

PART C—CLAIMS FOR BENEFITS AFTER
DECEMBER 31, 1973

§ 931. Benefits under State workmen's compensation laws

(a) Filing

On and after January 1, 1974, any claim for benefits for death or total disability due to pneumoconiosis shall be filed pursuant to the applicable State workmen's compensation law, except that during any period when miners or their surviving widows, children, parents, brothers, or sisters, as the case may be, are not covered by a State workmen's compensation law which provides adequate coverage for pneumoconiosis, and in any case in which benefits based upon eligibility under paragraph (5) of section 921(c) of this title are involved,¹ they shall be entitled to claim benefits under this part.

(b) Adequacy of compensation; listing of States providing adequate compensation; requisites for listing

(1) For purposes of this section, a State workmen's compensation law shall not be deemed to provide adequate coverage for pneumoconiosis during any period unless it is included in the list of State laws found by the Secretary to provide such adequate coverage during such period. The Secretary shall, no later than October 1, 1972, publish in the Federal Register a list of State workmen's compensation laws which provide adequate coverage for pneumoconiosis and shall revise and republish in the Federal Register such list from time to time, as may be appropriate to reflect changes in such State laws due to legislation or judicial or administrative interpretation.

(2) The Secretary shall include a State workmen's compensation law on such list during any period only if he finds that during such period under such law—

(A) benefits must be paid for total disability or death of a miner due to pneumoconiosis, 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 933 of this title 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;

(B) the amount of such cash benefits is substantially equivalent to or greater than the amount of benefits prescribed by section 922(a) of this title;

(C) the standards for determining death or total disability due to pneumoconiosis are substantially equivalent to section 902(f) of this title and to those standards established under this part, and by the regulations of the Secretary promulgated under this part;

(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 med-

ical determination of total disability due to pneumoconiosis;

(E) there are in effect provisions with respect to prior and successor operators which are substantially equivalent to the provisions contained in section 932(i) of this title; and

(F) there are applicable such other provisions, regulations or interpretations, which are consistent with the provisions contained in Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended [33 U.S.C. 901 et seq.], which are applicable under section 932(a) of this title, but are not inconsistent with any of the criteria set forth in subparagraphs (A) through (E) of this paragraph, as the Secretary, in accordance with regulations promulgated by him, determines to be necessary or appropriate to assure adequate compensation for total disability or death due to pneumoconiosis.

The action of the Secretary in including or failing to include any State workmen's compensation law on such list shall be subject to judicial review exclusively in the United States court of appeals for the circuit in which the State is located or the United States Court of Appeals for the District of Columbia.

(c) Publication in Federal Register; review of listings

Final regulations required for implementation of any amendments to this part shall be promulgated and published in the Federal Register at the earliest practicable date after the date of enactment of such amendments, and in no event later than the end of the sixth month following the month in which such amendments are enacted.

(Pub. L. 91-173, title IV, §421, Dec. 30, 1969, 83 Stat. 795; Pub. L. 92-303, §§1(c)(1), 4(e), 5(3), (5), May 19, 1972, 86 Stat. 151, 154, 155; Pub. L. 95-239, §§3(b)(3), 6, Mar. 1, 1978, 92 Stat. 97, 98.)

Editorial Notes

REFERENCES IN TEXT

Public Law 803, 69th Congress, referred to in subsec. (b)(2)(F), is act Mar. 4, 1927, ch. 509, 44 Stat. 1424, popularly known as the Longshore and Harbor Workers' Compensation Act, which is classified generally to chapter 18 (§901 et seq.) of Title 33, Navigation and Navigable Waters. For complete classification of this Act to the Code, see section 901 of Title 33 and Tables.

AMENDMENTS

1978—Subsec. (a). Pub. L. 95-239, §3(b)(3), inserted reference to cases in which benefits based upon eligibility under par. (5) of section 921(c) of this title are involved.

Subsec. (b)(2)(A). Pub. L. 95-239, §6(a), added the exceptions set out in cls. (i) and (ii).

Subsec. (b)(2)(C). Pub. L. 95-239, §6(b), substituted "established under this part, and by the regulations of the Secretary promulgated under this part" for "established under part B of this subchapter, and by the regulations of the Secretary of Health, Education, and Welfare promulgated thereunder".

Subsec. (b)(2)(D). Pub. L. 95-239, §6(c), substituted "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" for "total disability or death of a miner due to pneumoconiosis is deemed to be timely filed if such claim is filed within three years of

¹ So in original. The period probably should be a comma.

the discovery of total disability due to pneumoconiosis, or the date of such death, as the case may be”.

1972—Subsec. (a). Pub. L. 92-303, §§1(c)(1), 5(3), substituted “widows, children, parents, brothers, or sisters, as the case may be,” for “widows” and “1974” for “1973”.

Subsec. (b)(2)(C). Pub. L. 92-303, §4(e), substituted “section 902(f) of this title and to those standards established under part B of this subchapter” for “those established by section 921 of this title”.

Subsec. (c). Pub. L. 92-303, §5(5), added subsec. (c).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-239 effective Mar. 1, 1978, see section 20(a) of Pub. L. 95-239, set out as a note under section 901 of this title.

EFFECTIVE DATE OF 1972 AMENDMENT

Amendment by section 4(e) 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.

§ 932. Failure to meet workmen's compensation requirements

(a) Benefits; applicability of Longshore and Harbor Workers' Compensation Act; promulgation of regulations

Subject to section 28(h)(1) of the Longshore and Harbor Workers' Compensation Act Amendments of 1984, during any period after December 31, 1973, in which a State workmen's compensation law is not included on the list published by the Secretary under section 931(b) of this title, the provisions of Public Law 803, 69th Congress (44 Stat. 1424, approved March 4, 1927), as amended [33 U.S.C. 901 et seq.], and as it may be amended from time to time (other than the provisions contained in sections 1, 2, 3, 4,¹ 8, 9, 10, 12, 13, 29, 30, 31, 32, 33, 37, 38, 41, 43, 44, 45, 46, 47, 48, 49, 50, and 51 thereof) [33 U.S.C. 901, 902, 903, 904, 908, 909, 910, 912, 913, 929, 930, 931, 932, 933, 937, 938, 941, 943, 944, 945, 946, 947, 948, 948a, 949, 950], shall (except as otherwise provided in this subsection 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 9501(d) of title 26), be applicable to each operator of a coal mine in such State with respect to death or total disability due to pneumoconiosis arising out of employment in such mine, or with respect to entitlements established in paragraph (5) of section 921(c) of this title. In administering this part, the Secretary is authorized to prescribe in the Federal Register such additional provisions, not inconsistent with those specifically excluded by this subsection, as he deems necessary to provide for the payment of benefits by such operator to persons entitled thereto as provided in this part and thereafter those provisions shall be applicable to such operator.

(b) Liability of operators

During any such period each such operator shall be liable for and shall secure the payment of benefits, as provided in this section and sec-

tion 933 of this title. 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) Persons entitled to benefits

Benefits shall be paid during such period by each such operator under this section to the categories of persons entitled to benefits under section 922(a) of this title in accordance with the regulations of the Secretary applicable under this section: *Provided*, That, except as provided in subsection (i) of this section, no benefit shall be payable by any operator on account of death or total disability due to pneumoconiosis (1) which did not arise, at least in part, out of employment in a mine during a period after December 31, 1969, when it was operated by such operator; or (2) which was the subject of a claim denied before March 1, 1978, and which is or has been approved in accordance with the provisions of section 945² of this title.

(d) Monthly payments; amounts; accrual of interest

Benefits payable under this section shall be paid on a monthly basis and, except as otherwise provided in this section, such payments shall be equal to the amounts specified in section 922(a) of this title. If payment is not made within the time required, interest shall accrue to such amounts at the rates set forth in section 934(b)(5) of this title for interest owed to the fund. With respect to payments withheld pending final adjudication of liability, in the case of claims filed on or after the effective date of the Black Lung Benefits Amendments of 1981, such interest shall commence to accumulate 30 days after the date of the determination that such an award should be made.

(e) Conditions upon payment

No payment of benefits shall be required under this section:

- (1) except pursuant to a claim filed therefor in such manner, in such form, and containing such information, as the Secretary shall by regulation prescribe; or
- (2) for any period prior to January 1, 1974.

(f) Limitation on filing of claims

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) March 1, 1978.

(g) Reduction of monthly benefits

The amount of benefits payable under this section shall be reduced, on a monthly or other appropriate basis, by the amount of any compensation received under or pursuant to any Federal or State workmen's compensation law because

¹ So in original.

² See References in Text note below.