

IMPORTANT CHANGES IN THE BLACK LUNG BENEFITS ACT

As you may have heard, miners and survivors (widows) benefit from the health care reform bill that was signed into law on March 23, 2010. There are two major changes in the statute.

The Black Lung Benefits Act has been amended so that a widow is automatically entitled to benefits if the miner had been awarded benefits at the time of his death. The change applies only to survivors' claims filed after January 1, 2005, that are pending on or after the enactment date, March 23, 2010.

The other amendment in the Black Lung Benefits Act applies to both miners and widows. This amendment states that a miner with at least fifteen years of underground coal mine employment or surface mine work with similar dust exposure who has a totally disabling lung impairment but a negative chest x-ray is entitled to the presumption that the disability is due to pneumoconiosis. In a survivor's claim, the presumption is that the miner's death was due to pneumoconiosis. This change also applies only to claims filed after January 1, 2005, that are pending on or after March 23, 2010. Because claimants have the benefit of the presumption, the burden of proof falls on the coal operator to rebut the presumption. The coal operator can rebut the presumption through only two ways: by proving the miner did not have pneumoconiosis or by proving the miner's disabling impairment was not due to his coal mine employment.

The amendments are part of the Patient Protection and Affordable Care Act of 2010 and are contained in Section 1556 of that law. Section 1556 of the PPACA went into effect upon enactment. Because the President signed the bill into law on March 23, 2010, that is the effective date of the changes.

The Department of Labor will decide how to implement the new law and develop a plan to deal with the cases affected by the changes. Widows who believe they may be entitled to automatic benefits based on an award in the deceased miner's case, and who had previously been denied benefits, should contact the Department of Labor to determine whether they may be eligible for benefits. There is a one year period of time for filing a request for modification which may apply in some cases, so time is of the essence for widows and other survivors whose claims have been denied within the last year. Widows or other survivors who did not file a claim because the evidence did not prove the miner's death was due to pneumoconiosis should also contact the Department of Labor. Miners who worked at least fifteen years and who have a disabling respiratory impairment may also want to contact the Department of Labor.

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