

118TH CONGRESS
1ST SESSION

S. _____

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

IN THE SENATE OF THE UNITED STATES

Mr. WARNER introduced the following bill; which was read twice and referred to the Committee on _____

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”.

6 **SEC. 2. AMENDMENTS TO THE BENEFITS PROCESS FOR**
7 **SURVIVORS OF MINERS WHOSE DEATHS**
8 **WERE DUE TO PNEUMOCONIOSIS.**

9 (a) REBUTTABLE PRESUMPTIONS FOR A DEATH DUE
10 TO PNEUMOCONIOSIS.—

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

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

14 “(6) If a deceased miner was totally disabled
15 due to pneumoconiosis during the life of such miner
16 and does not meet the requirements for an
17 irrebuttable presumption under paragraph (3), there
18 shall be a rebuttable presumption that the miner’s
19 death was due to pneumoconiosis. The presumption
20 under this paragraph may be rebutted only by estab-
21 lishing that no part of the death of such miner was
22 caused by pneumoconiosis.”.

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

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

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

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

12 (c) RESTORING CERTAIN PRE-1981 PROVISIONS RE-
13 GARDING TOTAL DISABILITY DUE TO PNEUMO-
14 CONIOSIS.—

15 (1) IN GENERAL.—The Black Lung Benefits
16 Act is amended—

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

18 (i) by striking “this disease;” and in-
19 sserting “this disease or who were totally
20 disabled by this disease at the time of their
21 deaths;”; and

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

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

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

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

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

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

17 **“SEC. 403. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**
18 **MENT PROGRAM.**

19 **“(a) PROGRAM ESTABLISHED.—**

20 **“(1) IN GENERAL.—**Not later than 180 days
21 after the date of enactment of the Relief for Sur-
22 vivors of Miners Act of 2023, the Secretary shall es-
23 tablish a payment program to pay attorneys’ fees
24 and other reasonable and unreimbursed medical ex-
25 penses incurred in establishing the claimant’s case,

1 using amounts from the fund, to the attorneys of
2 claimants in qualifying claims.

3 “(2) QUALIFYING CLAIM.—A qualifying claim
4 for purposes of this section is a contested claim for
5 benefits under this title for which a final order has
6 not been entered within one year of the filing of the
7 claim.

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

12 “(b) PAYMENTS AUTHORIZED.—

13 “(1) ATTORNEYS’ FEES.—

14 “(A) APPROVAL.—If a claimant for bene-
15 fits under this title obtains a proposed decision
16 and order from a district director with an
17 award of benefits for a qualifying claim, or an
18 award for a qualifying claim before an adminis-
19 trative law judge—

20 “(i) the district director may approve
21 attorneys’ fees for work done before such
22 director in an amount not to exceed
23 \$1,500; and

24 “(ii) the administrative law judge may
25 approve attorneys’ fees for work done be-

1 fore such judge in an amount not to exceed
2 \$3,000.

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

6 “(2) MEDICAL EXPENSES.—

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

18 “(B) PAYMENT.—The Secretary shall,
19 through the program under this section, pay
20 any amounts approved under subparagraph (A).

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

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

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

3 “(c) REIMBURSEMENT OF FUNDS.—In any case in
4 which a qualifying claim results in a final order awarding
5 compensation, the liable operator shall reimburse the fund
6 for any fees or expenses paid under this section, subject
7 to enforcement by the Secretary under section 424 and
8 in the same manner as compensation orders are enforced
9 under section 21(d) of the Longshore and Harbor Work-
10 ers’ Compensation Act (33 U.S.C. 921(d)).

11 “(d) ADDITIONAL PROGRAM RULES.—Nothing in
12 this section shall limit or otherwise affect an operator’s
13 liability for any attorneys’ fees or medical expenses award-
14 ed by the district director or an administrative law judge
15 that were not paid by the program under this section.
16 Nothing in this section shall limit or otherwise affect the
17 Secretary’s authority to use amounts in the fund to pay
18 approved attorneys’ fees in claims for benefits under this
19 title for which a final order awarding compensation has
20 been entered and the operator is unable to pay.

21 “(e) NO RECOUPMENT OF ATTORNEYS’ FEES.—Any
22 payment for attorneys’ fees or medical expenses made by
23 the Secretary under this section shall not be recouped
24 from the claimant or the claimant’s attorney.”.

1 **SEC. 3. REPORTS BY THE GOVERNMENT ACCOUNTABILITY**
2 **OFFICE.**

3 Not later than 1 year after the date of enactment
4 of this Act, the Comptroller General of the United States
5 shall—

6 (1) carry out a review of interim benefit pay-
7 ments under the Black Lung Benefits Act (30
8 U.S.C. 901 et seq.) for miners and survivors who
9 have submitted a claim for benefits under such Act
10 and are waiting for a final determination, includ-
11 ing—

12 (A) an examination of the financial impact
13 on beneficiaries of such payments in the case
14 the claims of such beneficiaries are denied and
15 the payments are recouped;

16 (B) a study of the impact that the stress
17 caused by such recoupment, or the threat of
18 such recoupment, has on beneficiaries of such
19 payments; and

20 (C) a study of the financial impact on the
21 Federal Government and taxpayers of the proc-
22 ess for recouping such interim benefit payments
23 in the case of claims that are denied;

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

1 (A) an examination of whether such pay-
2 ments are sufficient to meet the expenses of
3 such miners and survivors;

4 (B) an examination of the economic impact
5 of a possible increase in the amount of benefit
6 payments for such miners and survivors; and

7 (C) based on such examination, rec-
8 ommendations on the amount of benefit pay-
9 ments that such miners and survivors should
10 receive;

11 (3) carry out a review that examines the impact
12 of a possible change to regulations of the Secretary
13 of Labor to permit a survivor of a miner to, after
14 a final determination of benefits under the Black
15 Lung Benefits Act (30 U.S.C. 901 et seq.) is made
16 with respect to such survivor, file a subsequent claim
17 for benefits under such Act; and

18 (4) submit to Congress reports on the results of
19 the reviews under paragraphs (1), (2), and (3).