

**10 STEPS
TO FILING FOR
BLACK LUNG BENEFITS**

November 1, 2014

SESSION OVERVIEW

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- STEP TWO: COMPLETE PULMONARY EVALUATION
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SESSION OVERVIEW

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SESSION OVERVIEW

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STEP 1. COMPLETE THE APPLICATION

WHO MAY FILE CLAIMS?

- **Present and former coal miners** (including certain transportation and construction workers who were exposed to coal mine dust).
- **Surviving dependents**, including:
 - Spouses (Divorced spouses may also be eligible. Certain criteria must be met, including evidence showing the miner was supplying substantial support for the divorced spouse at the time of his death. Child support is not included in this figure. This can be established by providing a court order or divorce decree requiring spousal support, an agreement between the miner and divorced spouse, or proof that he supplied substantial support willingly. Substantial is broadly defined but usually entails at least half of the divorced spouse's living expenses.)
 - Orphaned children
 - Adult disabled children
 - Fully dependent parents, brothers and sisters

STEP 1. COMPLETE THE APPLICATION

•To win a claim, you must prove four things:

1. You are a coal miner
2. You have coal worker's pneumoconiosis (CWP)
3. CWP was caused by your exposure to coal mine dust (exposure to welding, silica in rock dusting, and/or asbestos in the course of mining is included as well as coal mine dust – essentially any dust exposure in the process of working in an underground or surface coal mine.)
4. You are totally disabled due to CWP

STEP 1. COMPLETE THE APPLICATION

The application consists of two forms:

1. Miner's Claim for Benefits under the Black Lung Act (Form CM-911) Links to these forms are located on page 27.

- Name, address, family members and the disability you have from CWP

2. Miner's Employment History Form CM-911a

- Describe your work as a coal miner
- The number of years you worked
- The names of the coal companies that employed you
- Any work outside the coal mining industry

- You may need to provide this additional information:**
- Marriage and death certificates
- Children's birth certificates
- Proof of enrollment in school for dependent children

STEP TWO: COMPLETE PULMONARY EVALUATION

- A “**pulmonary evaluation**” is a medical examination to determine whether you are totally disabled by CWP.
- DOL is required by law to offer you a free medical examination to prove you may be entitled to benefits.
- DOL will give you a list of physicians who can perform this exam, all located in your state or a bordering state.
- You will select the physician you want to use, within certain limitations.

STEP TWO: COMPLETE PULMONARY EVALUATION

The exam will consist of four parts:

1. A physical exam by a physician
2. A chest X-ray
3. A pulmonary function test (measures your ability to breathe)
4. An arterial blood gas test (measures your lungs' ability to exchange blood oxygen and CO₂)

STEP TWO: COMPLETE PULMONARY EVALUATION

Selection of an Examining Provider (Form)

If you refuse to be examined, your claim may be denied without any further consideration of your entitlement to benefits, you have the right to have the results of this exam sent to your personal physician.

STEP THREE: PRELIMINARY REVIEW BY DOL

After DOL receives the results of the pulmonary exam, it will conduct a preliminary review of the results and decide if it supports your claim for black lung benefits.

This review is not final.

STEP FOUR: SUBMIT ADDITIONAL EVIDENCE

SCHEDULE FOR THE SUBMISSION OF ADDITIONAL EVIDENCE (SSAE)

- This letter explains the results of the medical exam and the reasons for DOL's support or denial of your claim. The schedule will tell you:
 - About your opportunity to submit more evidence
 - About your right to get medical evidence from a physician you choose
 - The time limits for sending in additional evidence

STEP FOUR: SUBMIT ADDITIONAL EVIDENCE

Continued

If DOL finds a coal company is liable for your claim, the coal company has the right to have you examined by a physician of its choice.

If you refuse to be examined, your claim may be denied without any further consideration of your entitlement to benefits.

STEP FOUR: SUBMIT ADDITIONAL EVIDENCE

Continued

The most important part of applying for benefits is obtaining medical evidence about your physical condition.

The black lung benefits program allows you and the coal company to send in only two complete medical exams.

STEP FOUR: SUBMIT ADDITIONAL EVIDENCE

Continued

If your claim is approved, attorney's fees will be paid by the coal company or the Black Lung Disability Trust Fund.

You are not liable for any fees if your claim is denied.

STEP FIVE: AN INFORMAL CONFERENCE AT DOL

DOL may ask you to attend an informal conference to discuss your claim before making the decision.

If a conference is held, DOL will tell you in writing your rights and obligations.

When all the evidence is in, DOL will make a decision whether your claim *must* be approved or denied.

STEP SIX: PROPOSED DECISION AND ORDER BY DOL

DOL will issue a **Proposed Decision and Order** after reviewing all the evidence.

This decision will approve or deny your claim and explain the reasons for the decision.

If your claim is approved, and the trust fund is responsible, you begin to receive your financial and/or medical benefits at this point.

STEP SIX: PROPOSED DECISION AND ORDER BY DOL

Continued

As of Jan. 1, 2010, monthly black lung benefit rates are:

Number in Family	Monthly	Yearly
Primary beneficiary	\$625.60	\$7,507.20
Primary beneficiary plus one	\$938.30	\$11,259.60
Primary beneficiary plus two	\$1,094.70	\$13,136.40
Primary beneficiary plus three	\$1,251.10	\$15,013.20

STEP SIX: PROPOSED DECISION AND ORDER BY DOL

Continued

DOL will also tell you and the coal company (if one is liable for your claim) of the options for challenging the decision and time limits for taking further action.

These options include:

- Asking DOL to reconsider the decision
- Asking for a hearing with an administrative law judge

STEP SEVEN: IF NECESSARY, ASKING DOL TO RECONSIDER

Within 30 days after the date the district director (DD) issues the proposed Decision and Order, any party may request a revision of the proposed Decision and Order or a hearing.

Such requests must be made in writing to the DD and served on all other parties.

If any party requests a hearing within the 30-day period, the DD will refer the claim to the Office of Administrative Law Judges.

If no party responds to a proposed Decision and Order, it will become final and effective upon the expiration of the applicable 30-day period.

STEP EIGHT: ASKING FOR A HEARING WITH THE OFFICE OF ADMINISTRATIVE LAW

Once the case is forwarded to the Office of Administrative Law Judges for hearing, it is assigned to an administrative law judge (ALJ).

In most cases, the ALJ will:

- Hold an oral hearing
- Receive testimony and other evidence in accordance with all applicable rules
- Render a written decision on the claim

The decision will address the relevant issues in dispute between the parties and adjudicate the claim. If the ALJ awards you benefits, the responsible coal mine operator must begin paying monthly benefits to you, and pay you any back benefits you are owed.

STEP NINE: APPEAL TO THE DOL BENEFITS REVIEW BOARD

Any party dissatisfied with the ALJ's decision has 30 days from the date the decision is filed to:

- Ask the ALJ to reconsider the decision
- Appeal the decision to the DOL Benefits Review Board

The board reviews the ALJ's decision to determine whether it is supported by substantial evidence and in accordance with law, and issues a written decision supporting or denying the appeal.

STEP TEN: APPEAL TO DISTRICT/SUPREME COURTS

Any party affected by the board's decision may, within 60 days of its issuance, petition the court of appeals where the miner was exposed to coal mine dust for review of the board's decision.

This decision may be appealed to the U.S. Supreme Court.

If the award becomes final, the responsible coal mine operator must reimburse the trust fund for any benefits paid to the claimant on an interim basis.

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<http://www.dol.gov/esa/owcp/dcmwc/regs/compliance/blbenact.htm#file>

<http://www.dol.gov/esa/owcp/dcmwc/regs/compliance/blforms.htm>

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