

agency authorized to accept such evidence at a place other than such office. [37 FR 20641, Sept. 30, 1972, as amended at 62 FR 38453, July 18, 1997]

§410.475 Failure to submit evidence.

An individual shall not be determined to be totally disabled unless he furnishes such medical and other evidence thereof as is reasonably required to establish his claim. Religious or personal scruples against medical examinations, tests, or treatment shall not excuse an individual from submitting evidence of disability.

§410.476 Responsibility to give notice of event which may affect a change in disability status.

An individual who is determined to be totally disabled due to pneumoconiosis shall notify the Administration promptly if:

- (a) His respiratory or pulmonary condition improves; or
- (b) He engages in any gainful work or there is an increase in the amount of such work or his earnings therefrom.

§410.490 Interim adjudicatory rules for certain part B claims filed by a miner before July 1, 1973, or by a survivor where the miner died before January 1, 1974.

(a) *Basis for rules.* In enacting the Black Lung Act of 1972, the Congress noted that adjudication of the large backlog of claims generated by the earlier law could not await the establishment of facilities and development of medical tests not presently available to evaluate disability due to pneumoconiosis, and that such claims must be handled under present circumstances in the light of limited medical resources and techniques. Accordingly, the Congress stated its expectancy that the Commissioner would adopt such interim evidentiary rules and disability evaluation criteria as would permit prompt and vigorous processing of the large backlog of claims consistent with the language and intent of the 1972 amendments and that such rules and criteria would give full consideration to the combined employment handicap of disease and age and provide for the adjudication of claims on the basis of medical evidence other than physical

performance tests when it is not feasible to provide such tests. The provisions of this section establish such interim evidentiary rules and criteria. They take full account of the congressional expectation that in many instances it is not feasible to require extensive pulmonary function testing to measure the total extent of an individual's breathing impairment, and that an impairment in the transfer of oxygen from the lung alveoli to cellular level can exist in an individual even though his chest roentgenogram (X-ray) or ventilatory function tests are normal.

(b) *Interim presumption.* With respect to a miner who files a claim for benefits before July 1, 1973, and with respect to a survivor of a miner who dies before January 1, 1974, when such survivor timely files a claim for benefits, such miner will be presumed to be totally disabled due to pneumoconiosis, or to have been totally disabled due to pneumoconiosis at the time of his death, or his death will be presumed to be due to pneumoconiosis, as the case may be, if:

(1) One of the following medical requirements is met:

(i) A chest roentgenogram (X-ray), biopsy, or autopsy establishes the existence of pneumoconiosis (see §410.428); or

(ii) In the case of a miner employed for at least 15 years in underground or comparable coal mine employment, ventilatory studies establish the presence of a chronic respiratory or pulmonary disease (which meets the requirements for duration in §410.412(a)(2)) as demonstrated by values which are equal to or less than the values specified in the following table:

| | Equal to or less than— | |
|-------------------|------------------------|-----|
| | FEV ₁ | MVV |
| 67" or less | 2.3 | 92 |
| 68" | 2.4 | 96 |
| 69" | 2.4 | 96 |
| 70" | 2.5 | 100 |
| 71" | 2.6 | 104 |
| 72" | 2.6 | 104 |
| 73" or more | 2.7 | 108 |

(2) The impairment established in accordance with paragraph (b)(1) of this section arose out of coal mine employment (see §§410.416 and 410.456).