§ 410.432 Cessation of disability.

(a) Where it has been determined that a miner is totally disabled under §410.412, such disability shall be found to have ceased in the month in which his impairment, as established by medical or other relevant evidence, is no longer of such severity as to prevent him from engaging in comparable and gainful work.

(b) Except where a finding is made as specified in paragraph (a) of this section which results in an earlier month of cessation, if a miner is requested to furnish necessary medical or other evidence or to present himself for a necessary medical examination by a date specified in the request or a date extended at the miner’s request for good cause, and the miner fails to comply with such request, the disability may be found to have ceased in the month within which the date for compliance falls, unless the Administration determines that there is a good cause for such failure.

(c) Before a determination is made that a miner’s disability has ceased, such miner shall be given notice and an opportunity to present evidence including that from medical sources of his own choosing and arguments and contention that his disability has not ceased.

§ 410.454 Determining the existence of pneumoconiosis, including statutory presumption—survivor’s claim.

(a) Medical findings. A finding of the existence of pneumoconiosis as defined in §410.110(o)(1) may be made under the provisions of §410.428 by:

(1) Chest roentgenogram; or
(2) Biopsy; or
(3) Autopsy.

(b) Presumption relating to respiratory or pulmonary impairment—survivor’s claim. (1) Even though the existence of pneumoconiosis is not established as provided in paragraph (a) of this section, if other evidence demonstrates the existence of a chronic respiratory or pulmonary impairment from which the miner was totally disabled (see §410.412) prior to his death, it will be presumed in the absence of evidence to the contrary (see paragraph (b)(2) of this section) that the death of the miner was due to pneumoconiosis.

(2) This presumption may be rebutted only if it is established that the miner did not have pneumoconiosis, or that his respiratory or pulmonary impairment did not arise out of, or in connection with, employment in a coal mine.

(3) The provisions of this paragraph shall apply where a miner was employed for 15 or more years in one or more of the Nation’s underground coal mines; in one or more of the Nation’s other coal mines where the environmental conditions were substantially similar to those in an underground coal mine; or in any combination of both.

(4) However, where the evidence shows a work history reflecting many years of such coal mine employment (although less than 15) as well as a severe lung impairment, such evidence may be considered, in the exercise of sound judgment, to establish entitlement in such case: Provided, That a mere showing of a respiratory or pulmonary impairment shall not be sufficient to establish such entitlement.

(c) Other relevant evidence. Even though the existence of pneumoconiosis is not established as provided in paragraph (a) or (b) of this section, a finding of death due to pneumoconiosis may be made if other relevant evidence establishes the existence of a totally disabling chronic respiratory or pulmonary impairment, and that such