

spouse has been granted permission to build on communal land. It is also our understanding that meaningful interest means that the veteran has the right to reside in the home under tribal laws.

Again, I believe S. 1235 is a fitting tribute to our veterans and I am especially pleased that this legislation provides American Samoas veterans with the housing opportunities and other benefits they deserve. For this reason, I again thank my colleagues for including my provision in this important legislation and for supporting the Veterans Housing Opportunity and Benefits Act of 2006, the Congressman concluded.

ACKNOWLEDGING THE ACCOMPLISHMENTS OF MS. JENNETTE STARKS-FAULKNER, 2014 FENCING WORLD CHAMPION

**HON. GREGORY W. MEEKS**

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 20, 2014*

Mr. MEEKS. Mr. Speaker, I rise today to recognize the accomplishments of Ms. Jennette Starks-Faulkner. As you know Mr. Speaker, great athletes are not born they are forged through the combined efforts of our entire community and the dedication and determination of individuals. Ms. Starks-Faulkner's discipline and her commitment to living a healthy and active lifestyle is evident in the success she has found participating in competitions hosted by the United States Fencing Association.

Ms. Starks-Faulkner's precise footwork, lightning thrusts, and deft ripostes have made her one of the most accomplished fencers in the entire world. This past October in Debrecen, Hungary she became the first U.S. woman ever to win the International Fencing Federation's Veteran Fencing World Championship gold medal in foil competition. Among her long list of achievements, which I ask be added into the RECORD, Ms. Starks-Faulkner won a gold medal at the 2014 USA Fencing National Championships in the Veteran Foil competition, a silver in the Veteran Saber competition and she has represented the United States as a member of the last seven Veteran World Championship teams.

Anyone who watches Ms. Starks-Faulkner compete will attest that her physical ability is only surpassed by her willingness to give everything she has to win. In a sport where there are very few African American participants, Ms. Starks-Faulkner has distinguished herself as the first among champions. While small in stature, her presence casts a great shadow on her competition. Ms. Starks-Faulkner's accomplishments are a testament to the power of the human spirit and the limitless potential each and every person possesses. Lastly, her dedication to fencing is an important reminder not only to her students, but to all Americans, that when you believe in your dreams, nothing can stop you.

As an ardent admirer of those who would push beyond their limitations, I salute Ms. Starks-Faulkner and her long list of accomplishments.

THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF 2014

**HON. MATT CARTWRIGHT**

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 20, 2014*

Mr. CARTWRIGHT. Mr. Speaker, I am introducing the Black Lung Benefits Improvement Act of 2014 today to help disabled coal miners get benefits that they are entitled to but often unable to access.

Coal workers' pneumoconiosis, commonly referred to as "black lung," is a debilitating and deadly disease caused by the long-term inhalation of coal dust in underground and surface coal mines. According to the National Institute for Occupational Safety and Health, black lung has caused or contributed to more than 76,000 deaths since 1968, with thousands of miners still sick and dying from the disease.

The Federal Coal Mine Health and Safety Act of 1969, which included the Black Lung Benefits Act, contained a program designed to provide compensation and medical care to miners who are totally disabled due to black lung. To secure benefits, disabled coal miners must engage in lengthy and complex litigation against local operators that has been proven to unfairly burden claimants and prevent them from receiving the benefits to which they are entitled.

In 2009, the Government Accountability Office found that "coal miners face a number of challenges pursuing federal black lung claims, including finding legal representation and developing sound medical evidence to support their claims." More recent award-winning investigations by the Center for Public Integrity and ABC News uncovered numerous cases in which coal operators and their attorneys defeated claims by hiring doctors who systematically failed to diagnose black lung disease, or by withholding medical evidence from miners, surviving spouses, and judges that would have proven the miners' eligibility for benefits. These and other unethical practices were examined as part of a July 22, 2014, hearing before the Senate Subcommittee on Employment and Workplace Safety. In addition, bureaucratic delays impede timely decisions about miners' benefits, with miners waiting an average of 42 months to receive a decision on their claim from an administrative law judge in the Department of Labor.

In the past year, the Department of Labor has taken several steps to address these issues; however, administrative actions alone will not be able to solve the systematic problems facing victims of black lung disease. That is why Congress has an obligation to reform this program so that it better serves and honors those who have helped supply the energy that our country relies on to light our homes and power our factories.

I want to thank Congressman GEORGE MILLER, the senior Democrat on the Committee on Education and the Workforce, for his leadership on this issue, and for Representatives JOE COURTNEY, NICK RAHALL and ROBERT C. "BOBBY" SCOTT for joining me in sponsoring this important legislation.

BLACK LUNG BENEFITS IMPROVEMENT ACT OF 2014

**HON. GEORGE MILLER**

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 20, 2014*

Mr. GEORGE MILLER of California. Mr. Speaker, today I am joining Representatives CARTWRIGHT, SCOTT, COURTNEY, and RAHALL in introducing the Black Lung Benefits Improvement Act of 2014.

The Black Lung Benefits Act was enacted in 1969 to provide health care and modest benefits to coal miners who develop black lung disease, also known as coal workers' pneumoconiosis, which is a crippling respiratory disease that has left generations of miners tethered to oxygen tanks. Today, the black lung benefits program is failing far too many miners and their survivors because there is an unfair disparity in medical and legal resources between miners and coal operators when it comes to establishing eligibility for benefits.

This legislation seeks to level the playing field by ensuring that miners have equal access to medical evidence, better access to legal resources, a remedy for those whose claims were denied due to recent discoveries of discredited medical evidence. In addition, it includes a requirement that the Department of Labor improve the timeliness of benefit decisions and an adjustment of benefit payments so that miners and their survivors receive the cost of living increases that Congress intended.

Black lung disease has killed more than 76,000 miners since 1968. Rates of black lung disease dropped steadily after the Federal Coal Mine Safety and Health Act of 1969 set enforceable limits on exposure to coal mine dust. However, rates are now on the rise again, according to the National Institute for Occupational Safety and Health, or NIOSH. The number of people with the most severe form of black lung disease has spiked ten-fold over the past 15 years. In a heartbreaking example of the disease's prevalence, autopsies of the 24 miners who died in the Upper Big Branch mine explosion in 2010 revealed that 17 of these miners had black lung. And the Department of Labor expects 7,300 black lung benefit cases to be filed in fiscal years 2014 and 2015, an increase of 35 percent since fiscal year 2012.

The Black Lung Benefits Improvement Act of 2014 seeks to level the playing field for miners and strengthen our black lung benefits program in nine key ways.

First, it addresses the lack of legal assistance available to miners. The determination of a claimant's eligibility for black lung benefits often requires complex, adversarial litigation, but resource disparities between coal companies and claimants make it difficult for many miners and survivors with meritorious claims to prevail. The Government Accountability Office found that many claimants under the Black Lung Benefits Act are not equipped with the medical and legal resources necessary to develop sufficient evidence that can meet the requirements for benefits. Miners often lack complete and reliable medical evidence, which increases the risk that the individuals who review claims for benefits will be presented with insufficient medical evidence. Similarly, without better options for legal representation, significant numbers of such claimants proceed

through a complex and potentially long administrative process without the resources that Department of Labor officials and black lung disease experts note are important for developing evidence and supporting their claims. Only a quarter of claimants are represented by an attorney when filing a claim. A major obstacle to securing legal counsel is that it can take up to ten years for a claim to be resolved, and under the current system, a claimant's counsel receives no payment and must make numerous outlays during that time. Reforms must be made to remedy this resource imbalance between claimants and operators so that claimants with meritorious claims will receive the benefits they deserve.

To solve this problem, the legislation expands the Secretary's current statutory obligation to offer a complete pulmonary evaluation to a coal miner in order to substantiate a claim for benefits. It now requires that the Secretary supplement the medical evidence in cases where a party who opposes the claim provides evidence that could be considered contrary to the initial report of the pulmonary examination when the case is being considered by either a district director or an administrative law judge.

In addition, this section provides miners with greater access to legal representation by creating a system to pay a portion of their attorneys' fees earlier in the litigation process. Attorneys who prevail at each stage of the litigation would be paid \$1,500 per stage, not to exceed \$4,500 in total. These partial payments will be paid from the black lung trust fund, which is administered by the Secretary of Labor, but the advance payments must be reimbursed to the trust fund by the operator if the claimant ultimately prevails through all stages of the litigation.

Second, the legislation addresses circumstances in which medical information is withheld from miners. Full disclosure of relevant medical information between miners and coal companies (or their insurers) is essential for fair adjudication of claims under the Black Lung Benefits Act, regardless of whether the parties intend to submit such information into evidence. Records of adjudications reveal that some mine operators' legal representatives have withheld relevant evidence from claimants, administrative law judges, and, in some cases, even their own medical experts. In several cases, the disclosure of such evidence would have substantiated a miner's claim for benefits. Withholding medical information can endanger miners by depriving them of important information about their own health and the potential need to seek medical treatment or cease employment where there is risk from continued exposure to coal dust.

To solve this problem, the legislation requires that claimants and operators must share all information about medical tests and examinations, as well as interpretations of pathology and x-rays that are developed as part of the claims process, regardless of whether such information is going to be entered into the record or not. The bill balances sanctions by applying penalties for false statements to operators in addition to sanctions already applied to claimants. It also authorizes administrative law judges to levy sanctions for noncooperation in the discovery process. Full transparency and disclosure is needed for fair adjudication.

Third, the legislation provides the benefit of the doubt to miners in cases where the evi-

dence is evenly balanced. Given the remedial nature of the Black Lung Benefits Act, when an adjudicator determines that evidence is evenly balanced, it is appropriate for any resulting doubt to be resolved in favor of the claimant. The Supreme Court vacated this longstanding legal principle—known as the true doubt rule—in 1994. This provision had been applied to both the Black Lung Benefits Act and the Longshore and Harbor Workers' Compensation Act, and it was vacated because it was not expressly mandated in the underlying statutes. This principle should be reinstated in the Black Lung Benefits Act because it provides fairness.

This problem is resolved in the legislation by providing that claimants will receive the benefit of the doubt when the evidence is in equipoise.

Fourth, the legislation addresses recent cases where biased medical evidence was systematically used to defeat meritorious claims. Physicians who read lung x-rays as part of pulmonary assessments under the Black Lung Benefits Act are required to demonstrate competency in classifying chest radiographs by becoming certified as "B Readers" by NIOSH. However, an investigation by the Center for Public Integrity, or CPI, and ABC News uncovered that there are NIOSH-certified B Readers who were under retainer by coal operators or their law firms and who systematically misclassified chest radiographs so that they could be used in opposing claims. The CPI report found that since 2000, Dr. Paul Wheeler of Johns Hopkins Medical Center had never once interpreted an x-ray as positive for complicated pneumoconiosis in more than 3,400 x-ray readings. Dr. Wheeler consistently concluded that there was not severe black lung present, even as other doctors saw the disease in hundreds of cases and other evidence, including biopsies, repeatedly proved him wrong. In response to these reports, Johns Hopkins immediately began an internal investigation and suspended the black lung x-ray reading program. A year later, the investigation is reportedly ongoing and the program remains suspended.

In response, the Department of Labor has issued guidance to its claims examiners "not to credit negative chest x-ray readings for pneumoconiosis" by Dr. Paul Wheeler unless the conclusions of such physician "have been rehabilitated." DOL has provided written notice to miners whose claims were denied within the one-year window for reconsideration—and where Dr. Wheeler's evidence was used during the claims proceeding—that informs the miners of their right to seek reconsideration. Going forward, claimants need to have an unbiased place to turn to get their lung x-rays read.

To address this problem and help ensure access to credible medical evidence that can assist in establishing a claim or rebutting questionable medical interpretations, the bill establishes a pilot program at NIOSH that will provide impartial x-ray readings. These readings will be offered specifically to assess whether a miner has advanced stages of black lung disease—known as complicated pneumoconiosis or progressive massive fibrosis—which results in benefits being awarded on a presumptive basis. NIOSH is required to establish panels made up of three physicians who are certified as B Readers; the panels would prepare reports that can be used in

claims proceedings as a service to claimants or operators on a fee-for-service basis.

Fifth, the legislation covers the need for remedies for those whose claims were unfairly denied due to tainted evidence. More than a year has passed since many miners' survivors were denied benefits in cases where Dr. Wheeler, the discredited Johns Hopkins' physician, provided the chest radiograph interpretations. Logically, survivors should be permitted to file a new claim for benefits if they were denied based on bogus medical interpretations. However, under current law a survivor is barred from filing a new claim more than one year after a decision to deny benefits is final, unless they can show a change in medical conditions. Obviously, for a deceased miner, demonstrating a change in medical condition is impossible.

The legislation remedies this injustice by allowing survivors to refile their claim outside of the one-year window. In addition, in cases where DOL has directed its claims examiners "not to credit negative chest x-ray readings for pneumoconiosis" provided by any physician whose interpretations have been discredited, the legislation also directs claims examiners and administrative law judges to exclude consideration of those discredited medical interpretations.

Sixth, the legislation addresses cost of living increases that have not been provided to miners and their families as intended. Contrary to the intent of Congress, benefits payments under the Black Lung Benefits Act have not been automatically increasing with the rising cost of living. Benefit payments are tied to the monthly pay rate for federal employees in grade GS-2, step 1. In several of the prior fiscal years, there was a pay freeze for federal employees, which had the effect of eliminating cost-of-living adjustments for miners, surviving spouses, and dependents under the Black Lung Benefits Program during such years.

To resolve this issue, the legislation restores the cost-of-living adjustments for black lung beneficiaries that were blocked or reduced as a result of federal employee pay freezes in 2011, 2012, 2013, and 2014.

Seventh, the legislation addresses the need for training to help improve claims administration. A competent assessment of medical information and testimony, which often involves multiple physicians disputing a diagnosis, is necessary to determine whether to award benefits under the Black Lung Benefits Act. To ensure that a determination regarding a claim for benefits under the act is fair and accurate, regular training is needed by claims examiners and administrative law judges regarding: developments in pulmonary medicine relating to black lung disease; medical evidence necessary to sustain claims for such benefits; and the proper weight to be given to conflicting evidence.

To address this need and improve claims administration, the legislation requires those administering this program to have annual training on the latest medical developments.

Eighth, there is a need to eliminate excessive delays in the adjudication of claims. There are currently egregious delays in adjudicating claims before an administrative law judge at the Department of Labor due to budget and staffing cuts. Between 2004 and 2014 there was a large reduction in the number of administrative law judges, coupled with a large increase in the number of cases filed under

the Black Lung Benefits Act. Compounding this problem were furloughs resulting from sequestration and the 16-day shutdown of the federal government during calendar year 2013. Due to the imbalance between resources and caseloads, it currently takes 429 days to assign a case to an administrative law judge, and claims remain unresolved for an average of 42 months prior to a decision, according to Department of Labor data. These delays directly and severely impact the lives of workers throughout the United States, placing an undue financial and emotional burden on the affected individuals and their families.

To resolve this issue, the legislation directs the Department of Labor to develop a plan to eliminate the backlog and eliminate delays.

Ninth, continued studies of the Mine Safety and Health Administration's recently adopted rules are needed to prevent future cases of black lung disease. Black lung disease has been the underlying or contributing cause of death of more than 76,000 miners since 1968. After decades of decline, the incidence of coal miners with black lung disease is on the rise. According to NIOSH, miners are developing advanced cases of the disease at younger ages. In response, the Mine Safety and Health Administration in the Department of Labor has taken important steps to combat the disease, including the promulgation of a rule in 2014 that reduces the allowed concentration of coal dust and eliminates weaknesses in the current dust sampling system.

To ensure that these reforms are sufficient to stem the scourge of black lung disease, this legislation requires continuing retrospective studies.

In total, the Black Lung Benefits Improvement Act of 2014 will restore a measure of justice to thousands of coal miners who have long toiled to provide the energy that powers our nation's homes, farms, and factories.

## LEGISLATIVE HISTORY OF AMERICAN SAMOA'S COMMEMORATIVE QUARTER

### HON. ENI F.H. FALDOMAEGA

OF AMERICAN SAMOA

IN THE HOUSE OF REPRESENTATIVES

*Thursday, November 20, 2014*

Mr. FALDOMAEGA. Mr. Speaker, I rise today to include, for historical purposes, information about American Samoa's Commemorative Quarter.

[Press Release, Mar. 25, 2004]

#### HOUSE PASSES BILL TO PROVIDE AMERICAN SAMOA WITH A COMMEMORATIVE QUARTER

Congressman Faleomavaega announced today that by a vote of 411 to 14 the House overwhelmingly passed H.R. 2993, a bill to provide for a circulating quarter dollar coin program to commemorate American Samoa, the District of Columbia, Guam, Puerto Rico, the Virgin Islands, and the Northern Mariana Islands.

In general, this legislation would amend the popular 50 States Commemorative Coin Program Act to include 6 new designs emblematic of the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands, and the Northern Mariana Islands. Designs on the reverse side of each quarter dollar issued during 2009 will be selected by the Secretary of Treasury in consultation with the chief executive officers of these areas, Congressman Faleomavaega said.

All five delegates are and were original co-sponsors of this bi-partisan measure. This measure was first introduced in the 106th Congress and passed overwhelmingly in the House by a vote of 377-6. Unfortunately, the 106th Congress ended before the Senate was able to consider our bill. During the 107th Congress, identical legislation (H.R. 4005) passed the House and was received in the Senate in October of 2002. Once again, the Senate was unable to consider this matter before the 107th Congress adjourned.

Now, we have introduced H.R. 2993 and we are hopeful that the House and Senate will pass this legislation before the 108th Congress adjourns. At this time, I want to thank Congresswoman Eleanor Holmes Norton for her leadership and I also want to thank the other Delegates who have also worked tirelessly to ensure that this legislation is considered, Congressman Faleomavaega said.

It is only fitting for Congress to acknowledge the Territories relationship with the United States. Speaking on behalf of American Samoa, we have a long and proud history of supporting the United States. The traditional leaders of the islands of Tutuila and Aunuu ceded our islands to the United States in 1900. Four years later, the King of Manua and his chiefs ceded the Manua Islands.

In the early part of the century, the port village of Pago Pago was used as a coaling station for U.S. naval ships. During WWII, it was used as a support base for U.S. soldiers. To this day, American Samoa serves as a refueling point for U.S. naval ships and military aircraft.

American Samoa also has a per capita enlistment rate in the U.S. military which is as high as any State or U.S. Territory. Our sons and daughters have served in record numbers in every U.S. military engagement from WWII to present operations in Iraq. We have stood by the United States in good times and bad and I believe this relationship should be acknowledged with the issuance of a commemorative coin.

H.R. 2993 affords us an opportunity to recognize the special contributions that American Samoa, Guam, Puerto Rico, the Northern Marianas and the District of Columbia have made to the history of our Nation. I thank my colleagues for voting in favor of this legislation and I urge the Senate to also support our cause, the Congressman concluded.

[Press Release, Oct. 4, 2005]

#### QUARTER DOLLAR BILL COMMEMORATING AMERICAN SAMOA AND OTHER TERRITORIES REINTRODUCED

Congressman Faleomavaega announced today that the Territorial Delegates have joined with Congresswoman Eleanor Holmes Norton to reintroduce a bill that will grant circulating quarter dollars to commemorate American Samoa, the District of Columbia, Guam, Puerto Rico, the Virgin Islands and the Northern Mariana Islands.

Essentially, this legislation will amend the popular 50 States Commemorative Coin Program Act to include six new designs representative of the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands and the Northern Mariana Islands. The coins will be issued in 2009 and their respective designs will be issued by the Secretary of Treasury in consultation with the chief executive officers of these areas, Congressman Faleomavaega said.

All five of the delegates are and were original co-sponsors to this bi-partisan measure. The measure was originally introduced in the 106th, 107th and 108th Congresses and easily passed through the House on each occasion. But, in each instance, the Senate was

unable to take up the matter before Congress adjourned.

Pleased by the support we have seen for this legislation by the House, we have introduced H.R. 3885 and are hopeful that the House and Senate will pass this legislation before the 109th Congress adjourns, Faleomavaega said. H.R. 3885 is an appropriate way for Congress to acknowledge the historic relationship between the Territories and the United States. American Samoa has a long record of supporting the United States, specifically in relation to military service. American Samoa has an enlistment rate which is as high per capita to that of any other State of U.S. Territory. Our sons and daughters have served proudly in every U.S. military engagement from WWII to the current operations in Iraq. Our territory has also served the U.S. military as a fueling station for naval ships and military aircraft and in WWII it served as a support base for U.S. soldiers.

At this time, I would like to thank my colleagues for their commitment to this effort. I especially want to thank Congresswoman Norton for her leadership. Together, we remain hopeful that Congress will take this opportunity to recognize the contributions that the District of Columbia, American Samoa, Guam, Puerto Rico, the Virgin Islands and the Northern Marianas have made to our Nation and, together, we urge Congress to support our cause, Congressman Faleomavaega concluded.

[Press Release, Jul. 27, 2009]

#### FALDOMAEGA ANNOUNCES RELEASE OF AMERICAN SAMOA QUARTER

Congressman Faleomavaega announced today that American Samoa's commemorative quarter has been released today by the U.S. Mint to the Federal Reserve banks.

"This quarter has been 9 years in the making and came about as a result of federal legislation the Congressional Delegates sponsored and cosponsored since 2000," Faleomavaega said.

"Congresswoman Eleanor Holmes Norton of the District of Columbia championed the cause, and Congressman Jose Serrano of New York included our last bill in the 2008 Consolidated Appropriations Act."

"After cosponsoring H.R. 5010, H.R. 4005, H.R. 2993, H.R. 3883 and H.R. 392 from the 106th Congress to the 110th, Congress finally passed our legislation into law, and my colleagues and I who represent the Territories and the District of Columbia are pleased by the outcome."

"As part of the legislation, we wanted to make sure our local Governors could also participate in this historic process so we made sure our legislation was modeled after the 50 State Quarters Program which included a provision to allow our local governments to design our quarters. I especially commend Governor Togiola and his administration for the work they did in designing American Samoa's quarter."

"While the U.S. Mint and my office had scheduled an unveiling ceremony in Washington this morning to coincide with today's release of American Samoa's quarter, Governor Togiola has requested to be part of this Congressional ceremony and, as a courtesy to him, the President of the Senate, the Speaker of the House, the Secretary of Samoan Affairs, and the First Lady who are traveling with the Governor, I have agreed to postpone the Congressional ceremony until Wednesday of this week since Governor Togiola had to cancel the local ceremony he had arranged with the U.S. Mint due to his decision to come to Washington DC this week. The Governor's event with the U.S. Mint was scheduled to be held in American