

AMENDMENTS

1977—Par. (k). Pub. L. 95-164 struck out par. (k) which defined “respirable dust” as dust particles 5 microns or less in size.

CHANGE OF NAME

“United States Bureau of Mines” substituted for “Bureau of Mines” in par. (i) pursuant to section 10(b) of Pub. L. 102-285, set out as a note under section 1 of this title. For provisions relating to closure and transfer of functions of the United States Bureau of Mines, see Transfer of Functions note set out under section 1 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95-164 effective Nov. 9, 1977, see section 307 of Pub. L. 95-164, set out as a note under section 801 of this title.

EFFECTIVE DATE

Section operative 90 days after Dec. 30, 1969, except to the extent an earlier date is specifically provided for in Pub. L. 91-173, see section 509 of Pub. L. 91-173, set out as a note under section 801 of this title.

SUBCHAPTER IV—BLACK LUNG BENEFITS

PART A—GENERAL PROVISIONS

§ 901. Congressional findings and declaration of purpose; short title

(a) Congress finds and declares that there are a significant number of coal miners living today who are totally disabled due to pneumoconiosis arising out of employment in one or more of the Nation’s coal mines; that there are a number of survivors of coal miners whose deaths were due to this disease; and that few States provide benefits for death or disability due to this disease to coal miners or their surviving dependents. It is, therefore, the purpose of this subchapter to provide benefits, in cooperation with the States, to coal miners who are totally disabled due to pneumoconiosis and to the surviving dependents of miners whose death was due to such disease; and to ensure that in the future adequate benefits are provided to coal miners and their dependents in the event of their death or total disability due to pneumoconiosis.

(b) This subchapter may be cited as the “Black Lung Benefits Act”.

(Pub. L. 91-173, title IV, § 401, Dec. 30, 1969, 83 Stat. 792; Pub. L. 92-303, §§ 3(a), 4(b)(2), May 19, 1972, 86 Stat. 153, 154; Pub. L. 95-239, § 16, Mar. 1, 1978, 92 Stat. 105; Pub. L. 97-119, title II, § 203(a)(4), Dec. 29, 1981, 95 Stat. 1644.)

AMENDMENTS

1981—Subsec. (a). Pub. L. 97-119 struck out “or who were totally disabled by this disease at the time of their deaths” after “due to this disease” and “due to such disease”.

1978—Pub. L. 95-239 designated existing provisions as subsec. (a) and added subsec. (b).

1972—Pub. L. 92-303, § 3(a), inserted “or who were totally disabled by this disease at the time of their deaths” after “disease” the first and third times it appeared and struck out “underground” before “coal mines”.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-119, title II, § 206(a), Dec. 29, 1981, 95 Stat. 1645, provided that: “Except as otherwise provided, the provisions of this title [see Short Title of 1981 Amend-

ment note set out under section 801 of this title] shall take effect on January 1, 1982.”

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-239, § 20(a), Mar. 1, 1978, 92 Stat. 106, provided that: “The provisions of this Act [see Short Title of 1978 Amendment note set out under section 801 of this title] shall take effect on the date of enactment of this Act [Mar. 1, 1978].”

EFFECTIVE DATE OF 1972 AMENDMENT

Pub. L. 92-303, § 3(c), May 19, 1972, 86 Stat. 153, provided that: “The amendments made by this section [amending this section and sections 902, 921, 932, and 933 of this title] shall be effective as of December 30, 1969.”

Amendment by section 4(b)(2) of Pub. L. 92-303 effective Dec. 30, 1969, see section 4(g) of Pub. L. 92-303, set out as a note under section 921 of this title.

EFFECTIVE DATE

Subchapter effective Dec. 30, 1969, see section 509 of Pub. L. 91-173, set out as a note under section 801 of this title.

SEPARABILITY

Pub. L. 97-119, title II, § 206(b), Dec. 29, 1981, 95 Stat. 1645, provided that: “If any provision of this title [see Short Title of 1981 Amendment note, set out under section 801 of this title], or the application of such provision to any person or circumstance, shall be held invalid, the remainder of this title, or the application of such provision to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.”

SPECIAL BENEFITS FOR DISABLED COAL MINERS

Pub. L. 102-394, title II, Oct. 6, 1992, 106 Stat. 1806, provided that: “For carrying out title IV of the Federal Mine Safety and Health Act of 1977 [30 U.S.C. 901 et seq.], including for fiscal year 1993 and thereafter the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, \$601,313,000, to remain available until expended: *Provided*, That monthly benefit payments for fiscal year 1993 and thereafter shall be paid consistent with section 215(g) of the Social Security Act [42 U.S.C. 415(g)].”

STUDY OF CURRENT MEDICAL METHODS FOR DIAGNOSIS OF PNEUMOCONIOSIS AND NATURE AND EXTENT OF IMPAIRMENT ATTRIBUTABLE TO SIMPLE AND COMPLICATED PNEUMOCONIOSIS; REPORT TO CONGRESS

Pub. L. 97-119, title II, § 202(e), Dec. 29, 1981, 95 Stat. 1643, directed Secretary of Labor, in consultation with Secretary of Health and Human Services, to undertake a study of current medical methods for diagnosis of pneumoconiosis, and of nature and extent of impairment and disability that are attributable to the existence of both simple and complicated pneumoconiosis, with study, together with appropriate recommendations, to be transmitted to Congress no later than eighteen months after Jan. 1, 1982.

STUDY OF BENEFITS UNDER THIS SUBCHAPTER, OTHER BENEFITS RECEIVED, AND BENEFITS IF STATE WORKERS’ COMPENSATION PROGRAMS APPLICABLE; REPORT TO CONGRESS

Pub. L. 97-119, title II, § 203(c), Dec. 29, 1981, 95 Stat. 1644, directed Secretary of Labor to undertake a study of the benefits provided by this subchapter, other benefits received by individuals who receive benefits under this subchapter, and benefits which would be received were State workers’ compensation programs applicable

in lieu of benefits under this subchapter, with study, together with appropriate recommendations, to be transmitted to Congress no later than eighteen months after Jan. 1, 1982.

§ 902. Definitions

For purposes of this subchapter—

(a) The term “dependent” means—

(1) a child as defined in subsection (g) without regard to subparagraph (2)(B)(ii) thereof; or

(2) a wife who is a member of the same household as the miner, or is receiving regular contributions from the miner for her support, or whose husband is a miner who has been ordered by a court to contribute to her support, or who meets the requirements of section 416(b)(1) or (2) of title 42. The determination of an individual’s status as the “wife” of a miner shall be made in accordance with section 416(h)(1) of title 42 as if such miner were the “insured individual” referred to therein. The term “wife” also includes a “divorced wife” as defined in section 416(d)(1) of title 42 who is receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to her support from such miner.

(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.

(c) The term “Secretary”, except where expressly otherwise provided, means the Secretary of Labor.

(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.

(e) The term “widow” includes the wife living with or dependent for support on the miner at the time of his death, or living apart for reasonable cause or because of his desertion, or who meets the requirements of section 416(c)(1), (2), (3), (4), or (5),¹ and section 416(k) of title 42, who is not married. The determination of an individual’s status as the “widow” of a miner shall be made in accordance with section 416(h)(1) of title 42 as if such miner were the “insured individual” referred to therein. Such term also includes a “surviving divorced wife” as defined in section 416(d)(2) of title 42 who for the month preceding the month in which the miner died, was receiving at least one-half of her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contribu-

tions to her support from the miner at the time of his death.

(f)(1) The term “total disability” has the meaning given it by regulations of the Secretary of Health and Human Services, which were in effect on November 2, 2002, for claims under part B of this subchapter, and by regulations of the Secretary of Labor for claims under part C of this subchapter, subject to the relevant provisions of subsections (b) and (d) of section 923 of this title, except that—

(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 423(d) of title 42; and

(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 arising under part B of this subchapter or subject to a determination by the Secretary of Labor under section 945(a)¹ of this title;

(B) any claim which is subject to review by the Secretary of Labor under section 945(b)¹ of this title; 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 disposition of any such claim occurs after the date of such promulgation of regulations by the Secretary of Labor.

(g) The term “child” means a child or a step-child who is—

(1) unmarried; and

(2)(A) under eighteen years of age, or

(B)(i) under a disability as defined in section 423(d) of title 42,

(ii) which began before the age specified in section 402(d)(1)(B)(ii) of title 42, or, in the case of a student, before he ceased to be a student; or

(C) a student.

The term “student” means a “full-time student” as defined in section 402(d)(7) of title 42, or

¹ See References in Text note below.