Pub. L. 107–275, §2(b)(1)(B), inserted '', which were in effect on November 2, 2002,'' after ''Secretary of Health and Human Services''.

Subsec. (f)(2)(A). Pub. L. 107–275, §2(b)(1)(C)(ii), struck out comma after ''Secretary of Labor''.

Pub. L. 107–275, §2(b)(1)(C)(i), substituted ''arising under part B of this subchapter'' for ''which is subject to review by the Secretary of Health and Human Services,''.

Subsec. (i)(1). Pub. L. 107–275, §2(b)(1)(D), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''denied by the Social Security Administration; or''.

1994—Subsec. (c). Pub. L. 103–296 substituted ''where used in part C means the Secretary of Labor'' for ''where used in part B means the Secretary of Health, Education, and Welfare, and where used in part C means the Secretary of Labor''.

1986—Subsecs. (h), (i). Pub. L. 99–514 substituted ''Internal Revenue Code of 1986'' for ''Internal Revenue Code of 1954'', which for purposes of codification was translated as ''title 26'' thus requiring no change in text.

1981—Subsec. (h). Pub. L. 97–119, §104(b)(1), substituted ''by section 9501 of title 26'' for ''in section 934a(a)(1) of this title''.

Subsec. (i). Pub. L. 97–119, §205(b), added subsec. (i).

1978—Subsec. (b). Pub. L. 95–239, §2(a), substituted ''a chronic dust disease of the lung and its sequelae, including respiratory and pulmonary impairments, arising out of coal mine employment'' for ''a chronic dust disease of the lung arising out of employment in a coal mine''.

Subsec. (d). Pub. L. 95–239, §2(b), substituted ''any individual who works or has worked in or around a coal mine or coal preparation facility in the extraction or preparation of coal'' for ''any individual who is or was employed in a coal mine'' and inserted provisions that extended to definition of the term ''miner'' so as to include also an individual who works or has worked in coal mine construction or transportation in or around a coal mine, to the extent that such individual was exposed to coal dust as a result of such employment.

Subsec. (f). Pub. L. 95–239, §2(c), designated existing provisions as pars. (1)(A) and (1)(C), inserted references in the provisions preceding par. (1)(A) to regulations promulgated by the Secretary of Labor for claims under part C of this subchapter and to the relevant provisions of subsecs. (b) and (d) of section 923 of this title, and added pars. (1)(B), (1)(D), and (2).

Subsec. (h). Pub. L. 95–239, §2(d), added subsec. (h).

1972—Subsec. (a). Pub. L. 92–303, §1(c)(2), expanded definition of ''dependent'' to include children and wife without reference to section 8110 of title 5.

Subsecs. (b), (d). Pub. L. 92–303, §3(b), substituted ''a coal mine'' for ''an underground coal mine''.

Subsec. (e). Pub. L. 92–303, §1(c)(3), expanded definition of ''widow'' by reference to title 42 and provided procedure for the determination of the status.

Subsec. (f). Pub. L. 92–303, §4(a), expanded definition of ''total disability'' to include a miner prevented from engaging in gainful employment by pneumoconiosis.

Subsec. (g). Pub. L. 92–303, §1(c)(4), added subsec. (g).

CHANGE OF NAME

''Secretary of Health and Human Services'' substituted for ''Secretary of Health, Education, and Welfare'' in subsec. (f) pursuant to section 509(b) of Pub. L. 96–88 which is classified to section 3508(b) of Title 20, Education.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107–275, §4, Nov. 2, 2002, 116 Stat. 1928, provided that: ''This Act [amending this section and sections 921 to 924, 925, 932a, and 936 of this title, repealing sections 904, 924a, and 945 of this title, and enacting provisions set out as notes under sections 801 and 921 of this title], and the amendments made by this Act, shall take effect 90 days after the date of enactment of this Act [Nov. 2, 2002].''

EFFECTIVE DATE OF 1994 AMENDMENT

Amendment by Pub. L. 103–296 effective Mar. 31, 1995, see section 110(a) of Pub. L. 103–296, set out as a note under section 401 of Title 42, The Public Health and Welfare.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 205(b) of Pub. L. 97–119 effective Jan. 1, 1982, except as otherwise provided, see section 206(a) of Pub. L. 97–119, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95–239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 3(b) of Pub. L. 92–303 effective Dec. 30, 1969, see section 3(c) of Pub. L. 92–303, set out as a note under section 901 of this title.

Amendment by section 4(a) of Pub. L. 92–303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92–303, set out as a note under section 921 of this title.

§ 903. Field offices

(a) The Secretary of Labor shall establish and operate such field offices as may be necessary to assist miners and survivors of miners in the filing and processing of claims under this subchapter. Such field offices shall, to the extent feasible, be reasonably accessible to such miners and survivors. The Secretary, in connection with the establishment and operation of field offices, may enter into arrangements with other Federal departments and agencies, and with State agencies, for the use of existing facilities operated by such departments and agencies. Where the establishment of separate facilities is not feasible the Secretary may enter into such arrangements as he deems necessary with the heads of Federal departments, agencies, and instrumentalities and with State agencies for the use of existing facilities and personnel under their control.

(b) There are authorized to be appropriated for the purposes of subsection (a) of this section such sums as may be necessary.

(Pub. L. 95–239, § 18, Mar. 1, 1978, 92 Stat. 105.)

CODIFICATION

Section was enacted as part of the Black Lung Benefits Reform Act of 1977, and not as part of the Federal Mine Safety and Health Act of 1977 which comprises this chapter or the Black Lung Benefits Act which comprises this subchapter.

EFFECTIVE DATE

Section effective Mar. 1, 1978, see section 20(a) of Pub. L. 95–239, set out as an Effective Date of 1978 Amendment note under section 901 of this title.

§ 904. Repealed. Pub. L. 107–275, § 2(c)(2), Nov. 2, 2002, 116 Stat. 1926

Section, Pub. L. 95–239, § 19, Mar. 1, 1978, 92 Stat. 106, related to providing information to potential beneficiaries of changes made by Black Lung Benefits Reform Act of 1977.

EFFECTIVE DATE OF REPEAL

Repeal effective 90 days after Nov. 2, 2002, see section 4 of Pub. L. 107–275, set out as an Effective Date of 2002 Amendment note under section 902 of this title.

PART B—CLAIMS FOR BENEFITS FILED ON OR BEFORE DECEMBER 31, 1973

§ 921. Regulations and presumptions

(a) Promulgation; payment of benefits

The Secretary shall, in accordance with the provisions of this part, and the regulations promulgated by him under this part, make payments of benefits in respect of total disability of any miner due to pneumoconiosis, and in respect of the death of any miner whose death was due to pneumoconiosis or, except with respect to a claim filed under part C of this subchapter on or after the effective date of the Black Lung Benefits Amendments of 1981, who at the time of his death was totally disabled by pneumoconiosis.

(b) Promulgation of standards determining total disability

The Secretary shall by regulation prescribe standards for determining for purposes of subsection (a) of this section whether a miner is totally disabled due to pneumoconiosis and for determining whether the death of a miner was due to pneumoconiosis. Regulations required by this subsection shall be promulgated and published in the Federal Register at the earliest practicable date after December 30, 1969, and in no event later than the end of the third month following December 1969. Final regulations required for implementation of any amendments to this subchapter shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the fourth month following the month in which such amendments are enacted. Such regulations may be modified or additional regulations promulgated from time to time thereafter.

(c) Presumptions

For purposes of this section—

(1) If a miner who is suffering or suffered from pneumoconiosis was employed for ten years or more in one or more coal mines there shall be a rebuttable presumption that his pneumoconiosis arose out of such employment.

(2) If a deceased miner was employed for ten years or more in one or more coal mines and died from a respirable disease there shall be a rebuttable presumption that his death was due to pneumoconiosis. The provisions of this paragraph shall not apply with respect to claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981.

(3) If a miner is suffering or suffered from a chronic dust disease of the lung which (A) when diagnosed by chest roentgenogram, yields one or more large opacities (greater than one centimeter in diameter) and would be classified in category A, B, or C in the International Classification of Radiographs of the Pneumoconioses by the International Labor Organization, (B) when diagnosed by biopsy or autopsy, yields massive lesions in the lung, or (C) when diagnosis is made by other means, would be a condition which could reasonably be expected to yield results described in clause (A) or (B) if diagnosis had been made in the manner prescribed in clause (A) or (B), then there shall be an irrebuttable presumption that he is totally disabled due to pneumoconiosis or that his death was due to pneumoconiosis, or that at the time of his death he was totally disabled by pneumoconiosis.[1] as the case may be.

(4) if[2] a miner was employed for fifteen years or more in one or more underground coal mines, and if there is a chest roentgenogram submitted in connection with such miner's, his widow's, his child's, his parent's, his brother's, his sister's, or his dependent's claim under this subchapter and it is interpreted as negative with respect to the requirements of paragraph (3) of this subsection, and if other evidence demonstrates the existence of a totally disabling respiratory or pulmonary impair-

[1] So in original. The period probably should be a comma.

[2] So in original. Probably should be capitalized.