

DOCUMENT RESUME

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[Need for the Social Security Administration To Obtain Accurate Data on State Workmen's Compensation Payments for Computing Black Lung Benefits]. HRD-78-109; B-164031(4). May 16, 1978. Released May 19, 1978. 6 pp.

Report to Rep. John N. Erlenborn; by Gregory J. Ahart, Director, Human Resources Div.

Issue Area: Federally Sponsored or Assisted Income Security Programs: Payment Processes, Procedures, and Systems (1309).  
Contact: Human Resources Div.  
Budget Function: Income Security: Public Assistance and Other Income Supplements (604).  
Organization Concerned: Department of Health, Education, and Welfare; Social Security Administration.  
Congressional Relevance: Rep. John N. Erlenborn.  
Authority: Federal Coal Mine Health and Safety Act of 1969, title IV (30 U.S.C. 801). Black Lung Benefits Reform Act of 1977 (P.L. 95-239).

Under the Black Lung Benefits Reform Act of 1977, black lung benefits paid to disabled miners can only be reduced by State benefits paid for a disability due to pneumoconiosis. According to the Department of Health, Education, and Welfare's (HEW's) General Counsel, if a State law provides that State workmen's compensation benefits are paid to widows as death benefits, the black lung benefits cannot be reduced. During June 1977, the Social Security Administration paid \$76.3 million in black lung benefits to 463,467 people, with 86% of the benefits paid in nine States. Recipients were receiving both Federal black lung benefits and State workmen's compensation payments in 1,766 cases--1,470 for miners and 296 for widows. Most of the workmen's compensation awards to miners were for disability due to pneumoconiosis, and widows' benefits were not reduced because their workmen's compensation benefits were determined to be death benefits. Federal black lung benefits have been incorrectly paid in Pennsylvania and Kentucky because recipients have failed to report the receipt of workmen's compensation. Pennsylvania has incorrectly paid special State program benefits apparently because it has difficulty in identifying Federal black lung recipients. The Secretary of HEW should direct the Commissioner of Social Security to: obtain State workmen's compensation payment data from Pennsylvania, Kentucky, and other States for use in computing black lung payments; periodically ask recipients if State benefits are being received; and identify States that need Federal black lung information. (HTW)

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**UNITED STATES GENERAL ACCOUNTING OFFICE**

WASHINGTON, D.C. 20548

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5/19/78

HUMAN RESOURCES  
DIVISION

P-164031(4)

May 16, 1978

The Honorable John N. Erlenborn  
House of Representatives

Dear Mr. Erlenborn:

In response to your May 24, 1977, request and later discussions with your office, we tested the Social Security Administration's payment records before enactment of recent legislation to determine if Federal black lung benefit payments were correctly reduced by State workmen's compensation payments.

Black lung claims are covered under title IV of the Federal Coal Mine Health and Safety Act of 1969 (30 U.S.C. 801), as amended. Part B of the act is administered by the Department of Health, Education, and Welfare (HEW), and part C is administered by the Department of Labor. Part B requires the Secretary of HEW to provide Federal black lung benefits to miners who are totally disabled due to pneumoconiosis and to eligible survivors of miners whose death was caused by pneumoconiosis. Pneumoconiosis refers to a class of diseases caused by inhaling such substances as coal dust, quarry dust, or textile fiber.

Before the enactment of the Black Lung Benefits Reform Act of 1977 (Public Law 95-239, dated Mar. 1, 1978), the law required that part B benefits be reduced by State workmen's compensation, unemployment compensation, or any other payments made under a State's disability insurance laws for any disability of the miner. Under the Reform Act, part B benefits can only be reduced by State benefits paid for a disability due to pneumoconiosis. However, according to HEW's General Counsel, if a State law provides that State workmen's compensation benefits are paid to widows as a death benefit for the deceased miner, part B benefits cannot be reduced.

During June 1977, Social Security paid \$76.3 million in black lung benefits to 463,467 people. All 50 States have both workmen's compensation programs and Social Security

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black lung recipients. However, 86 percent of Social Security-administered black lung benefits are paid to recipients in nine States. Each of these States had over 10,000 black lung recipients, as shown below:

Pennsylvania	140,548
West Virginia	81,610
Kentucky	56,610
Ohio	26,990
Illinois	26,084
Virginia	26,038
Alabama	20,260
Tennessee	14,671
Indiana	11,346

### SCOPE OF REVIEW

We obtained automated files on 83,000 Pennsylvania and 9,000 Kentucky workmen's compensation payments made in August and September 1977, respectively. These files were matched with Social Security's black lung payment file for the same months to determine whether the black lung payment was computed using the correct State workmen's compensation amount. We did not verify the accuracy of the payment amounts contained in the State records. In our opinion, the results of our review are conservatively stated, since not all Pennsylvania and Kentucky records could be readily compared. For example, in Kentucky only claims filed after June 30, 1972, were available on computer tapes, and only 53 percent of these claims had Social Security numbers facilitating a comparison with black lung records.

### EFFECTS OF USING INCORRECT WORKMEN'S COMPENSATION AMOUNTS

Recipients were receiving both Federal black lung and State workmen's compensation payments in 1,766 cases-- 1,470 miner cases and 296 widow cases. Most of the workmen's compensation awards to miners were for disability due to pneumoconiosis. Widows' black lung benefits were not reduced, because Social Security determined that their workmen's compensation benefits were death benefits.

Of the 1,470 miner cases, as shown by the following table, 500 (about 34 percent) were being paid annual black lung overpayments and underpayments estimated at \$926,000 and \$39,000, respectively, because Social Security did not

have accurate State workmen's compensation data to use in computing these benefits.

<u>Black lung payment</u>	Miners receiving both benefits	Incorrect payment amount (estimated)	
		<u>Monthly</u>	<u>Yearly</u>
Correct	970		
Overpayment	449	\$77,200	\$926,000
Underpayment	<u>51</u>	3,200	39,000
Total receiving both benefits	<u>1,470</u>		

If Social Security had accurate State workmen's compensation data for Pennsylvania and Kentucky, substantial incorrect payments could have been avoided. In this regard, both Social Security and the Department of Labor place responsibility on part B and part C recipients for promptly reporting changes, such as the receipt of workmen's compensation, that may affect their black lung benefits. Labor also sends a form annually to part C recipients asking if any State benefits are being received. In contrast, Social Security does not periodically ask recipients whether they are receiving State benefits; in addition, it has made only a limited effort to obtain such information directly from the States.

#### IMPACT OF SPECIAL STATE PROGRAM

Pennsylvania has a special supplementary workmen's compensation program, which pays State benefits generally under two conditions: (1) if a person has already received the maximum amount under the regular workmen's compensation provisions or (2) if an otherwise eligible person had not been compensated because his claim was barred by State time limitations. The State law governing this special program prohibits the State benefit from being paid if the Federal Government makes a black lung payment. This law affected 117 of the 1,470 miner cases.

For 17 of the cases, Pennsylvania made a workmen's compensation payment and Social Security reduced the Federal black lung benefit accordingly. If Pennsylvania ceases its payment, full Federal benefits would be restored and the total amount to each beneficiary would be unchanged.

For the other 100 cases, Pennsylvania and Social Security both paid full benefits and neither was aware of the other's payment. In these cases, the beneficiary was overpaid by the amount of the State benefit.

For these special State program cases, Pennsylvania could save \$140,000 a year if it could identify black lung recipients. Before enactment of the Privacy Act of 1974 (5 U.S.C. 552a), Social Security provided black lung program data to several States, including Pennsylvania. The Privacy Act, however, established requirements that must be met before Social Security can continue to furnish this information to the States. To furnish this information now, Social Security must determine whether it already has the written consent of the recipient or whether the disclosure is permissible without such consent.

### CONCLUSIONS

Federal black lung benefits have been incorrectly paid in Pennsylvania and Kentucky because recipients have failed to report the receipt of workmen's compensation to Social Security. Incorrect black lung payments will likely continue unless Social Security obtains this data through other means. We believe that Social Security should obtain workmen's compensation data directly from States that maintain it in a format that would facilitate comparisons with the black lung payment file and/or periodically ask recipients for the information.

Also, Pennsylvania has incorrectly paid special State program benefits apparently because it has difficulty in identifying Federal black lung recipients. Under this special program, the State reduces its benefit payments when it becomes aware that the recipient also receives Federal black lung benefits. We believe Social Security should study the assistance it could provide Pennsylvania and other States with similar special programs.

### RECOMMENDATIONS

Accordingly, we recommend that the Secretary of Health, Education, and Welfare direct the Commissioner of Social Security to:

- Obtain State workmen's compensation payment data from Pennsylvania and Kentucky and use this data to calculate correct black lung payments.
- Obtain, where practicable, other States' workmen's compensation data for use in computing black lung payments.
- Periodically ask recipients if State benefits are being received and, if so, the types and amounts involved.
- Identify States that need Federal black lung information for correctly computing special State program benefits to recipients and determine the legal and administrative feasibility of assisting these States.

#### AGENCY COMMENTS AND OUR EVALUATION

In commenting on a draft of this report, HEW generally agreed with the first two recommendations, stating that:

"While we initially were concerned that the data exchange with the States was not consistent with provisions of the Privacy Act, upon further review, we do not see any serious limitations to SSA [the Social Security Administration] obtaining workmen's compensation data from the States. SSA has requested State tape records of individual workmen's compensation payments from Kentucky and Pennsylvania. When received, these tapes will be matched against black lung benefits records and action will be taken to offset the black lung benefits and recover overpayments where appropriate. We are considering similar actions with respect to West Virginia beneficiaries."

This course of action should improve the accuracy of part B benefits in Kentucky and Pennsylvania, but we are concerned that other States that may also provide workmen's compensation benefits are not being contacted for this information. Over 57 percent of the recipients reside in these other States and could receive substantial part B overpayments and underpayments if the State workmen's compensation data is not accurately reflected in the Federal black lung benefit payment. Accordingly, we believe other States should

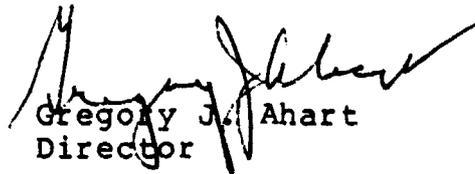
be contacted to determine the feasibility of periodically obtaining and using their workmen's compensation data in computing black lung benefits.

The last two recommendations were added after HEW had commented on the report. Social Security officials responsible for the black lung program agreed with these recommendations and said that action would be taken on them.

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As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 3 days from its issue date. At that time, we will send copies to HEW and other interested parties and make copies available to others upon request.

Sincerely yours,



Gregory J. Ahart  
Director