

118TH CONGRESS  
1ST SESSION

# S. 2416

To amend the Black Lung Benefits Act to ease the benefits process for survivors of miners whose deaths were due to pneumoconiosis.

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IN THE SENATE OF THE UNITED STATES

JULY 20, 2023

Mr. WARNER (for himself, Mr. BROWN, Mr. CASEY, Mr. FETTERMAN, Mr. KAINE, and Mr. MANCHIN) introduced the following bill; which was read twice and referred to the Committee on Health, Education, Labor, and Pensions

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## A BILL

To amend the Black Lung Benefits Act to ease the benefits process for survivors of miners whose deaths were due to pneumoconiosis.

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 “Relief for Survivors  
5 of Miners Act of 2023”.

1 **SEC. 2. AMENDMENTS TO THE BENEFITS PROCESS FOR**  
2 **SURVIVORS OF MINERS WHOSE DEATHS**  
3 **WERE DUE TO PNEUMOCONIOSIS.**

4 (a) **REBUTTABLE PRESUMPTIONS FOR A DEATH DUE**  
5 **TO PNEUMOCONIOSIS.—**

6 (1) **REBUTTABLE PRESUMPTION FOR A DE-**  
7 **CEASED MINER EMPLOYED FOR NOT LESS THAN 10**  
8 **YEARS IN A COAL MINE.—**Section 411(c)(2) of the  
9 **Black Lung Benefits Act (30 U.S.C. 921(c)(2))** is  
10 amended by striking the second sentence and insert-  
11 ing “The presumption under this paragraph may be  
12 rebutted only by establishing that no part of the  
13 death of such miner was caused by pneumo-  
14 coniosis.”.

15 (2) **REBUTTABLE PRESUMPTION FOR A DIS-**  
16 **ABILITY DUE TO PNEUMOCONIOSIS.—**Section 411(c)  
17 of the **Black Lung Benefits Act (30 U.S.C. 921(c))**  
18 is amended by adding at the end the following:

19 “(6) If a deceased miner was totally disabled  
20 due to pneumoconiosis during the life of such miner  
21 and does not meet the requirements for an  
22 irrebuttable presumption under paragraph (3), there  
23 shall be a rebuttable presumption that the miner’s  
24 death was due to pneumoconiosis. The presumption  
25 under this paragraph may be rebutted only by estab-

1 lishing that no part of the death of such miner was  
2 caused by pneumoconiosis.”.

3 (3) EFFECTIVE DATE.—The amendments made  
4 by paragraphs (1) and (2) shall apply with respect  
5 to claims that are—

6 (A) filed under part C of the Black Lung  
7 Benefits Act (30 U.S.C. 931 et seq.) on or after  
8 the date that is 5 years before the date of date  
9 of enactment of this Act; and

10 (B) pending on or after the date of enact-  
11 ment of this Act.

12 (b) CONFORMING AMENDMENT REGARDING THE  
13 TERM RESPIRABLE.—Section 411(c)(2) of the Black  
14 Lung Benefits Act (30 U.S.C. 921(c)(2)), as amended by  
15 section 2(a)(1), is further amended by striking “res-  
16 pirable” and inserting “respiratory”.

17 (c) RESTORING CERTAIN PRE-1981 PROVISIONS RE-  
18 GARDING TOTAL DISABILITY DUE TO PNEUMO-  
19 CONIOSIS.—

20 (1) IN GENERAL.—The Black Lung Benefits  
21 Act is amended—

22 (A) in section 401(a) (30 U.S.C. 901(a))—

23 (i) by striking “this disease;” and in-  
24 serting “this disease or who were totally

1 disabled by this disease at the time of their  
2 deaths;” and

3 (ii) by inserting “or who were totally  
4 disabled by this disease at the time of their  
5 deaths” after “such disease”; and

6 (B) in section 411(a) (30 U.S.C. 921(a)),  
7 by striking “, except” and all that follows  
8 through “of 1981.”.

9 (2) EFFECTIVE DATE.—The amendments made  
10 by paragraph (1) shall apply with respect to claims  
11 that are—

12 (A) filed under part C of the Black Lung  
13 Benefits Act (30 U.S.C. 931 et seq.) on or after  
14 the date that is 5 years before the date of date  
15 of enactment of this Act; and

16 (B) pending on or after the date of enact-  
17 ment of this Act.

18 (d) ATTORNEYS’ FEES AND MEDICAL EXPENSES  
19 PAYMENT PROGRAM.—Part A of the Black Lung Benefits  
20 Act (30 U.S.C. 901 et seq.) is amended by adding at the  
21 end the following:

22 **“SEC. 403. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**  
23 **MENT PROGRAM.**

24 **“(a) PROGRAM ESTABLISHED.—**

1           “(1) IN GENERAL.—Not later than 180 days  
2 after the date of enactment of the Relief for Sur-  
3 vivors of Miners Act of 2023, the Secretary shall es-  
4 tablish a payment program to pay attorneys’ fees  
5 and other reasonable and unreimbursed medical ex-  
6 penses incurred in establishing the claimant’s case,  
7 using amounts from the fund, to the attorneys of  
8 claimants in qualifying claims.

9           “(2) QUALIFYING CLAIM.—A qualifying claim  
10 for purposes of this section is a contested claim for  
11 benefits under this title for which a final order has  
12 not been entered within one year of the filing of the  
13 claim.

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

18           “(b) PAYMENTS AUTHORIZED.—

19           “(1) ATTORNEYS’ FEES.—

20           “(A) APPROVAL.—If a claimant for bene-  
21 fits under this title obtains a proposed decision  
22 and order from a district director with an  
23 award of benefits for a qualifying claim, or an  
24 award for a qualifying claim before an adminis-  
25 trative law judge—

1           “(i) the district director may approve  
2           attorneys’ fees for work done before such  
3           director in an amount not to exceed  
4           \$1,500; and

5           “(ii) the administrative law judge may  
6           approve attorneys’ fees for work done be-  
7           fore such judge in an amount not to exceed  
8           \$3,000.

9           “(B) PAYMENT.—The Secretary shall,  
10          through the program under this section, pay  
11          any amounts approved under subparagraph (A).

12          “(2) MEDICAL EXPENSES.—

13                 “(A) APPROVAL.—If a claimant for bene-  
14          fits under this title obtains a proposed decision  
15          and order from a district director with an  
16          award of benefits for a qualifying claim, or an  
17          award for a qualifying claim before an adminis-  
18          trative law judge, such district director and ad-  
19          ministrative law judge may each approve an  
20          award, in an amount not to exceed \$1,500, to  
21          the claimant’s attorney of reasonable and unre-  
22          imbursed medical expenses incurred in estab-  
23          lishing the claimant’s case.

1           “(B) PAYMENT.—The Secretary shall,  
2           through the program under this section, pay  
3           any amounts approved under subparagraph (A).

4           “(3) MAXIMUM.—The Secretary, through the  
5           program established under this section, shall for any  
6           single qualifying claim pay—

7                   “(A) not more than a total of \$4,500 in at-  
8                   torneys’ fees; and

9                   “(B) not more than \$3,000 in medical ex-  
10                  penses.

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 or medical expenses award-  
22          ed by the district director or an administrative law judge  
23          that were not paid by the program under this section.  
24          Nothing in this section shall limit or otherwise affect the  
25          Secretary’s authority to use amounts in the fund to pay

1 approved attorneys' fees in claims for benefits under this  
2 title for which a final order awarding compensation has  
3 been entered and the operator is unable to pay.

4 “(e) NO RECOUPMENT OF ATTORNEYS' FEES.—Any  
5 payment for attorneys' fees or medical expenses made by  
6 the Secretary under this section shall not be recouped  
7 from the claimant or the claimant's attorney.”.

8 **SEC. 3. REPORTS BY THE GOVERNMENT ACCOUNTABILITY**  
9 **OFFICE.**

10 Not later than 1 year after the date of enactment  
11 of this Act, the Comptroller General of the United States  
12 shall—

13 (1) carry out a review of interim benefit pay-  
14 ments under the Black Lung Benefits Act (30  
15 U.S.C. 901 et seq.) for miners and survivors who  
16 have submitted a claim for benefits under such Act  
17 and are waiting for a final determination, includ-  
18 ing—

19 (A) an examination of the financial impact  
20 on beneficiaries of such payments in the case  
21 the claims of such beneficiaries are denied and  
22 the payments are recouped;

23 (B) a study of the impact that the stress  
24 caused by such recoupment, or the threat of



1           such recoupment, has on beneficiaries of such  
2           payments; and

3           (C) a study of the financial impact on the  
4           Federal Government and taxpayers of the proc-  
5           ess for recouping such interim benefit payments  
6           in the case of claims that are denied;

7           (2) carry out a review of benefit payments for  
8           miners and survivors under the Black Lung Benefits  
9           Act (30 U.S.C. 901 et seq.), including—

10           (A) an examination of whether such pay-  
11           ments are sufficient to meet the expenses of  
12           such miners and survivors;

13           (B) an examination of the economic impact  
14           of a possible increase in the amount of benefit  
15           payments for such miners and survivors; and

16           (C) based on such examination, rec-  
17           ommendations on the amount of benefit pay-  
18           ments that such miners and survivors should  
19           receive;

20           (3) carry out a review that examines the impact  
21           of a possible change to regulations of the Secretary  
22           of Labor to permit a survivor of a miner to, after  
23           a final determination of benefits under the Black  
24           Lung Benefits Act (30 U.S.C. 901 et seq.) is made

1 with respect to such survivor, file a subsequent claim  
2 for benefits under such Act; and  
3 (4) submit to Congress reports on the results of  
4 the reviews under paragraphs (1), (2), and (3).

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