

117TH CONGRESS
1ST SESSION

H. R. 6102

To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2021

Mr. CARTWRIGHT (for himself and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Black Lung Benefits
5 Improvement Act of 2021”.

1 **SEC. 2. TABLE OF CONTENTS.**

2 The table of contents for this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. Findings.

TITLE I—BLACK LUNG BENEFITS

PART A—IMPROVING THE PROCESS FOR FILING AND ADJUDICATING CLAIMS
FOR BENEFITS

- Sec. 101. Mandatory disclosure of medical information and reports.
- Sec. 102. Attorneys' fees and medical expenses payment program.
- Sec. 103. Clarifying eligibility for black lung benefits.
- Sec. 104. Restoring adequate benefit adjustments for miners suffering from
black lung disease and for their dependent family members.
- Sec. 105. Treatment of evidence in equipoise.
- Sec. 106. Providing assistance with claims for miners and their dependent fam-
ily members.
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discovery sanctions.
- Sec. 108. Development of medical evidence by the Secretary.
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- Sec. 110. Technical and conforming amendments.
- Sec. 111. Readjudicating cases involving certain chest radiographs.
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benefits claims.

PART B—REPORTS TO IMPROVE THE ADMINISTRATION OF BENEFITS
UNDER THE BLACK LUNG BENEFITS ACT

- Sec. 121. Strategy to reduce delays in adjudication.
- Sec. 122. GAO report on black lung program.

PART C—IMPROVEMENT IN THE FINANCIAL SECURITY OF THE BLACK LUNG
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- Sec. 131. Regulations for self-insurance.

TITLE II—ESTABLISHING THE OFFICE OF WORKERS'
COMPENSATION PROGRAMS

- Sec. 201. Office of Workers' Compensation Programs.

TITLE III—SEVERABILITY

- Sec. 301. Severability.

3 **SEC. 3. FINDINGS.**

4 Congress finds the following:

- 5 (1) Black lung disease has been the underlying
- 6 or contributing cause of death of more than 79,000

1 miners since 1968. The Black Lung Benefits Act
2 (30 U.S.C. 901 et seq.) was enacted to provide
3 health care and modest benefits to coal miners who
4 develop pneumoconiosis (referred to in this section
5 as “black lung disease”) resulting from exposure to
6 coal mine dust during their employment. Yet the de-
7 termination of a claimant’s eligibility for these bene-
8 fits often requires complex, adversarial litigation.
9 Resource disparities between coal companies and
10 claimants are widespread within the statutory and
11 regulatory framework of such Act. Comprehensive
12 reforms are necessary to ensure that coal miners are
13 not at a disadvantage when filing claims for benefits.

14 (2) The Government Accountability Office has
15 found that many claimants under the Black Lung
16 Benefits Act are not equipped with the medical and
17 legal resources necessary to develop evidence to meet
18 the requirements for benefits. Miners often lack
19 complete and reliable medical evidence, consequently
20 increasing the risk that the individuals who review
21 claims for benefits will be presented with insufficient
22 medical evidence. Similarly, without better options
23 for legal representation, significant numbers of
24 claimants proceed with their claims through a com-
25 plex and potentially long administrative process

1 without resources that Department of Labor officials
2 and black lung disease experts note are important
3 for developing evidence and supporting their claims.
4 In 2020, only 42 percent of claimants were rep-
5 resented by an attorney during the initial claims de-
6 termination. Absent efforts to remedy administrative
7 problems and address structural weaknesses in the
8 process for obtaining benefits, claimants with meri-
9 torious claims will not receive benefits.

10 (3) Full exchange and disclosure between the
11 parties of relevant medical information is essential
12 for fair adjudication of claims under the Black Lung
13 Benefits Act, regardless of whether the parties in-
14 tend to submit such information into evidence.
15 Records of adjudications reveal that some mine oper-
16 ators' legal representatives have withheld relevant
17 evidence from claimants, administrative law judges,
18 and, in some cases, even their own medical experts.
19 In several cases, the disclosure of such evidence
20 would have substantiated a miner's claim for bene-
21 fits. Withholding medical information can endanger
22 miners by depriving them of important information
23 about their own health and the potential need to
24 seek medical treatment.

1 (4) Given the remedial nature of the Black
2 Lung Benefits Act, when an adjudicator determines
3 that evidence is evenly balanced, it is appropriate for
4 any resulting doubt to be resolved in favor of the
5 claimant. The Supreme Court vacated this long-
6 standing legal principle, not on substantive grounds,
7 but because its application conflicted with the re-
8 quirements of another statute. Such principle needs
9 to be reinstated in the Black Lung Benefits Act be-
10 cause it provides fairness and improves the adminis-
11 tration of benefits.

12 (5) Physicians who read lung x-rays as part of
13 pulmonary assessments used in proceedings for
14 claims under the Black Lung Benefits Act are re-
15 quired to demonstrate competency in classifying
16 chest radiographs by becoming certified as B Read-
17 ers by the National Institute for Occupational Safety
18 and Health (referred to in this section as
19 “NIOSH”). However, investigations have uncovered
20 that there are NIOSH-certified B Readers who have
21 systematically misclassified chest radiographs while
22 employed by coal operators or their law firms for the
23 purpose of opposing claims under such Act. In re-
24 sponse, the Department of Labor has directed claims
25 examiners “not to credit negative chest x-ray read-

1 ings for pneumoconiosis” by one widely used physi-
2 cian employed at a prominent medical center unless
3 the conclusions of such physician “have been reha-
4 bilitated”. Where chest radiographs are needed to
5 establish entitlement to benefits, claimants should
6 have access to accurate interpretations so as to en-
7 sure the fair adjudication of such claims.

8 (6) Since survivors were denied benefits on
9 claims under the Black Lung Benefits Act that in-
10 volved the consideration of chest radiograph inter-
11 pretations rendered by a certain physician whose in-
12 terpretations have since been determined by the De-
13 partment of Labor to be generally not worthy of
14 credit, such survivors should be permitted to file a
15 new claim for benefits under such Act. However, a
16 survivor is effectively barred from filing a new claim
17 one year after a decision regarding such benefits is
18 final, constituting an injustice that merits a remedy.

19 (7) Benefit payments under the Black Lung
20 Benefits Act do not automatically increase with the
21 rising cost of living. Benefit payments are tied to the
22 monthly pay rate for Federal employees in grade
23 GS-2, step 1. In 2011 through 2013, there was a
24 pay freeze for Federal employees, which had the ef-
25 fect of eliminating cost-of-living adjustments for

1 miners, surviving spouses, and dependents under the
2 Black Lung Benefits Act during such years.

3 (8) A competent assessment of medical infor-
4 mation and testimony, which often involves multiple
5 physicians disputing a diagnosis, is necessary in de-
6 termining whether to award benefits under the
7 Black Lung Benefits Act. To ensure that a deter-
8 mination regarding a claim for benefits under such
9 Act is fair and accurate, regular training is needed
10 regarding—

11 (A) developments in pulmonary medicine
12 relating to black lung disease;

13 (B) medical evidence necessary to sustain
14 claims for such benefits; and

15 (C) the proper weight to be given to con-
16 flicting evidence.

17 (9) To eliminate an avoidable delay in evalu-
18 ating claims under such Act, the Department of La-
19 bor’s Inspector General has recommended legislation
20 that would authorize the Department of Labor to
21 have electronic access to miners’ earning records
22 held by the Social Security Administration.

1 **TITLE I—BLACK LUNG BENEFITS**

2 **PART A—IMPROVING THE PROCESS FOR FILING**

3 **AND ADJUDICATING CLAIMS FOR BENEFITS**

4 **SEC. 101. MANDATORY DISCLOSURE OF MEDICAL INFOR-**
 5 **MATION AND REPORTS.**

6 Part A of the Black Lung Benefits Act (30 U.S.C.
 7 901 et seq.) is amended by adding at the end the fol-
 8 lowing:

9 **“SEC. 403. MANDATORY MEDICAL INFORMATION DISCLO-**
 10 **SURE.**

11 “(a) REPORT.—In any claim for benefits under this
 12 title, an operator that requires a miner to submit to a
 13 medical examination regarding the miner’s respiratory or
 14 pulmonary condition shall timely deliver to the claimant
 15 a complete copy of the resulting medical information. The
 16 medical information shall—

17 “(1) be in writing;

18 “(2) set out in detail the findings of any exam-
 19 ining or non-examining physician, including any di-
 20 agnoses and conclusions, the results of any diag-
 21 nostic imaging tests, and any other tests performed
 22 on the miner; and

23 “(3) be delivered not later than 30 days after
 24 the operator or operator’s agent has received the
 25 medical information and, in the case of medical in-

1 formation received after a claim is already scheduled
2 for hearing before an administrative law judge, not
3 later than 20 days before the scheduled hearing is
4 held.

5 “(b) DISCLOSURE.—

6 “(1) IN GENERAL.—In any claim for benefits
7 under this title, each party shall provide all other
8 parties in the proceeding with a copy of all medical
9 information developed regarding the miner’s physical
10 condition relating to such claim, even if the party
11 does not intend to submit the information as evi-
12 dence.

13 “(2) DEFINITION OF MEDICAL INFORMATION.—
14 For purposes of paragraph (1), the term ‘medical in-
15 formation’—

16 “(A) shall include the opinion of any exam-
17 ining or non-examining physician’s assessment
18 of the miner, the results of any medical tests or
19 procedures, and any physician’s or other med-
20 ical professional’s interpretations of those tests
21 or procedures; and

22 “(B) shall not include—

23 “(i) any record of a miner’s hos-
24 pitalization or other medical treatment; or

1 “(ii) any communication from a par-
2 ty’s representative to a medical expert.

3 “(c) REGULATIONS.—The Secretary shall promulgate
4 regulations regarding the disclosure of medical informa-
5 tion under this section, and such regulations may establish
6 sanctions for noncompliance with this section.”.

7 **SEC. 102. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**
8 **MENT PROGRAM.**

9 Part A of the Black Lung Benefits Act (30 U.S.C.
10 901 et seq.), as amended by section 101, is further amend-
11 ed by adding at the end the following:

12 **“SEC. 404. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**
13 **MENT PROGRAM.**

14 “(a) PROGRAM ESTABLISHED.—

15 “(1) IN GENERAL.—Not later than 180 days
16 after the date of enactment of the Black Lung Bene-
17 fits Improvement Act of 2021, the Secretary shall
18 establish a payment program to pay attorneys’ fees
19 and other reasonable and unreimbursed medical ex-
20 penses incurred in establishing the claimant’s case,
21 using amounts from the fund, to the attorneys of
22 claimants in qualifying claims.

23 “(2) QUALIFYING CLAIM.—A qualifying claim
24 for purposes of this section is a contested claim for
25 benefits under this title for which a final order has

1 not been entered within one year of the filing of the
2 claim.

3 “(3) USE OF PAYMENTS FROM THE FUND.—
4 Notwithstanding any other provision of law,
5 amounts in the fund shall be available for payments
6 authorized by the Secretary under this section.

7 “(b) PAYMENTS AUTHORIZED.—

8 “(1) ATTORNEYS’ FEES.—If a claimant for ben-
9 efits under this title obtains a proposed decision and
10 order from a district director with an award of bene-
11 fits for a qualifying claim, or an award for a quali-
12 fying claim before an administrative law judge, the
13 district director may approve attorneys’ fees for
14 work done before such director in an amount not to
15 exceed \$1,500 and an administrative law judge may
16 approve attorneys’ fees for work done before such
17 judge in an amount not to exceed \$3,000. The Sec-
18 retary shall, through the program under this section,
19 pay such amounts approved.

20 “(2) MEDICAL EXPENSES.—If a claimant for
21 benefits under this title obtains a proposed decision
22 and order from a district director with an award of
23 benefits for a qualifying claim, or an award for a
24 qualifying claim before an administrative law judge,
25 such district director and administrative law judge

1 may each approve an award to the claimant's attor-
2 ney of reasonable and unreimbursed medical ex-
3 penses incurred in establishing the claimant's case in
4 an amount not to exceed \$1,500. The Secretary
5 shall, through the program under this section, pay
6 such amounts approved.

7 “(3) MAXIMUM.—The program established
8 under this section shall not pay more than a total
9 of \$4,500 in attorneys' fees nor more than \$3,000
10 in medical expenses for any single qualifying claim.

11 “(c) REIMBURSEMENT OF FUNDS.—In any case in
12 which a qualifying claim results in a final order awarding
13 compensation, the liable operator shall reimburse the fund
14 for any fees or expenses paid under this section, subject
15 to enforcement by the Secretary under section 424 and
16 in the same manner as compensation orders are enforced
17 under section 21(d) of the Longshore and Harbor Work-
18 ers' Compensation Act (33 U.S.C. 921(d)).

19 “(d) ADDITIONAL PROGRAM RULES.—Nothing in
20 this section shall limit or otherwise affect an operator's
21 liability for any attorneys' fees, medical expenses, or other
22 allowable and unreimbursed expenses awarded by the dis-
23 trict director or an administrative law judge that were not
24 paid by the program under this section. Nothing in this
25 section shall limit or otherwise affect the Secretary's au-

1 thority to use amounts in the fund to pay approved attor-
 2 neys' fees and other allowable and unreimbursed expenses
 3 in claims for benefits under this title for which a final
 4 order awarding compensation has been entered and the
 5 operator is unable or refuses to pay.

6 “(e) NO RECOUPMENT.—Any payment for attorneys’
 7 fees or medical expenses made by the Secretary under this
 8 section shall not be recouped from the claimant or the
 9 claimant’s attorney.”.

10 **SEC. 103. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-**
 11 **EFITS.**

12 Section 411(c) of the Black Lung Benefits Act (30
 13 U.S.C. 921(c)) is amended by striking paragraphs (3) and
 14 (4) and inserting the following:

15 “(3)(A) If x-ray, CT scan, biopsy, autopsy, or
 16 other medically accepted and relevant test or proce-
 17 dure establishes that a miner is suffering or has suf-
 18 fered from a chronic dust disease of the lung, diag-
 19 nosed as complicated pneumoconiosis or progressive
 20 massive fibrosis (as determined in accordance with
 21 subparagraph (B)), then there shall be an
 22 irrebuttable presumption that such miner is totally
 23 disabled due to pneumoconiosis, that the miner’s
 24 death was due to pneumoconiosis, or that at the

1 time of death the miner was totally disabled by
2 pneumoconiosis, as the case may be.

3 “(B) For purposes of subparagraph (A), com-
4 plicated pneumoconiosis or progressive massive fi-
5 brosis can be established by any of the following:

6 “(i) A chest radiograph, which yields one
7 or more large opacities whose greatest diameter
8 exceeds 1 centimeter and would be classified in
9 Category A, B, or C in the International Classi-
10 fication of Radiographs of Pneumoconiosis by
11 the International Labor Organization, in the
12 absence of more probative evidence sufficient to
13 establish that the etiology of the large opacity
14 is not pneumoconiosis.

15 “(ii) A chest CT scan, which yields one or
16 more large opacities whose greatest diameter
17 exceeds 1 centimeter, in the absence of more
18 probative evidence sufficient to establish that
19 the etiology of the large opacity is not pneumo-
20 coniosis.

21 “(iii) A lung biopsy or autopsy, which
22 would yield a lesion at least 1 centimeter in its
23 long axis diameter if measured at the time of
24 gross dissection.

1 “(iv) A diagnosis by other means that
2 would reasonably be expected to yield results
3 described in clause (i), (ii), or (iii).

4 “(4) If a miner was employed for 15 years or
5 more in one or more coal mines, and if there is a
6 chest radiograph submitted in connection with the
7 claim under this title of such miner or such miner’s
8 surviving spouse, child, parent, brother, sister, or de-
9 pendent and it is interpreted as negative with re-
10 spect to the requirements of paragraph (3), and if
11 other evidence demonstrates the existence of a to-
12 tally disabling respiratory or pulmonary impairment,
13 then there shall be a rebuttable presumption that
14 such miner is totally disabled due to pneumoconiosis,
15 that the miner’s death was due to pneumoconiosis,
16 or that at the time of death the miner was totally
17 disabled by pneumoconiosis. In the case of a living
18 miner, a spouse’s affidavit may not be used by itself
19 to establish the presumption under this paragraph.
20 The presumption under this paragraph may be re-
21 butted only by establishing that such miner does
22 not, or did not, have pneumoconiosis, or that no part
23 of such miner’s respiratory or pulmonary impair-
24 ment or death was caused by pneumoconiosis.”.

1 **SEC. 104. RESTORING ADEQUATE BENEFIT ADJUSTMENTS**
2 **FOR MINERS SUFFERING FROM BLACK LUNG**
3 **DISEASE AND FOR THEIR DEPENDENT FAM-**
4 **ILY MEMBERS.**

5 Section 412(a) of the Black Lung Benefits Act (30
6 U.S.C. 922(a)) is amended by striking paragraph (1) and
7 inserting the following:

8 “(1) In the case of total disability of a miner
9 due to pneumoconiosis, the disabled miner shall be
10 paid benefits during the disability—

11 “(A) for any calendar year preceding Jan-
12 uary 1, 2020, at a rate equal to 37½ percent
13 of the monthly pay rate for Federal employees
14 in grade GS–2, step 1;

15 “(B) for the calendar year beginning on
16 January 1, 2021, at a rate of \$8,643.85 per
17 year, payable in 12 equal monthly payments;
18 and

19 “(C) for each calendar year thereafter, at
20 a rate equal to the product of the rate in effect
21 under this paragraph for the calendar year im-
22 mediately preceding such calendar year multi-
23 plied by the ratio (not less than 1) of—

24 “(i) the Consumer Price Index for
25 Urban Wage Earners and Clerical Workers
26 (CPI–W, as published by the Bureau of

1 Labor Statistics of the Department of
2 Labor) for the calendar year immediately
3 preceding such calendar year, to

4 “(ii) the CPI–W for the second cal-
5 endar year preceding such calendar year.”.

6 **SEC. 105. TREATMENT OF EVIDENCE IN EQUIPOISE.**

7 Section 422 of the Black Lung Benefits Act (30
8 U.S.C. 932) is amended by adding at the end the fol-
9 lowing:

10 “(m) In determining the validity of a claim under this
11 title, an adjudicator who finds that the evidence is evenly
12 balanced on an issue shall resolve any resulting doubt in
13 the claimant’s favor and find that the claimant has met
14 the burden of persuasion on such issue.”.

15 **SEC. 106. PROVIDING ASSISTANCE WITH CLAIMS FOR MIN-**
16 **ERS AND THEIR DEPENDENT FAMILY MEM-**
17 **BERS.**

18 Section 427(a) of the Black Lung Benefits Act (30
19 U.S.C. 937(a)) is amended by striking “the analysis, ex-
20 amination, and treatment” and all that follows through
21 “coal miners.” and inserting “the analysis, examination,
22 and treatment of respiratory and pulmonary impairments
23 in active and inactive coal miners and for assistance on
24 behalf of miners, spouses, dependents, and other family
25 members with claims arising under this title.”.

1 **SEC. 107. FALSE STATEMENTS OR MISREPRESENTATIONS,**
2 **ATTORNEY DISQUALIFICATION, AND DIS-**
3 **COVERY SANCTIONS.**

4 Section 431 of the Black Lung Benefits Act (30
5 U.S.C. 941) is amended to read as follows:

6 **“SEC. 431. FALSE STATEMENTS OR MISREPRESENTATIONS,**
7 **ATTORNEY DISQUALIFICATION, AND DIS-**
8 **COVERY SANCTIONS.**

9 “(a) IN GENERAL.—No person, including any claim-
10 ant, physician, operator, duly authorized agent of such op-
11 erator, or employee of an insurance carrier, shall—

12 “(1) knowingly and willfully make a false state-
13 ment or misrepresentation for the purpose of obtain-
14 ing, increasing, reducing, denying, or terminating
15 benefits under this title; or

16 “(2) knowingly and willfully threaten, coerce,
17 intimidate, deceive, or mislead a party, representa-
18 tive, witness, potential witness, judge, or anyone par-
19 ticipating in a proceeding regarding any matter re-
20 lated to a proceeding under this title.

21 “(b) FINE; IMPRISONMENT.—Any person who en-
22 gages in the conduct described in subsection (a) shall,
23 upon conviction, be subject to a fine in accordance with
24 title 18, United States Code, imprisoned for not more than
25 5 years, or both.

1 “(c) PROMPT INVESTIGATION.—The United States
2 Attorney for the district in which the conduct described
3 in subsection (a) is alleged to have occurred shall make
4 every reasonable effort to promptly investigate each com-
5 plaint of a violation of such subsection.

6 “(d) DISQUALIFICATION.—

7 “(1) IN GENERAL.—An attorney or expert wit-
8 ness who engages in the conduct described in sub-
9 section (a) shall, in addition to the fine or imprison-
10 ment provided under subsection (b), be permanently
11 disqualified from representing any party, or appear-
12 ing in any proceeding, under this title.

13 “(2) ATTORNEY DISQUALIFICATION.—In addi-
14 tion to the disqualification described in paragraph
15 (1), the Secretary may disqualify an attorney from
16 representing any party in any administrative pro-
17 ceeding under this title for either a limited term or
18 permanently, if the attorney—

19 “(A) engages in any action or behavior
20 that is prejudicial to the fair and orderly con-
21 duct of such proceeding; or

22 “(B) is suspended or disbarred by any
23 court of the United States, any State, or any
24 territory, commonwealth, or possession of the

1 United States with jurisdiction over the pro-
2 ceeding.

3 “(e) DISCOVERY SANCTIONS.—An administrative law
4 judge may sanction a party who fails to comply with an
5 order to compel discovery or disclosure, or to supplement
6 earlier responses, in a proceeding under this title. These
7 sanctions may include, as appropriate—

8 “(1) drawing an adverse inference against the
9 noncomplying party on the facts relevant to the dis-
10 covery or disclosure order;

11 “(2) limiting the noncomplying party’s claims,
12 defenses, or right to introduce evidence; and

13 “(3) rendering a default decision against the
14 noncomplying party.

15 “(f) REGULATIONS.—The Secretary shall promulgate
16 regulations that—

17 “(1) provide procedures for the disqualifications
18 and sanctions under this section and are appropriate
19 for all parties; and

20 “(2) distinguish between parties that are rep-
21 resented by an attorney and parties that are not
22 represented by an attorney.”.

1 **SEC. 108. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**
2 **SECRETARY.**

3 Part C of the Black Lung Benefits Act (30 U.S.C.
4 931 et seq.) is amended by adding at the end the fol-
5 lowing:

6 **“SEC. 435. DEVELOPMENT OF MEDICAL EVIDENCE BY THE**
7 **SECRETARY.**

8 “(a) COMPLETE PULMONARY EVALUATION.—Upon
9 request by a claimant for benefits under this title, the Sec-
10 retary shall provide the claimant an opportunity to sub-
11 stantiate the claim through a complete pulmonary evalua-
12 tion of the miner that shall include—

13 “(1) an initial report, conducted by a qualified
14 physician on the list provided under subsection (d),
15 and in accordance with subsection (d)(5) and sec-
16 tions 402(f)(1)(D) and 413(b); and

17 “(2) if the conditions under subsection (b) are
18 met, any supplemental medical evidence described in
19 subsection (c).

20 “(b) DIAGNOSING COMPLICATED PNEUMO-
21 CONIOSIS.—In diagnosing whether there is complicated
22 pneumoconiosis as a part of a medical examination con-
23 ducted under subsection (a), the Secretary shall authorize
24 a high-quality, low-dose or standard computerized tomog-
25 raphy scan where any or a combination of the following
26 is found:

1 “(1) Any certified B reader of a chest
2 radiograph associated with an exam conducted under
3 section 413(b) finds advanced pneumoconiosis (ILO
4 category 1/0 or greater) and an examiner preparing
5 a report under section 413(b) determines, in the ex-
6 ercise of clinical judgment, that the miner presents
7 symptomatology of advanced pneumoconiosis to a
8 greater extent than indicated by the chest
9 radiograph.

10 “(2) Any certified Long of a chest radiograph
11 associated with an exam conducted under section
12 413(b) finds a coalescence of small opacities.

13 “(c) CONDITIONS FOR SUPPLEMENTAL MEDICAL
14 EVIDENCE.—The Secretary shall develop supplemental
15 medical evidence, in accordance with subsection (d)—

16 “(1) for any claim in which the Secretary rec-
17 ommends an award of benefits based on the results
18 of the initial report under subsection (a)(1) and a
19 party opposing such award submits evidence that
20 could be considered contrary to the findings of the
21 Secretary; and

22 “(2) for any compensation case under this title
23 heard by an administrative law judge, in which—

24 “(A) the Secretary has awarded benefits to
25 the claimant;

1 “(B) the party opposing such award has
2 submitted evidence not previously reviewed that
3 could be considered contrary to the award
4 under subparagraph (A); and

5 “(C) the claimant or, if the claimant is
6 represented by an attorney, the claimant’s at-
7 torney consents to the Secretary developing
8 supplemental medical evidence.

9 “(d) PROCESS FOR SUPPLEMENTAL MEDICAL EVI-
10 DENCE.—

11 “(1) IN GENERAL.—Except as provided under
12 paragraph (2), to develop supplemental medical evi-
13 dence under conditions described in subsection (c),
14 the Secretary shall request the physician who con-
15 ducted the initial report under subsection (a)(1)
16 to—

17 “(A) review any medical evidence sub-
18 mitted after such report or the most recent sup-
19 plemental report, as appropriate; and

20 “(B) update his or her opinion in a supple-
21 mental report.

22 “(2) ALTERNATIVE PHYSICIAN.—If such physi-
23 cian is no longer available or is unwilling to provide
24 supplemental medical evidence under paragraph (1),

1 the Secretary shall select another qualified physician
2 to provide such evidence.

3 “(e) QUALIFIED PHYSICIANS FOR COMPLETE PUL-
4 MONARY EVALUATION AND PROTECTIONS FOR SUIT-
5 ABILITY AND POTENTIAL CONFLICTS OF INTEREST.—

6 “(1) QUALIFIED PHYSICIANS LIST.—The Sec-
7 retary shall create and maintain a list of qualified
8 physicians to be selected by a claimant to perform
9 the complete pulmonary evaluation described in sub-
10 section (a).

11 “(2) PUBLIC AVAILABILITY.—The Secretary
12 shall make the list under this subsection available to
13 the public.

14 “(3) ANNUAL EVALUATION.—Each year, the
15 Secretary shall update such list by reviewing the
16 suitability of the listed qualified physicians and as-
17 sessing any potential conflicts of interest.

18 “(4) CRITERIA FOR SUITABILITY.—The Sec-
19 retary shall include on the list only those physicians
20 whom the Secretary determines are qualified, capa-
21 ble, and willing to provide credible opinions con-
22 sistent with the premises underlying this Act. In de-
23 termining whether a physician is suitable to be on
24 the list under this subsection, the Secretary shall
25 consult the National Practitioner Data Bank of the

1 Department of Health and Human Services and as-
2 sess reports of adverse licensure, certifications, hos-
3 pital privilege, and professional society actions in-
4 volving the physician. In no case shall such list in-
5 clude any physician—

6 “(A) who is not licensed to practice medi-
7 cine in any State or any territory, common-
8 wealth, or possession of the United States;

9 “(B) whose license is revoked by a medical
10 licensing board of any State, territory, common-
11 wealth, or possession of the United States; or

12 “(C) whose license is suspended by a med-
13 ical licensing board of any State, territory, com-
14 monwealth, or possession of the United States.

15 “(5) CONFLICTS OF INTEREST.—The Secretary
16 shall develop and implement policies and procedures
17 to ensure that any actual or potential conflict of in-
18 terest of qualified physicians on the list under this
19 subsection, including both individual and organiza-
20 tional conflicts of interest, are disclosed to the De-
21 partment, and to provide such disclosure to claim-
22 ants. Such policies and procedures shall provide that
23 a physician with a conflict of interest shall not be
24 used to perform a complete pulmonary medical eval-

1 uation under subsection (a) that is reimbursed pur-
2 suant to subsection (g) if—

3 “(A) such physician is employed by, under
4 contract to, or otherwise providing services to a
5 private party opposing the claim, a law firm or
6 lawyer representing such opposing party, or an
7 interested insurer or other interested third
8 party; or

9 “(B) such physician has been retained by
10 a private party opposing the claim, a law firm
11 or lawyer representing such opposing party, or
12 an interested insurer or other interested third
13 party in the previous 24 months.

14 “(f) RECORD.—Upon receipt of any initial report or
15 supplemental report under this section, the Secretary shall
16 enter the report in the record and provide a copy of such
17 report to all parties to the proceeding.

18 “(g) EXPENSES.—All expenses related to obtaining
19 the medical evidence under this section shall be paid for
20 by the fund. If a claimant receives a final award of bene-
21 fits, the operator liable for payment of benefits, if any,
22 shall reimburse the fund for such expenses, which shall
23 include interest.”.

1 **SEC. 109. MEDICAL EVIDENCE TRAINING PROGRAM.**

2 Part C of the Black Lung Benefits Act (30 U.S.C.
3 931 et seq.), as amended by section 108, is further amend-
4 ed by adding at the end the following:

5 **“SEC. 436. MEDICAL EVIDENCE TRAINING PROGRAM.**

6 “(a) IN GENERAL.—Not later than 60 days after the
7 date of enactment of the Black Lung Benefits Improve-
8 ment Act of 2021, the Secretary, in coordination with the
9 National Institute for Occupational Safety and Health,
10 shall establish and implement a training program, to pro-
11 vide education on issues relating to medical evidence rel-
12 evant to claims for benefits under this title, to each of
13 the following individuals who engage in work under this
14 title:

15 “(1) District directors.

16 “(2) Claims examiners working under such di-
17 rectors.

18 “(3) Administrative law judges and attorneys
19 supporting such judges.

20 “(4) Members of the Benefits Review Board es-
21 tablished under section 21(b) of the Longshore and
22 Harbor Workers’ Compensation Act (33 U.S.C.
23 921(b)) and attorneys supporting such members.

24 Training programs for individuals listed in subsections (3)
25 and (4) shall be conducted separately from each other and

1 separately from individuals listed in subsections (1) and
2 (2).

3 “(b) TRAINING PROGRAM TOPICS.—The training
4 program under this section shall provide an overview of
5 topics that include—

6 “(1) new developments in pulmonary medicine
7 relating to pneumoconiosis;

8 “(2) medical evidence, and other relevant evi-
9 dence, sufficient to support a claim for benefits
10 under this title; and

11 “(3) weighing conflicting medical evidence and
12 testimony concerning eligibility for such benefits.

13 “(c) TIMING OF TRAINING.—

14 “(1) INDIVIDUALS HIRED OR APPOINTED PRIOR
15 TO THE BLACK LUNG BENEFITS IMPROVEMENT ACT
16 OF 2021.—Any individual described in paragraphs
17 (1) through (4) of subsection (a) who was hired or
18 appointed prior to the date of enactment of the
19 Black Lung Benefits Improvement Act of 2021 shall
20 complete the training program under this section not
21 later than 60 days after the establishment of such
22 program under subsection (a) and not less than an-
23 nually thereafter.

24 “(2) INDIVIDUALS HIRED OR APPOINTED AFTER
25 THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF

1 2021.—Any individual described in paragraphs (1)
 2 through (4) of subsection (a) who is not described
 3 in paragraph (1) shall complete the training pro-
 4 gram under this section not later than 60 days after
 5 such individual is hired or appointed and not less
 6 than annually thereafter.”.

7 **SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.**

8 The Black Lung Benefits Act (30 U.S.C. 901 et seq.)
 9 is amended—

10 (1) in section 401(a) (30 U.S.C. 901(a)), by in-
 11 serting “or who were found to be totally disabled by
 12 such disease” after “such disease”;

13 (2) in section 402—

14 (A) in subsection (a), by striking para-
 15 graph (2) and inserting the following:

16 “(2) a spouse who is a member of the same
 17 household as the miner, or is receiving regular con-
 18 tributions from the miner for support, or whose
 19 spouse is a miner who has been ordered by a court
 20 to contribute to support, or who meets the require-
 21 ments of paragraph (1) or (2) of section 216(b) of
 22 the Social Security Act or paragraph (1) or (2) of
 23 section 216(f) of such Act. An individual is the
 24 ‘spouse’ of a miner when such individual is legally
 25 married to the miner under the laws of the State

1 where the marriage was celebrated. The term
2 ‘spouse’ also includes a ‘divorced wife’ or ‘divorced
3 husband’, as such terms are defined in paragraph
4 (1) or (4) of section 216(d) of such Act, who is re-
5 ceiving at least one-half of his or her support, as de-
6 termined in accordance with regulations prescribed
7 by the Secretary, from the miner, or is receiving
8 substantial contributions from the miner (pursuant
9 to a written agreement), or there is in effect a court
10 order for substantial contributions to the spouse’s
11 support from such miner.”;

12 (B) by striking subsection (e) and insert-
13 ing the following:

14 “(e) The term ‘surviving spouse’ includes the spouse
15 living with or dependent for support on the miner at the
16 time of the miner’s death, or living apart for reasonable
17 cause or because of the miner’s desertion, or who meets
18 the requirements of subparagraph (A), (B), (C), (D), or
19 (E) of section 216(c)(1) of the Social Security Act, sub-
20 paragraph (A), (B), (C), (D), or (E) of section 216(g)(1)
21 of such Act, or section 216(k) of such Act, who is not
22 married. An individual is the ‘surviving spouse’ of a miner
23 when legally married at the time of the miner’s death
24 under the laws of the State where the marriage was cele-
25 brated. Such term also includes a ‘surviving divorced wife’

1 or ‘surviving divorced husband’, as such terms are defined
 2 in paragraph (2) or (5) of section 216(d) of such Act who
 3 for the month preceding the month in which the miner
 4 died, was receiving at least one-half of his or her support,
 5 as determined in accordance with regulations prescribed
 6 by the Secretary, from the miner, or was receiving sub-
 7 stantial contributions from the miner (pursuant to a writ-
 8 ten agreement) or there was in effect a court order for
 9 substantial contributions to the spouse’s support from the
 10 miner at the time of the miner’s death.”;

11 (C) in subsection (g)—

12 (i) in paragraph (2)(B)(ii), by striking
 13 “he ceased” and inserting “the individual
 14 ceased”; and

15 (ii) in the matter following paragraph
 16 (2)(C), by striking “widow” each place it
 17 appears and inserting “surviving spouse”;

18 (D) in subsection (h), by striking “Internal
 19 Revenue Code of 1954” and inserting “Internal
 20 Revenue Code of 1986”; and

21 (E) in subsection (i), by striking “Internal
 22 Revenue Code of 1954” and inserting “Internal
 23 Revenue Code of 1986”;

24 (3) in section 411 (30 U.S.C. 921)—

1 (A) by striking subsection (a) and insert-
2 ing the following:

3 “(a) The Secretary shall, in accordance with the pro-
4 visions of this title, and the regulations promulgated by
5 the Secretary under this title, make payments of benefits
6 in respect of—

7 “(1) total disability of any miner due to pneu-
8 moconiosis;

9 “(2) the death of any miner whose death was
10 due to pneumoconiosis;

11 “(3) total disability of any miner at the time of
12 the miner’s death with respect to a claim filed under
13 part C prior to January 1, 1982;

14 “(4) survivors’ benefits for any survivor’s claim
15 filed after January 1, 2005, that is pending on or
16 after March 23, 2010, where the miner is found en-
17 titled to receive benefits on a claim filed under part
18 C; and

19 “(5) survivors’ benefits where the miner is
20 found entitled to receive benefits on a claim filed
21 under part C before January 1, 1982.”; and

22 (B) in subsection (c)—

23 (i) in paragraph (1), by striking “his
24 pneumoconiosis” and inserting “the min-
25 er’s pneumoconiosis”; and

1 (ii) in paragraph (2), by striking “his
2 death” and inserting “the miner’s death”;
3 (4) in section 412 (30 U.S.C. 922)—

4 (A) in subsection (a)—

5 (i) by striking paragraph (2) and in-
6 serting the following:

7 “(2) In the case of a surviving spouse—

8 “(A) of a miner whose death is due to pneumo-
9 coniosis;

10 “(B) in a claim filed after January 1, 2005,
11 and that is pending on or after March 23, 2010, of
12 a miner who is found entitled to receive benefits on
13 a claim filed under part C;

14 “(C) of a miner who is found entitled to receive
15 benefits on a claim filed under part C before Janu-
16 ary 1, 1982; or

17 “(D) in a claim filed under part C before Janu-
18 ary 1, 1982, of a miner who was totally disabled by
19 pneumoconiosis at the time of the miner’s death,
20 benefits shall be paid to the miner’s surviving spouse at
21 the rate the deceased miner would receive such benefits
22 if he were totally disabled.”;

23 (ii) in paragraph (3)—

24 (I) by striking “(3) In the case”
25 and all that follows through “section

1 411(c)” and inserting the following:
2 “(3)(A) In the case of the child or
3 children of a miner described in sub-
4 paragraph (B)”;

5 (II) by striking “he” each place
6 it appears and inserting “the child”;

7 (III) by striking “widow” each
8 place it appears and inserting “sur-
9 viving spouse”; and

10 (IV) by adding at the end the fol-
11 lowing:

12 “(B) Subparagraph (A) shall apply in the case of any
13 child or children—

14 “(i) of a miner whose death is due to pneumo-
15 coniosis;

16 “(ii) in a claim filed after January 1, 2005,
17 that is pending on or after March 23, 2010, of a
18 miner who is found entitled to receive benefits on a
19 claim filed under part C;

20 “(iii) of a miner who is found entitled to receive
21 benefits on a claim filed under part C before Janu-
22 ary 1, 1982;

23 “(iv) in a claim filed under part C before Janu-
24 ary 1, 1982, of a miner who was totally disabled by
25 pneumoconiosis at the time of the miner’s death;

1 “(v) of a surviving spouse who is found entitled
2 to receive benefits under this part at the time of the
3 surviving spouse’s death; or

4 “(vi) entitled to the payment of benefits under
5 paragraph (5) of section 411(c).”;

6 (iii) in paragraph (5)—

7 (I) by striking the first sentence
8 and inserting the following: “In the
9 case of the dependent parent or par-
10 ents of a miner who is not survived at
11 the time of death by a surviving
12 spouse or a child and (i) whose death
13 is due to pneumoconiosis, (ii) in a
14 claim filed after January 1, 2005,
15 that is pending on or after March 23,
16 2010, who is found entitled to receive
17 benefits on a claim filed under part C,
18 (iii) who is found entitled to receive
19 benefits on a claim filed under part C
20 before January 1, 1982, or (iv) in a
21 claim filed under part C before Janu-
22 ary 1, 1982, who was totally disabled
23 by pneumoconiosis at the time of the
24 miner’s death; in the case of the de-
25 pendent surviving brother(s) or sis-

1 ter(s) of such a miner who is not sur-
2 vived at the time of the miner's death
3 by a surviving spouse, child, or par-
4 ent; in the case of the dependent par-
5 ent or parents of a miner (who is not
6 survived at the time of the miner's
7 death by a surviving spouse or child)
8 who are entitled to the payment of
9 benefits under paragraph (5) of sec-
10 tion 411(c); or in the case of the de-
11 pendent surviving brother(s) or sis-
12 ter(s) of a miner (who is not survived
13 at the time of the miner's death by a
14 surviving spouse, child, or parent)
15 who are entitled to the payment of
16 benefits under paragraph (5) of sec-
17 tion 411(c), benefits shall be paid
18 under this part to such parent(s), or
19 to such brother(s), or sister(s), at the
20 rate specified in paragraph (3) (as if
21 such parent(s) or such brother(s) or
22 sister(s), were the children of such
23 miner)."; and

24 (II) in the fourth sentence—

1 (aa) by striking “brother
2 only if he” and inserting “broth-
3 er or sister only if the brother or
4 sister”; and

5 (bb) by striking “before he
6 ceased” and inserting “before the
7 brother or sister ceased”; and

8 (iv) in paragraph (6), by striking
9 “prescribed by him” and inserting “pre-
10 scribed by such Secretary”;

11 (B) in subsection (b)—

12 (i) by striking “his” each place it ap-
13 pears and inserting “such miner’s”; and

14 (ii) by striking “widow” each place it
15 appears and inserting “surviving spouse”;
16 and

17 (C) in subsection (c), by striking “Internal
18 Revenue Code of 1954” and inserting “Internal
19 Revenue Code of 1986”;

20 (5) in section 413 (30 U.S.C. 923)—

21 (A) in subsection (b)—

22 (i) in the second sentence, by striking
23 “his wife’s affidavits” and inserting “affi-
24 davits of the miner’s spouse”;

1 (ii) in the ninth sentence, by striking
2 “widow” and inserting “surviving spouse”;
3 and

4 (iii) by striking the last sentence; and
5 (B) in subsection (c), by striking “his
6 claim” and inserting “the claim”;

7 (6) in section 414 (30 U.S.C. 924)—

8 (A) in subsection (a)—

9 (i) in paragraph (1), by striking
10 “widow, within six months after the death
11 of her husband” and inserting “surviving
12 spouse, within six months after the death
13 of the miner”; and

14 (ii) in paragraph (2)(C), by striking
15 “his” and inserting “the child’s”; and

16 (B) in subsection (e)—

17 (i) by striking “widow” and inserting
18 “surviving spouse”; and

19 (ii) by striking “his death” and insert-
20 ing “the miner’s death”;

21 (7) in section 415(a) (30 U.S.C. 925(a))—

22 (A) in paragraph (1), by striking “Internal
23 Revenue Code of 1954” and inserting “Internal
24 Revenue Code of 1986”; and

25 (B) in paragraph (2)—

1 (i) by striking “he” and inserting
2 “such Secretary”; and

3 (ii) by striking “him” and inserting
4 “such Secretary”;

5 (8) in section 421 (30 U.S.C. 931)—

6 (A) in subsection (a), by striking “widows”
7 and inserting “spouses”; and

8 (B) in subsection (b)(2)—

9 (i) in the matter preceding subpara-
10 graph (A), by striking “he” and inserting
11 “such Secretary”; and

12 (ii) in subparagraph (F), by striking
13 “promulgated by him” and inserting “pro-
14 mulgated by such Secretary”;

15 (9) in section 422 (30 U.S.C. 932)—

16 (A) in subsection (a)—

17 (i) by striking “Internal Revenue
18 Code of 1954” and inserting “Internal
19 Revenue Code of 1986”; and

20 (ii) by striking “he” and inserting
21 “such Secretary”;

22 (B) in subsection (i)(4), by striking “Inter-
23 nal Revenue Code of 1954” and inserting “In-
24 ternal Revenue Code of 1986”; and

1 (C) in subsection (j), by striking “Internal
2 Revenue Code of 1954” each place it appears
3 and inserting “Internal Revenue Code of
4 1986”;

5 (10) in section 423(a) (30 U.S.C. 933(a)), by
6 striking “he” and inserting “such operator”;

7 (11) in section 424(b) (30 U.S.C. 934(b))—

8 (A) in the matter following subparagraph
9 (B) of paragraph (1), by striking “him” and in-
10 sserting “such operator”;

11 (B) in paragraph (3), by striking “Internal
12 Revenue Code of 1954” each place it appears
13 and inserting “Internal Revenue Code of
14 1986”; and

15 (C) in paragraph (5), by striking “Internal
16 Revenue Code of 1954” and inserting “Internal
17 Revenue Code of 1986”;

18 (12) in section 428 (30 U.S.C. 938)—

19 (A) in subsection (a), by striking “him”
20 and inserting “such operator”; and

21 (B) in subsection (b)—

22 (i) in the first sentence, by striking
23 “he” and inserting “the miner”;

24 (ii) in the third sentence, by striking
25 “he” and inserting “the Secretary”;

1 (iii) in the ninth sentence—

2 (I) by striking “he” each place it
3 appears and inserting “the Sec-
4 retary”; and

5 (II) by striking “his” and insert-
6 ing “the miner’s”; and

7 (iv) in the tenth sentence, by striking
8 “he” each place it appears and inserting
9 “the Secretary”; and

10 (13) in section 430 (30 U.S.C. 940)—

11 (A) by striking “1977 and” and inserting
12 “1977,”; and

13 (B) by striking “1981” and inserting
14 “1981, and the Black Lung Benefits Improve-
15 ment Act of 2021, and any amendments made
16 after the date of enactment of such Act,”.

17 **SEC. 111. READJUDICATING CASES INVOLVING CERTAIN**
18 **CHEST RADIOGRAPHS.**

19 (a) DEFINITIONS.—In this section:

20 (1) COVERED CHEST RADIOGRAPH.—The term
21 “covered chest radiograph” means a chest
22 radiograph that was interpreted as negative for sim-
23 ple pneumoconiosis, complicated pneumoconiosis, or
24 progressive massive fibrosis by a physician with re-
25 spect to whom the Secretary has directed, in writing

1 and after an evaluation by the Secretary, that such
2 physician's negative interpretations of chest
3 radiographs not be credited, except where subse-
4 quently determined to be credible by the Secretary
5 in evaluating a claim for benefits under the Black
6 Lung Benefits Act (30 U.S.C. 901 et seq.).

7 (2) COVERED INDIVIDUAL.—The term “covered
8 individual” means an individual whose record for a
9 claim for benefits under the Black Lung Benefits
10 Act includes a covered chest radiograph.

11 (3) COVERED SURVIVOR.—The term “covered
12 survivor” means an individual who—

13 (A) is a survivor of a covered individual
14 whose claim under the Black Lung Benefits Act
15 was still pending at the time of the covered in-
16 dividual's death; and

17 (B) who continued to seek an award with
18 respect to the covered individual's claim after
19 the covered individual's death.

20 (b) CLAIMS.—A covered individual or a covered sur-
21 vivor whose claim for benefits under the Black Lung Bene-
22 fits Act (30 U.S.C. 901 et seq.) was denied prior to the
23 enactment of this Act may file a new claim for benefits
24 under this Act not later than one year after the date of
25 enactment of this Act.

1 (c) ADJUDICATION ON THE MERITS.—

2 (1) IN GENERAL.—Any new claim filed under
3 subsection (b) shall be adjudicated on the merits and
4 shall not include consideration of a covered chest
5 radiograph.

6 (2) COVERED SURVIVOR.—Any new claim filed
7 under subsection (b) by a covered survivor shall be
8 adjudicated as either a miner's or a survivor's claim
9 depending upon the type of claim pending at the
10 time of the covered individual's death.

11 (d) TIME OF PAYMENT.—

12 (1) MINER'S CLAIM.—If a claim, filed under
13 subsection (b) and adjudicated under subsection (c)
14 as a miner's claim, results in an award of benefits,
15 benefits shall be payable beginning with the month
16 of the filing of the denied claim that had included
17 in its record a covered chest radiograph.

18 (2) SURVIVOR'S CLAIM.—If a claim, filed under
19 subsection (b) and adjudicated under subsection (c)
20 as a survivor's claim, results in an award of benefits,
21 benefits shall be payable beginning with the month
22 of the miner's death.

23 (e) CONTRIBUTING IMPACT.—The Secretary shall
24 have the discretion to deny a new claim under subsection
25 (b) in circumstances where the party opposing such claim

1 establishes through clear and convincing evidence that a
 2 covered chest radiograph did not contribute to the decision
 3 to deny benefits in all prior claims filed by the covered
 4 individual or the covered survivor.

5 (f) LIMITATION ON FILING OF NEW CLAIMS.—A new
 6 claim for benefits may be filed under subsection (b) only
 7 if the original claim was finally denied by a district direc-
 8 tor, an administrative law judge, or the Benefits Review
 9 Board established under section 21(b) of the Longshore
 10 and Harbor Workers’ Compensation Act (33 U.S.C.
 11 921(b)).

12 **SEC. 112. DISCLOSURE OF EMPLOYMENT AND EARNINGS**
 13 **INFORMATION FOR BLACK LUNG BENEFITS**
 14 **CLAIMS.**

15 (a) TAX RETURN INFORMATION.—

16 (1) IN GENERAL.—Section 6103(l) of the Inter-
 17 nal Revenue Code of 1986 is amended by adding at
 18 the end the following new paragraph:

19 “(23) DISCLOSURE OF RETURN INFORMATION
 20 TO DEPARTMENT OF LABOR TO CARRY OUT BLACK
 21 LUNG BENEFITS ACT.—

22 “(A) IN GENERAL.—The Commissioner of
 23 Social Security shall, on written request with
 24 respect to any individual, disclose to officers or
 25 employees of the Department of Labor return

1 information from returns with respect to net
 2 earnings from self-employment (as defined in
 3 section 1402) and wages (as defined in section
 4 3121(a) or 3401(a)) for employment for each
 5 employer of such individual.

6 “(B) RESTRICTION ON DISCLOSURE.—The
 7 Commissioner of Social Security shall disclose
 8 return information under subparagraph (A)
 9 only for purposes of, and the extent necessary
 10 in, carrying out the proper administration of
 11 the Black Lung Benefits Act (30 U.S.C. 901 et
 12 seq.).”.

13 (2) CONFORMING AMENDMENTS.—Section
 14 6103(p)(4) of such Code is amended—

15 (A) in the matter preceding subparagraph
 16 (A), by striking “or (22)” and inserting “(22),
 17 or (23)”; and

18 (B) in subparagraph (F)(ii), by striking
 19 “or (22),” and inserting “(22), or (23)”.

20 (b) SOCIAL SECURITY EARNINGS INFORMATION.—

21 Notwithstanding section 552a of title 5, United States
 22 Code, or any other provision of Federal or State law, the
 23 Commissioner of Social Security shall make available to
 24 the officers and employees of the Department of Labor,
 25 upon written request, the Social Security earnings infor-

1 mation of living or deceased individuals who are the sub-
2 ject of a claim under the Black Lung Benefits Act (30
3 U.S.C. 901 et seq.), which the Secretary of Labor may
4 require to carry out such Act. Such information shall be
5 made available in electronic form.

6 **PART B—REPORTS TO IMPROVE THE ADMINIS-**
7 **TRATION OF BENEFITS UNDER THE BLACK**
8 **LUNG BENEFITS ACT**

9 **SEC. 121. STRATEGY TO REDUCE DELAYS IN ADJUDICA-**
10 **TION.**

11 (a) IN GENERAL.—Not later than 90 days after the
12 date of enactment of this Act, the Secretary of Labor shall
13 submit to the Committee on Health, Education, Labor,
14 and Pensions and the Committee on Appropriations of the
15 Senate and the Committee on Education and Labor and
16 the Committee on Appropriations of the House of Rep-
17 resentatives a comprehensive strategy to reduce the back-
18 log of cases pending on such date of enactment before the
19 Office of Administrative Law Judges of the Department
20 of Labor.

21 (b) CONTENTS OF STRATEGY.—The strategy under
22 this section shall provide information relating to—

23 (1) the current and targeted pendency for each
24 category of cases before the Office of Administrative
25 Law Judges of the Department of Labor;

1 (2) the number of administrative law judges,
2 attorney advisors supporting such judges, support
3 staff, and other resources necessary to achieve and
4 maintain the targeted pendency for each category of
5 such cases;

6 (3) the necessary resources to improve effi-
7 ciency and effectiveness, such as equipment for video
8 conferences, training, use of reemployed annuitants,
9 and administrative reforms; and

10 (4) with respect to claims filed under the Black
11 Lung Benefits Act (30 U.S.C. 901 et seq.), the nec-
12 essary resources needed to reduce the average pend-
13 ency of cases to less than 12 months from the date
14 of receipt of the case to the date of disposition of
15 such case.

16 **SEC. 122. GAO REPORT ON BLACK LUNG PROGRAM.**

17 (a) IN GENERAL.—Not later than one year after the
18 date of enactment of this Act, the Comptroller General
19 of the United States shall submit to the Committee on
20 Health, Education, Labor, and Pensions of the Senate and
21 the Committee on Education and Labor of the House of
22 Representatives a report on any barriers to health care
23 faced by coal miners with pneumoconiosis.

24 (b) CONTENTS.—The report required under sub-
25 section (a) shall include—

1 (1) an assessment of possible barriers to health
2 care under the Black Lung Benefits Act (30 U.S.C.
3 901 et seq.) and the degree to which any barriers
4 impact the ability of miners with legitimate medical
5 needs, particularly such miners in rural areas, to ac-
6 cess treatment for pneumoconiosis;

7 (2) recommendations necessary to address
8 issues, if any, relating to patient access to care
9 under such Act; and

10 (3) an evaluation of whether the benefit pay-
11 ments authorized under such Act, as amended by
12 this Act, are sufficient to meet the expenses of dis-
13 abled miners, surviving spouses, dependents, and
14 other family members entitled to receive benefits
15 under the Black Lung Benefits Act.

16 **PART C—IMPROVEMENT IN THE FINANCIAL SE-**
17 **CURITY OF THE BLACK LUNG BENEFITS DIS-**
18 **ABILITY TRUST FUND**

19 **SEC. 131. REGULATIONS FOR SELF-INSURANCE.**

20 Not later than 60 days after the date of enactment
21 of this Act, the Secretary shall publish an interim final
22 rule setting forth the requirements for an operator of a
23 coal mine to qualify as a self-insurer with respect any por-
24 tion of the operator's liabilities under the Black Lung

1 Benefits Act, as described in section 423(a)(1) of such
2 Act. Such requirements shall—

3 (1) establish initial criteria, relating to the fi-
4 nancial health of the operator, on which the eligi-
5 bility of the operator to seek qualification as a self-
6 insurer shall be determined; and

7 (2) establish procedures to determine the min-
8 imum amount of assets of the operator sufficient to
9 secure such liabilities.

10 **TITLE II—ESTABLISHING THE** 11 **OFFICE OF WORKERS’ COM-** 12 **PENSATION PROGRAMS**

13 **SEC. 201. OFFICE OF WORKERS’ COMPENSATION PRO-** 14 **GRAMS.**

15 (a) ESTABLISHMENT.—There shall be established, in
16 the Department of Labor, an Office of Workers’ Com-
17 pensation Programs (referred to in this section as the “Of-
18 fice”).

19 (b) DIRECTOR.—

20 (1) IN GENERAL.—The Office shall be directed
21 by a Director for the Office of Workers’ Compensa-
22 tion (referred to in this title as the “Director”) who
23 shall be appointed by the President, by and with the
24 advice and consent of the Senate.

1 (2) DUTIES.—The Director shall carry out all
2 duties carried out by the Director for the Office of
3 Workers’ Compensation as of the day before the
4 date of enactment of this Act.

5 (c) FUNCTIONS.—The functions of the Office on and
6 after the date of enactment of this Act shall include the
7 functions of the Office on the day before the date of enact-
8 ment of this Act, including all of its personnel, assets, au-
9 thorities, and liabilities.

10 (d) REFERENCES TO BUREAU OF EMPLOYEES’ COM-
11 PENSATION.—Reference in any other Federal law, Execu-
12 tive order, reorganization plan, rule, regulation, or delega-
13 tion of authority, or any document of or relating to the
14 Bureau of Employees’ Compensation with regard to func-
15 tions carried out by the Office of Workers’ Compensation
16 Programs, shall be deemed to refer to the Office of Work-
17 ers’ Compensation Programs.

18 **TITLE III—SEVERABILITY**

19 **SEC. 301. SEVERABILITY.**

20 If any provision of this Act, or an amendment made
21 by this Act, or the application of such provision to any
22 person or circumstance, is held to be invalid, the remain-
23 der of this Act, or an amendment made by this Act, or

- 1 the application of such provision to other persons or cir-
- 2 cumstances, shall not be affected.

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