

117TH CONGRESS  
1ST SESSION

# S. 757

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

MARCH 16, 2021

Mr. WARNER 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 2021”.

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.

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

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

18           (3) EFFECTIVE DATE.—The amendments made  
19 by paragraphs (1) and (2) shall apply with respect  
20 to claims filed under part B or part C of the Black  
21 Lung Benefits Act (30 U.S.C. 921 et seq., 931 et  
22 seq.) after January 1, 2016, that are pending on or  
23 after the date of enactment of this Act.

24           (b) ATTORNEYS’ FEES AND MEDICAL EXPENSES  
25 PAYMENT PROGRAM.—Part A of the Black Lung Benefits

1 Act (30 U.S.C. 901 et seq.) is amended by adding at the  
2 end the following:

3 **“SEC. 403. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAY-**  
4 **MENT PROGRAM.**

5 “(a) PROGRAM ESTABLISHED.—

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

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

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

23 “(b) PAYMENTS AUTHORIZED.—

24 “(1) ATTORNEYS’ FEES.—

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

7                   “(i) the district director may approve  
8                   attorneys’ fees for work done before such  
9                   director in an amount not to exceed  
10                  \$1,500; and

11                  “(ii) an administrative law judge may  
12                  approve attorneys’ fees for work done be-  
13                  fore such judge in an amount not to exceed  
14                  \$3,000.

15           “(B) PAYMENT.—The Secretary shall,  
16           through the program under this section, pay  
17           any amounts approved under subparagraph (A).

18           “(2) MEDICAL EXPENSES.—

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

1           award, in an amount not to exceed \$1,500, to  
2           the claimant's attorney of reasonable and unre-  
3           imbursed medical expenses incurred in estab-  
4           lishing the claimant's case.

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

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

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

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

15          “(c) REIMBURSEMENT OF FUNDS.—In any case in  
16          which a qualifying claim results in a final order awarding  
17          compensation, the liable operator shall reimburse the fund  
18          for any fees or expenses paid under this section, subject  
19          to enforcement by the Secretary under section 424 and  
20          in the same manner as compensation orders are enforced  
21          under section 21(d) of the Longshore and Harbor Work-  
22          ers' Compensation Act (33 U.S.C. 921(d)).

23          “(d) ADDITIONAL PROGRAM RULES.—Nothing in  
24          this section shall limit or otherwise affect an operator's  
25          liability for any attorneys' fees or medical expenses award-

1 ed by the district director or an administrative law judge  
2 that were not paid by the program under this section.  
3 Nothing in this section shall limit or otherwise affect the  
4 Secretary's authority to use amounts in the fund to pay  
5 approved attorneys' fees in claims for benefits under this  
6 title for which a final order awarding compensation has  
7 been entered and the operator is unable to pay.

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

12 **SEC. 3. REPORTS BY THE GOVERNMENT ACCOUNTABILITY**  
13 **OFFICE.**

14       Not later than 1 year after the date of enactment  
15 of this Act, the Comptroller General of the United States  
16 shall—

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

23           (A) an examination of the financial impact  
24 on beneficiaries of such payments in the case

1 the claims of such beneficiaries are denied and  
2 the payments are recouped;

3 (B) a study of the impact that the stress  
4 caused by such recoupment, or the threat of  
5 such recoupment, has on beneficiaries of such  
6 payments; and

7 (C) a study of the financial impact on the  
8 Federal Government and taxpayers of the pro-  
9 cess for recouping such interim benefit payments  
10 in the case of claims that are denied;

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

14 (A) an examination of whether such pay-  
15 ments are sufficient to meet the expenses of  
16 such miners and survivors;

17 (B) an examination of the economic impact  
18 of a possible increase in the amount of benefit  
19 payments for such miners and survivors; and

20 (C) based on such examination, rec-  
21 ommendations on the amount of benefit pay-  
22 ments that such miners and survivors should  
23 receive from the Black Lung Disability Trust  
24 Fund;

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

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

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