

117TH 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 (for himself, Mr. MANCHIN, Mr. CASEY, Mr. KAINE, and Mr. BROWN) 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 2021”.

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.

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

15 “(6) If a deceased miner was totally disabled
16 due to pneumoconiosis during the life of such miner,
17 there shall be a rebuttable presumption that the
18 death of such miner was a death due to pneumo-
19 coniosis. The presumption under this paragraph may
20 be rebutted only by establishing that no part of the
21 death of such miner was caused by pneumo-
22 coniosis.”.

23 (3) EFFECTIVE DATE.—The amendments made
24 by paragraphs (1) and (2) shall apply with respect
25 to claims filed under part B or part C of the Black
26 Lung Benefits Act (30 U.S.C. 921 et seq., 931 et

1 seq.) after January 1, 2016, that are pending on or
2 after the date of enactment of this Act.

3 (b) ATTORNEYS' FEES AND MEDICAL EXPENSES
4 PAYMENT PROGRAM.—Part A of the Black Lung Benefits
5 Act (30 U.S.C. 901 et seq.) is amended by adding at the
6 end the following:

7 **“SEC. 403. ATTORNEYS' FEES AND MEDICAL EXPENSES PAY-**
8 **MENT PROGRAM.**

9 “(a) PROGRAM ESTABLISHED.—

10 “(1) IN GENERAL.—Not later than 180 days
11 after the date of enactment of the Relief for Sur-
12 vivors of Miners Act of 2021, the Secretary shall es-
13 tablish a payment program to pay attorneys' fees
14 and other reasonable and unreimbursed medical ex-
15 penses incurred in establishing the claimant's case,
16 using amounts from the fund, to the attorneys of
17 claimants in qualifying claims.

18 “(2) QUALIFYING CLAIM.—A qualifying claim
19 for purposes of this section is a contested claim for
20 benefits under this title for which a final order has
21 not been entered within one year of the filing of the
22 claim.

23 “(3) USE OF PAYMENTS FROM THE FUND.—
24 Notwithstanding any other provision of law,

1 amounts in the fund shall be available for payments
2 authorized by the Secretary under this section.

3 “(b) PAYMENTS AUTHORIZED.—

4 “(1) ATTORNEYS’ FEES.—

5 “(A) APPROVAL.—If a claimant for bene-
6 fits under this title obtains a proposed decision
7 and order from a district director with an
8 award of benefits for a qualifying claim, or an
9 award for a qualifying claim before an adminis-
10 trative law judge—

11 “(i) the district director may approve
12 attorneys’ fees for work done before such
13 director in an amount not to exceed
14 \$1,500; and

15 “(ii) an administrative law judge may
16 approve attorneys’ fees for work done be-
17 fore such judge in an amount not to exceed
18 \$3,000.

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

22 “(2) MEDICAL EXPENSES.—

23 “(A) APPROVAL.—If a claimant for bene-
24 fits under this title obtains a proposed decision
25 and order from a district director with an

1 award of benefits for a qualifying claim, or an
2 award for a qualifying claim before an adminis-
3 trative law judge, such district director and ad-
4 ministrative law judge may each approve an
5 award, in an amount not to exceed \$1,500, to
6 the claimant's attorney of reasonable and unre-
7 imbursed medical expenses incurred in estab-
8 lishing the claimant's case.

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

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

15 “(A) not more than a total of \$4,500 in at-
16 torneys' fees; and

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

19 “(c) REIMBURSEMENT OF FUNDS.—In any case in
20 which a qualifying claim results in a final order awarding
21 compensation, the liable operator shall reimburse the fund
22 for any fees or expenses paid under this section, subject
23 to enforcement by the Secretary under section 424 and
24 in the same manner as compensation orders are enforced

1 under section 21(d) of the Longshore and Harbor Work-
2 ers' Compensation Act (33 U.S.C. 921(d)).

3 “(d) **ADDITIONAL PROGRAM RULES.**—Nothing in
4 this section shall limit or otherwise affect an operator's
5 liability for any attorneys' fees or medical expenses award-
6 ed by the district director or an administrative law judge
7 that were not paid by the program under this section.
8 Nothing in this section shall limit or otherwise affect the
9 Secretary's authority to use amounts in the fund to pay
10 approved attorneys' fees in claims for benefits under this
11 title for which a final order awarding compensation has
12 been entered and the operator is unable to pay.

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

17 **SEC. 3. REPORTS BY THE GOVERNMENT ACCOUNTABILITY**
18 **OFFICE.**

19 Not later than 1 year after the date of enactment
20 of this Act, the Comptroller General of the United States
21 shall—

22 (1) carry out a review of interim benefit pay-
23 ments under the Black Lung Benefits Act (30
24 U.S.C. 901 et seq.) for miners and survivors who
25 have submitted a claim for benefits under such Act

1 and are waiting for a final determination, includ-
2 ing—

3 (A) an examination of the financial impact
4 on beneficiaries of such payments in the case
5 the claims of such beneficiaries are denied and
6 the payments are recouped;

7 (B) a study of the impact that the stress
8 caused by such recoupment, or the threat of
9 such recoupment, has on beneficiaries of such
10 payments; and

11 (C) a study of the financial impact on the
12 Federal Government and taxpayers of the proc-
13 ess for recouping such interim benefit payments
14 in the case of claims that are denied;

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

18 (A) an examination of whether such pay-
19 ments are sufficient to meet the expenses of
20 such miners and survivors;

21 (B) an examination of the economic impact
22 of a possible increase in the amount of benefit
23 payments for such miners and survivors; and

24 (C) based on such examination, rec-
25 ommendations on the amount of benefit pay-

1 ments that such miners and survivors should
2 receive from the Black Lung Disability Trust
3 Fund;

4 (3) carry out a review that examines the impact
5 of a possible change to regulations of the Secretary
6 of Labor to permit a survivor of a miner to, after
7 a final determination of benefits under the Black
8 Lung Benefits Act (30 U.S.C. 901 et seq.) is made
9 with respect to such survivor, file a subsequent claim
10 for benefits under such Act; and

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