
Notes and Brief Reports

Black Lung Amendments of 1977*

The Black Lung Benefits Reform Act of 1977 (Public Law 95-239) was signed by the President on March 1, 1978. A month earlier, on February 10, the financial provisions of the program were amended under the Black Lung Benefits Revenue Act of 1977 (Public Law 95-227). These comprehensive amendments to the Federal Coal Mine Health and Safety Act of 1969 liberalize the eligibility provisions under which coal miners and their dependent survivors receive benefits for pneumoconiosis (black lung disease).

Major changes resulting from the new legislation include the following:

Expansion of the definition of "miner" and modification of the rules concerning disability covered under the Act.

Notification of miners receiving cash benefits under Part B of the Act of possible entitlement to medical benefits.

Liberalization of the provisions offsetting black lung benefits because of the receipt of workers' compensation.

Establishment of a black lung disability trust fund to finance the cost of current claims not attributable to a responsible mine operator.

Elimination of the 1981 termination date previously in the law, thereby making the black lung benefit program permanent.

New Definitions and Rules

Definition of miner. The term "miner" now includes managers and owners who themselves have worked in the extraction of coal and individuals who process coal, transport it, or construct coal mines. Previously, only workers with disabilities arising from the actual mining of coal were eligible for benefits.

Effect of employment on disability determination. Before P L 95-239 went into effect, claims generally were denied on the basis of employment status, regardless of the type of work being performed and without

additional inquiry into the possibility of disability. The law now provides that current employment in a mine cannot be used as conclusive evidence that a miner is not totally disabled if the nature of his job has changed in a way that indicates a reduced ability to perform his usual coal-mine work. Similarly, a determination will not be made that a deceased miner, solely because he was employed in a mine when he died, was not totally disabled.

New survivor benefits. Dependent survivors of miners who died up to March 1, 1978 (the date of enactment of P L 95-239) will be eligible for benefits if the miner had at least 25 years of coal-mine employment before June 30, 1971, unless it is definitely established that he was not partially or totally disabled because of black lung disease at the time of death. Where no medical or other relevant evidence is available, affidavits by the widow or others with knowledge of the miner's condition will now be considered sufficient evidence to establish that disability or death was caused by pneumoconiosis. This provision extends that part of the law allowing the payment of benefits to survivors of miners with a minimum of 10 or 15 years of mining experience and an established disabling respiratory condition of specified severity.

Simplified medical-evidence requirement. When other evidence exists of a pulmonary or respiratory impairment, interpretation of chest X-rays by board-qualified physicians will now be accepted as valid evidence without further review, unless fraud is suspected or the X-ray film is not of adequate quality to demonstrate the presence of black lung disease. Before the amendments, a majority of X-rays reread by consulting radiologists for the Department of Labor reversed positive findings of pneumoconiosis. It has been estimated that this change will result in more new benefit payments than any other new provisions.

These changes in definitions and rules are particularly important to the Social Security Administration because, in addition to applying to new claims, they will be applied in a review of disallowed claims. About 170,000 claimants formerly denied benefits by the Social Security Administration will be contacted for possible payment of cash benefits under Part C of the program. Claims allowed as a result of review by the Social Security Administration will be payable retroactively to

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January 1, 1974. In addition, the claims for cash benefits of some 70,000 persons previously disallowed by the Department of Labor will be reviewed. Claims received and allowed by that agency will be payable retroactively to the onset of disability or, if that date cannot be determined, to the date of request for review of the claim, but no earlier than January 1, 1974.

Medical Benefits

Before the amendments, medical benefits for conditions resulting from pneumoconiosis were payable to miners receiving cash benefits under Part C of the program (claims filed after December 31, 1973, and administered by the Department of Labor). Miners receiving Part B cash benefits (claims filed on or before December 31, 1973, and administered by the Social Security Administration) now may also qualify for medical benefits under administration of the Department of Labor for their lung disorders. The Social Security Administration will notify all Part B beneficiaries of this provision. Beneficiaries will then have 6 months in which to claim medical benefits.

Offset for Workers' Compensation Payments

Formerly, Part B benefits were offset by the amount of workers' compensation payments received for any type of disability. The law now provides that Part B benefits will be offset in the same way as Part C benefits. The offset will be made only for that part of the workers' compensation benefit being paid for disability caused by miners' pneumoconiosis. The cost of this change to the Social Security Administration has been estimated at \$8-\$10 million annually through 1982.

Black Lung Disability Trust Fund

Before the 1977 amendments, the cost of benefits not attributable to individual employers was financed through general revenues. Public Law 95-227 establishes a black lung disability trust fund to finance the cost of claims involving miners whose last employment was before January 1, 1970, and those for whom no responsible coal-mine operator has been identified. The fund will also pay the administrative expenses involved in implementing the 1977 amendments for both the Department of Labor and the Social Security Administration.

The fund will be supported by an excise tax payable by all local coal-mine operators, except where a State law has been certified by the Secretary of Labor as providing adequate coverage for pneumoconiosis. The tax

will be levied on coal mined at the rate of 50 cents per ton for underground coal and 25 cents per ton for surface-mined coal, but the amount collected may not exceed 2 percent of the price at which the coal is sold by the producers. Except for claims based on coal-mine employment before January 1, 1970, responsible operators will continue as before to bear individual liability.

Social Security Abroad

Italy's Indexing, Minimum Benefits, and Pension Reform*

Italy has changed its method of adjusting social security benefits from a formula based on movements in the cost-of-living index to one based on combined changes in the cost-of-living and wage indexes. The changes have tended to aggravate the financial problems of the system, which has been operating at a deficit. Interestingly, in a move to curb sharp expenditure increases, cost-of-living increases for high benefits were paid in the form of Government bonds that cannot be redeemed for 5 years.

Foreign countries have adopted a variety of approaches to periodic adjustment of pensions. Generally, either a price or a wage index is used. Price indexing—the traditional, more conservative approach—tries to maintain a worker's standard of living at the time of retirement. Wage indexing, sometimes called the dynamic approach, ties the pension to what the retiree would earn if he were currently employed. Thus the pensioner shares in improvements in the standard of living enjoyed by the active labor force.

Benefits were indexed in 34 countries in 1975. A price index was used by 20 of these countries, and a wage index was used by 11 countries. Three additional countries used a minimum wage index.¹ Italy, Norway, and Uruguay were the first countries to combine changes in wages and prices in their formula for automatic adjustment of pensions.

The new Italian formula was devised for two reasons. Wages were increasing more rapidly than prices and it was felt that the value of pensions should be related to

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¹See Martin B. Tracy, "Maintaining Value of Social Security Benefits During Inflation: Foreign Experience," *Social Security Bulletin*, November 1976, page 35.