Public Law 95-239
95th Congress

An Act

To amend the Federal Coal Mine Health and Safety Act to improve the black lung benefits program established under such Act, and for other purposes.

Mar. 1, 1978
[H.R. 4544]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Black Lung Benefits Reform Act of 1977.

SHORT TITLE

SECTION 1. This Act may be cited as the "Black Lung Benefits Reform Act of 1977". 30 USC 801 note.

DEFINITIONS

SEC. 2. (a) Section 402(b) of the Federal Mine Safety and Health Act of 1977 (hereinafter in this Act referred to as the "Act") is amended to read as follows: 30 USC 902.

"(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.".

(b) Section 402(d) of the Act is amended to read as follows:

"(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.".

(c) Section 402(f) of the Act is amended to read as follows:

"(f)(1) The term 'total disability' has the meaning given it by regulations of the Secretary of Health, Education, and Welfare for claims under part B of this title, and by regulations of the Secretary of Labor for claims under part C of this title, subject to the relevant provisions of subsections (b) and (d) of section 413, except that— 30 USC 921 *et seq.* 30 USC 931 *et seq.* 30 USC 923.

"(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 223(d) of the Social Security Act; and 42 USC 423.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

Medical tests criteria, establishment. Consultation.

"(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, Education, and Welfare, or subject to a determination by the Secretary of Labor, under section 435(a);

Post, p. 103.

"(B) any claim which is subject to review by the Secretary of Labor under section 435(b); 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 dispositon of any such claim occurs after the date of such promulgation of regulations by the Secretary of Labor.".

30 USC 902.

(d) Section 402 of the Act is amended by adding at the end thereof the following new subsection:

(h) The term "fund" means the Black Lung Disability Trust Fund established in section 3(a)(1) of the Black Lung Benefits Revenue Act of 1977.".

30 USC 934a.
Ante, p. 12.

SURVIVOR ENTITLEMENTS

30 USC 921.

SEC. 3. (a) Section 411(c) of the Act is amended—

(1) in paragraphs (1) and (2) thereof, by striking out "if" and inserting in lieu thereof "If" and by striking out the semicolon and inserting in lieu thereof a period;

(2) in paragraph (3) thereof, by striking out "if" the first place it appears therein and inserting in lieu thereof "If" and by striking out "; and" and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following new paragraph:

"(5) In the case of a miner who dies on or before the date of the enactment of the Black Lung Benefits Reform Act of 1977 who was employed for 25 years or more in one or more coal mines before June 30, 1971, the eligible survivors of such miner shall be entitled to the payment of benefits, at the rate applicable under section 412(a)(2), unless it is established that at the time of his or her death such miner was not partially or totally disabled due to pneumoconiosis. Eligible survivors shall, upon request by the Secretary, furnish such evidence as is available with respect to the health of the miner at the time of his or her death.".

30 USC 922.

30 USC 922.

(b)(1)(A) Section 412(a)(3) of the Act is amended by striking out "and" the first place it appears therein, and by inserting after "the time of her death," the following: "and in the case of any child or children entitled to the payment of benefits under paragraph (5) of section 411(c),".

Supra.

(B) The first sentence of section 412(a)(5) of the Act is amended—

(i) by striking out "or" the fifth place it appears therein; and

(ii) by inserting after "child, or parent," the following: "in the case of the dependent parent or parents of a miner (who is not survived at the time of his or her death by a widow or a child) who are entitled to the payment of benefits under paragraph (5) of section 411(c), or in the case of the dependent surviving brother(s) or sister(s) of a miner (who is not survived at the time of his or her death by a widow, child, or parent) who are entitled to the payment of benefits under paragraph (5) of section 411(c),".

(2) Section 414(e) of the Act is amended by striking out "or" the second place it appears therein and by striking out the period at the end thereof and inserting in lieu thereof the following: ", or (3) any such individual is entitled to benefits under paragraph (5) of section 411(c).". 30 USC 924.

Ante, p. 96.

(3) Section 421(a) of the Act is amended by inserting after "pneumoconiosis" the second place it appears therein the following: ", and in any case in which benefits based upon eligibility under paragraph (5) of section 411(c) are involved.". 30 USC 931.

(4) The first sentence of section 422(a) of the Act is amended by inserting before the period at the end thereof the following: ", or with respect to entitlements established in paragraph (5) of section 411(c)". 30 USC 932.

OFFSET LIMITATION

SEC. 4. The first sentence of section 412(b) of the Act is amended by inserting after "disability of such miner" the following: "due to pneumoconiosis". 30 USC 922.

EVIDENCE REQUIRED TO ESTABLISH CLAIM

SEC. 5. (a) Section 413(b) of the Act is amended by inserting after the second sentence thereof the following new sentences: "Where there is no medical or other relevant evidence in the case of a deceased miner, such affidavits 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 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 title 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.". 30 USC 923.

Roentgenogram techniques, regulations.

(b) Section 413(b) of the Act, as amended in subsection (a), is further amended by adding at the end thereof the following new sentence: "Each miner who files a claim for benefits under this title shall upon request be provided an opportunity to substantiate his or her claim by means of a complete pulmonary evaluation.".

(c) The fifth sentence of section 413(b) of the Act is amended by striking out "(f)," and by striking out "and (l)," and inserting in lieu thereof "(l), and (n),".

(d) Section 413 of the Act is amended by adding at the end thereof the following new subsection:

Benefits entitlement, limitation.

"(d) No miner who is engaged in coal mine employment shall (except as provided in section 411(c)(3)) be entitled to any bene- 30 USC 921.

fits 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.".

APPROVAL OF STATE WORKERS' COMPENSATION LAWS

30 USC 931.

SEC. 6. (a) Section 421(b)(2)(A) of the Act is amended by inserting before the semicolon the following: ", except that (i) such law shall not be required to provide such benefits where the miner's last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section; and (ii) each operator of a coal mine shall secure the payment of benefits pursuant to section 423 with respect to any miner whose last employment in a coal mine terminated before the Secretary's approval of the State law pursuant to this section".

Post, p. 100.

(b) Section 421(b)(2)(C) of the Act is amended by striking out "part B of this title" and inserting in lieu thereof "this part", by striking out "of Health, Education, and Welfare", and by striking out "thereunder" and inserting in lieu thereof "under this part".

(c) Section 421(b)(2)(D) of the Act is amended to read as follows:

"(D) any claim for benefits on account of total disability of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years after a medical determination of total disability due to pneumoconiosis;".

DETERMINATION OF CLAIMS FOR BENEFITS UNDER PART C OF TITLE IV OF THE ACT

30 USC 932.

SEC. 7. (a) The first sentence of section 422(a) of the Act is amended—

(1) by inserting after "as amended" the following: ", and as it may be amended from time to time";

(2) by inserting a comma after "and 51 thereof)"; and

(3) by striking out "and except as the Secretary shall by regulation otherwise provide" and inserting in lieu thereof "or by regulations of the Secretary and except that references in such Act to the employer shall be considered to refer to the trustees of the fund, as the Secretary considers appropriate and as is consistent with the provisions of section 424".

30 USC 934.

(b) Section 422(b) of the Act is amended by adding at the end thereof the following new sentence: "An employer, other than an operator of a coal mine, shall not be required to secure the payment of such benefits with respect to any employee of such employer to the extent such employee is engaged in the transportation of coal or in coal mine construction. Upon determination by the Secretary of the eligibility of the employee, the Secretary may require such employer to secure a bond or otherwise guarantee the payment of such benefits to the employee.".

(c) Section 422(c) of the Act is amended—

(1) by striking out "and the Secretary of Health, Education, and Welfare"; and

(2) by striking out "the period" and inserting in lieu thereof "a period after December 31, 1969,".

(d) Section 422(e) of the Act is amended by inserting "or" at the end of paragraph (1) thereof, by striking out ", or" at the end of

paragraph (2) thereof and inserting in lieu thereof a period, and by striking out paragraph (3) thereof.

(e) Section 422(f) of the Act is amended to read as follows: 30 USC 932.

"(f) Any claim for benefits by a miner under this section shall be filed within three years after whichever of the following occurs later—

"(1) a medical determination of total disability due to pneumoconiosis; or

"(2) the date of the enactment of the Black Lung Benefits Reform Act of 1977.".

(f) Section 422(h) of the Act is amended by striking out the first sentence thereof.

(g) Section 422(i) of the Act is amended to read as follows:

"(i)(1) During any period in which this section is applicable to the operator of a coal mine who on or after January 1, 1970, acquired such mine or substantially all the assets thereof, from a person (hereinafter in this subsection referred to as a 'prior operator') who was an operator of such mine, or owner of such assets on or after January 1, 1970, such operator shall be liable for and shall, in accordance with section 423, secure the payment of all benefits which would have been payable by the prior operator under this section with respect to miners previously employed by such prior operator as if the acquisition had not occurred and the prior operator had continued to be an operator of a coal mine. *Post*, p. 100.

"(2) Nothing in this subsection shall relieve any prior operator of any liability under this section.

"(3)(A) For purposes of paragraph (1) of this subsection, the provisions of this paragraph shall apply to corporate reorganizations, liquidations, and such other transactions as are specified in this paragraph.

"(B) If an operator ceases to exist by reason of a reorganization or other transaction or series of transactions which involves a change in identity, form, or place of business or organization, however effected, the successor operator or other corporate or business entity resulting from such reorganization or other change shall be treated as the operator to whom this section applies.

"(C) If an operator ceases to exist by reason of a liquidation into a parent or successor corporation, the parent or successor corporation shall be treated as the operator to whom this section applies.

"(D) If an operator ceases to exist by reason of a sale of substantially all his or her assets, or as the result of a merger, consolidation, or division, the successor operator, corporation, or other business entity shall be treated as the operator to whom this section applies.

"(4) In any case in which there is a determination under section 424 that no operator is liable for the payment of benefits to a claimant, nothing in this subsection may be construed to require the payment of benefits to a claimant by or on behalf of any operator.". 30 USC 934.

(h) Section 422 of the Act is amended by adding at the end thereof the following new subsections: 30 USC 932.

"(j) Notwithstanding the provisions of this section, section 424 shall govern the payment of benefits in cases—

"(1) described in section 424(a)(1); or

"(2) in which the miner's last coal mine employment was before January 1, 1970.

"(k) The Secretary shall be a party in any proceeding relative to a claim for benefits under this part.

"(l) In no case shall the eligible survivors of a miner who was determined to be eligible to receive benefits under this title at the time of his or her death be required to file a new claim for benefits, or refile or otherwise revalidate the claim of such miner.".

30 USC 932a note. *Ante*, p. 98. 30 USC 931 *et seq.* 30 USC 925. 30 USC 932a.

(i) Notwithstanding the provisions of section 422(a) of the Act, individuals appointed to hear and determine claims for benefits under part C of title IV of the Act and under section 415 of the Act pursuant to Public Law 94-504 (90 Stat. 2428) may continue to adjudicate such claims during the one-year period following the date of the enactment of this Act.

PENALTIES FOR FAILURE TO SECURE PAYMENT OF BENEFITS

30 USC 933.

SEC. 8. Section 423 of the Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Any employer required to secure the payment of benefits under this section who fails to secure such benefits shall be subject to a civil penalty assessed by the Secretary of not more than $1,000 for each day during which such failure occurs. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable to such civil penalty as provided in this subsection for the failure of such corporation to secure the payment of benefits. Such president, secretary, and treasurer shall be severally personally liable, jointly with such corporation, for any benefit which may accrue under this title in respect to any disability which may occur to any employee of such corporation while it shall so fail to secure the payment of benefits as required by this section.

"(2) Any employer of a miner who knowingly transfers, sells, encumbers, assigns, or in any manner disposes of, conceals, secrets, or destroys any property belonging to such employer, after any miner employed by such employer has filed a claim under this title, and with intent to avoid the payment of benefits under this title to such miner or his or her dependents, shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both. In any case where such employer is a corporation, the president, secretary, and treasurer thereof also shall be severally liable for such penalty of imprisonment as well as jointly liable with such corporation for such fine.

"(3) This subsection shall not affect any other liability of the employer under this part.".

CLINICAL FACILITIES

30 USC 937.

SEC. 9. The first sentence of section 427(c) of the Act is amended by striking out "of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975" and inserting in lieu thereof "fiscal year".

APPLICABILITY OF AMENDMENTS

30 USC 940.

SEC. 10. Section 430 of the Act is amended—

(1) by inserting "and by the Black Lung Benefits Reform Act of 1977" after "1972"; and

(2) by striking out the colon and all that follows it and inserting in lieu thereof a period.

MEDICAL CARE

SEC. 11. The Secretary of Health, Education, and Welfare shall notify each miner receiving benefits under part B of title IV of the Act on account of his or her total disability who such Secretary has reason to believe became eligible for medical services and supplies on January 1, 1974, of his or her possible eligibility for such benefits. Where such Secretary so notifies a miner, the period during which he or she may file a claim for medical services and supplies under part C of title IV of the Act shall not terminate before six months after such notification is made.

Eligibility, notification to miners. 30 USC 924a. 30 USC 921.

Termination.

PENALTIES FOR FALSE STATEMENTS AND FAILURES TO FILE REPORTS

SEC. 12. (a) Section 431 of the Act is amended to read as follows: 30 USC 941.

"SEC. 431. Any person who willfully makes any false or misleading statement or representation for the purpose of obtaining any benefit or payment under this title shall be guilty of a misdemeanor and on conviction thereof shall be punished by a fine of not more than $1,000, or by imprisonment for not more than one year, or both.".

(b) Part C of title IV of the Act is amended by adding at the end thereof the following new section:

Miner benefit entitlement reports, filing. 30 USC 942.

"SEC. 432. (a) The Secretary may by regulation require employers to file reports concerning miners who may be or are entitled to benefits under this part, including the date of commencement and cessation of benefits and the amount of such benefits. Any such report shall not be evidence of any fact stated therein in any proceeding relating to death or total disability due to pneumoconiosis of any miner to which such report relates.

"(b) Any employer who fails or refuses to file any report required of such employer under this section shall be subject to a civil penalty of not more than $500 for each such failure or refusal.".

INSURANCE FUND

SEC. 13. Part C of title IV of the Act, as amended by section 12(b), is further amended by adding at the end thereof the following new section:

Compensation program establishment, authorization. 30 USC 943.

"SEC. 433. (a) The Secretary is authorized to establish and carry out a black lung insurance program which will enable operators of coal mines to purchase insurance covering their obligations under section 422.

Ante, p. 98.

"(b) The Secretary may exercise his or her authority under this section only if, and to the extent that, insurance coverage is not otherwise available, at reasonable cost, to operators of coal mines.

"(c)(1) The Secretary may enter into agreements with operators of coal mines who may be liable for the payment of benefits under section 422, under which the Black Lung Compensation Insurance Fund established under subsection (a) (hereinafter in this section referred to as the 'insurance fund') shall assume all or part of the liability of such operator in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund. During any period in which such agreement is in effect the operator shall be deemed in compliance with the requirements of section 423 with respect to the risks covered by such agreement.

Agreements with coal mine operators.

Ante, p. 100.

Reinsurance agreements.

"(2) The Secretary may also enter into reinsurance agreements with one or more insurers or pools of insurers under which, in return for the payment of premiums to the insurance fund, and on such terms and conditions as will fully protect the financial solvency of the insurance fund, the insurance fund shall provide reinsurance coverage for benefits required to be paid under section 422.

Ante, p. 98.

Insurability terms and conditions, regulations.

"(d) The Secretary may by regulation provide for general terms and conditions of insurability as applicable to operators of coal mines or insurers eligible for insurance or reinsurance under this section, including—

"(1) the types, classes, and locations of operators or facilities which shall be eligible for such insurance or reinsurance;

"(2) the classification, limitation, and rejection of any operator or facility which may be advisable;

"(3) appropriate premiums for different classifications of operators or facilities;

"(4) appropriate loss deductibles;

"(5) experience rating; and

"(6) any other terms and conditions relating to insurance or reinsurance coverage or exclusion which may be appropriate to carry out the purposes of this section.

Premium schedule studies and investigations.

"(e) The Secretary may undertake and carry out such studies and investigations, and receive or exchange such information, as may be necessary to formulate a premium schedule which will enable the insurance and reinsurance authorized by this section to be provided on a basis which is (1) in accordance with accepted actuarial principles; and (2) fair and equitable.

Premium rates, regulations.

"(f)(1) On the basis of estimates made by the Secretary in formulating a premium schedule under subsection (e), and such other information as may be available, the Secretary shall from time to time prescribe by regulation the chargeable premium rates for types and classes of insurers, operators of coal mines, and facilities for which insurance or reinsurance coverage shall be available under this section and the terms and conditions under which, and the area within which, such insurance or reinsurance shall be available and such rates shall apply.

"(2) Such premium rates shall be (A) based on a consideration of the risks involved, taking into account differences, if any, in risks based on location, type of operations, facilities, type of coal, experience, and any other matter which may be considered under accepted actuarial principles; and (B) adequate, on the basis of accepted actuarial principles, to provide reserves for anticipated losses.

"(3) All premiums received by the Secretary shall be paid into the insurance fund.

Black Lung Compensation Insurance Fund.

"(g)(1) The Secretary may establish in the Department of Labor a Black Lung Compensation Insurance Fund which shall be available, without fiscal year limitation—

"(A) to pay claims of miners for benefits covered by insurance or reinsurance issued under this section;

"(B) to pay the administrative expenses of carrying out the black lung compensation insurance program under this section; and

Repayment to Treasury Secretary.

"(C) to repay to the Secretary of the Treasury such sums as may be borrowed in accordance with the authority provided in subsection (i).

"(2) The insurance fund shall be credited with—

"(A) premiums, fees, or other charges which may be collected in connection with insurance or reinsurance coverage provided under this section;

"(B) such amounts as may be advanced to the insurance fund from appropriations in order to maintain the insurance fund in an operative condition adequate to meet its liabilities; and

"(C) income which may be earned on investments of the insurance fund pursuant to paragraph (3).

"(3) If, after all outstanding current obligations of the insurance fund have been liquidated and any outstanding amounts which may have been advanced to the insurance fund from appropriations authorized under subsection (i) have been credited to the appropriation from which advanced, the Secretary determines that the moneys of the insurance fund are in excess of current needs, he or she may request the investment of such amounts as he or she deems advisable by the Secretary of the Treasury in public debt securities with maturities suitable for the needs of the insurance fund and bearing interest at prevailing market rates. **Investments.**

"(h) The Secretary shall report to the Congress not later than the first day of April of each year on the financial condition of the insurance fund and the results of the operations of the insurance fund during the preceding fiscal year and on its expected condition and operations during the fiscal year in which the report is made. **Fund financial condition, annual report to Congress.**

"(i) There are authorized to be appropriated to the insurance fund, as repayable advances, such sums as may be necessary to meet obligations incurred under subsection (g). All such sums shall remain available without fiscal year limitation. Advances made pursuant to this subsection shall be repaid, with interest, to the general fund of the Treasury when the Secretary determines that moneys are available in the insurance fund for such repayments. Interest on such advances shall be computed in the same manner as provided in subsection (b)(2) of section 3 of the Black Lung Benefits Revenue Act of 1977.". **Appropriation authorization.** **Interest rates.** *Ante*, p. 12.

STATEMENT OF REASONS FOR DENIAL OF CLAIMS

SEC. 14. Part C of title IV of the Act, as amended by sections 12(b) and 13, is further amended by adding at the end thereof the following new section:

"SEC. 434. Any individual whose claim for benefits under this title is denied shall receive from the Secretary a written statement of the reasons for denial of such claim, and a summary of the administrative hearing record or, upon good cause shown, a copy of any transcript thereof.". **30 USC 944.**

REVIEW OF PENDING AND PREVIOUSLY DENIED CLAIMS

SEC. 15. Part C of title IV of the Act, as amended by sections 12(b), 13, and 14, is further amended by adding at the end thereof the following new section: **Notification to claimants.**

"SEC. 435. (a)(1) The Secretary of Health, Education, and Welfare shall promptly notify each claimant who has filed a claim for benefits under part B of this title and whose claim is either pending on the effective date of this section or has been denied on or before **30 USC 945.**

that effective date, that, upon the request of the claimant, the claim shall be either—

"(A) reviewed by the Secretary of Health, Education, and Welfare under paragraph (2) for a determination based on the evidence on file, taking into account the amendments made by the Black Lung Benefits Reform Act of 1977; or

Referral to Labor Secretary.

"(B) referred directly by the Secretary of Health, Education, and Welfare to the Secretary of Labor for a determination under paragraph (3), with an opportunity for the claimant to present additional medical or other evidence in accordance with that paragraph, taking into account the amendments made by the Black Lung Benefits Reform Act of 1977.

Approval and certification.

"(2)(A) The Secretary of Health, Education, and Welfare shall approve forthwith each claim for which review is requested under paragraph (1)(A) if, based upon the evidence on file, the provisions of part B of this title, as amended by the Black Lung Benefits Reform Act of 1977, require such approval. The Secretary of Health, Education, and Welfare shall certify such approval to the Secretary of Labor and such approval shall be binding upon the Secretary of Labor as an initial determination of eligibility. Upon receipt of that certification, the Secretary of Labor shall immediately make or otherwise provide for the payment of the claim in accordance with this part.

Payment.

Referral to Labor Secretary, notification to claimants.

"(B)(i) The Secretary of Health, Education, and Welfare shall refer to the Secretary of Labor any claim not approved under subparagraph (A) for a determination under paragraph (3), and shall notify the claimant of that referral to the Secretary of Labor for such a determination.

"(ii) The Secretary of Health, Education, and Welfare shall notify each claimant whose claim has been approved under subparagraph (A) that, if the claimant disputes the scope or terms of the award, such dispute shall be referred to the Secretary of Labor for a determination under paragraph (3).

Determinations, transfers to Labor Secretary.

"(C) Upon the completion of the review of any claim by the Secretary of Health, Education, and Welfare under this paragraph, the responsibility for further action with respect to such claim shall be transferred to the Secretary of Labor. The Secretary of Labor shall consider each such claim in accordance with paragraph (3).

"(3)(A) Except as provided in this section, the Secretary of Labor shall treat each claim referred by the Secretary of Health, Education, and Welfare under paragraph (1)(B) or (2)(B) as if it were a claim filed under this part. The provisions of subsection (b) shall apply to any determination of the Secretary with respect to any such claim referred to the Secretary.

"(B) The Secretary of Health, Education, and Welfare shall promptly furnish to the Secretary of Labor all pertinent information in the possession of the Department of Health, Education, and Welfare relating to claims referred to the Secretary of Labor under this subsection.

"(4) For the purposes of any determination by the Secretary of Labor under paragraph (3), the date of the request under paragraph (1) shall be considered the date of filing of the claim.

30 USC 925.

"(b)(1) The Secretary of Labor shall review each claim which has been denied under this part (or under section 415) on or before the effective date of this subsection, and each claim which is pending under this part (or under section 415) on such effective date, taking into account the amendments made to this part by the Black Lung Benefits Reform Act of 1977. The Secretary shall approve any such claim forth-

with if the provisions of this part, as so amended, require that approval, and the Secretary shall immediately make or otherwise provide for the payment of the claim in accordance with this part.

"(2)(A) The Secretary, in carrying out the review of any claim under paragraph (1) and in making any determination under subsection (a)(3), shall not require any additional medical or other evidence to be submitted if the evidence on file is sufficient for approval of the claim, taking into account the amendments made to this part by the Black Lung Benefits Reform Act of 1977. Evidence requirement.

"(B) If the evidence on file is not sufficient for approval of the claim, the Secretary shall provide an opportunity for the claimant to present additional medical or other evidence to substantiate his or her claim and shall notify each claimant of that opportunity.

"(c) Any individual whose claim is approved pursuant to this section shall be awarded benefits on a retroactive basis for a period which begins no earlier than January 1, 1974.".

SHORT TITLE FOR THE ACT

SEC. 16. Section 401 of the Act is amended by inserting "(a)" after "SEC. 401." and by adding at the end thereof the following new subsection: 30 USC 901.

"(b) This title may be cited as the 'Black Lung Benefits Act'.".

OCCUPATIONAL DISEASE STUDY

SEC. 17. (a) The Secretary of Labor, in cooperation with the Director of the National Institute for Occupational Safety and Health, shall conduct a study of all occupationally related pulmonary and respiratory diseases, including the extent and severity of such diseases in the United States. Such study shall further include analyses of (1) any etiologic, symptomatologic, and pathologic factors which are similar to such factors in coal workers' pneumoconiosis and its sequelae; (2) the adequacy of current workers' compensation programs in compensating individuals with such diseases; and (3) the status and adequacy of Federal health and safety laws and regulations relating to the industries with which such diseases are associated. 29 USC 675 note.

(b) The study required in subsection (a) shall be completed and a report thereon submitted to the President and to the appropriate committees of the Congress no later than 18 months after the date of the enactment of this Act. Report to President and congressional committees.

FIELD OFFICES

SEC. 18. (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 title IV of the Act. 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. Establishment. 30 USC 903. 30 USC 901. Arrangements with Federal and State agencies.

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

INFORMATION TO POTENTIAL BENEFICIARIES

30 USC 904.

30 USC 901.

Assistance.

SEC. 19. The Secretary of Health, Education, and Welfare and the Secretary of Labor shall disseminate to interested persons and groups the changes in title IV of the Act made by this Act, together with an explanation of such changes, and shall undertake, through appropriate organizations, groups, and coal mine operators, to notify individuals who are likely to have become eligible for benefits by reason of such changes. Individual assistance in preparing and processing claims shall be offered by the Secretary of Health, Education, and Welfare and the Secretary of Labor and provided to potential beneficiaries.

EFFECTIVE DATES

30 USC 901 note.

SEC. 20. (a) The provisions of this Act shall take effect on the date of the enactment of this Act.

30 USC 934a note.

Ante, p. 12.

(b) In the event that the payment of benefits to miners and to eligible survivors of miners cannot be made from the Black Lung Disability Trust Fund established by section 3(a) of the Black Lung Benefits Revenue Act of 1977, the provisions of the Act relating to the payment of benefits to miners and to eligible survivors of miners, as in effect immediately before the date of the enactment of this Act, shall take effect, as rules and regulations of the Secretary of Labor until such provisions are revoked, amended, or revised by law. The Secretary of Labor may promulgate additional rules and regulations to carry out such provisions and shall make benefit payments to miners and to eligible survivors of miners in accordance with such provisions.

Additional rules and regulations.

26 USC 4121 note.

Ante, p. 24.

(c) In accordance with the requirements of section 5 of the Black Lung Benefits Revenue Act of 1977, it is hereby provided that such Act shall take effect in accordance with the provisions of such Act. The provisions of this subsection are hereby deemed to be in explicit satisfaction of the requirements of section 5 of such Act.

Approved March 1, 1978.

LEGISLATIVE HISTORY:

HOUSE REPORTS: No. 95-151 (Comm. on Education and Labor) and No. 95-864 (Comm. of Conference).

SENATE REPORTS: No. 95-209 accompanying S. 1538 (Comm. on Human Resources) and No. 95-336 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 123 (1977): July 21, S. 1538 considered in Senate.
July 25, Sept. 19, considered and passed House.
Sept. 20, considered and passed Senate, amended, in lieu of S. 1538.

Vol. 124 (1978): Feb. 6, Senate agreed to Conference report.
Feb. 15, House agreed to Conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS:

Vol. 14, No. 9 (1978): Mar. 1, Presidential statement.