

News
From _____

CONGRESSMAN

Mike Fite ms
Nick Rahall

WEST VIRGINIA-4th DISTRICT

FOR IMMEDIATE RELEASE
FEBRUARY 15, 1980

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WASHINGTON D.C. ----- "DUE TO THE UNWARRENTED AND EXCESSIVE DELAYS IN THE PROCESSING OF BLACK LUNG CLAIMS, MANY VICTIMS DIE BEFORE A DECISION IS RENDERED ON THEIR CLAIM," WEST VIRGINIA'S FOURTH DISTRICT CONGRESSMAN NICK J. RAHALL CHARGED, IN A SHARP FOUR-PAGE LETTER TO SECRETARY OF LABOR RAY MARSHALL.

"THE PRESENT ADMINISTRATION OF THE BLACK LUNG PROGRAM IS ABOMINABLE," RAHALL STRESSED, "A FAR CRY FROM THE INTENT OF THE LAW CONGRESS PASSED IN 1977."

RAHALL, A CO-SPONSOR OF THE BLACK LUNG REFORM ACT OF 1977, CITED NUMEROUS EXAMPLES OF MIS-MANAGEMENT IN THE PROGRAM, WHICH INCLUDED: "EXCESSIVE DELAYS IN PROCESSING CLAIMS.....ONCE AN APPROVAL IS GRANTED, IT TAKES MONTHS FOR THE CLAIMANT TO RECEIVE PAYMENT.....THE AGENCY IS LAX IN HOLDING COAL COMPANIES RESPONSIBLE FOR THE PAYMENT OF CLAIMS.....TELEPHONE CALLS ARE NOT RETURNED.....FILES ARE LOST.....AND LETTERS ARE NOT ANSWERD."

CONGRESSMAN RAHALL POINTED OUT, "IN 1977 AND 1978, MY OFFICE WAS EXPERIENCING PROBLEMS WITH THE OFFICE OF COAL MINE WORKER'S COMPENSATION, AND AS TIME PASSED THE PROBLEMS GREW WORSE."

"THE SITUATION NOW HAS PROGRESSED FROM BAD TO WORSE," RAHALL STATED.

"THE MISADMINISTRATION OF THE BLACK LUNG PROGRAM MUST FALL WITHIN THE AGENCY AND ITS REGULATIONS," RAHALL WENT ON TO SAY, "IT WAS MOST CERTAINLY NOT THE INTENT OF CONGRESS."

CONGRESSMAN RAHALL TOLD SEC. MARSHALL, "THIS MATTER DESERVES YOUR PERSONAL ATTENTION."

(COPY OF CONGRESSMAN RAHALL'S LETTER IS ATTACHED)

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NICK J. RAHALL, II
4TH DISTRICT, WEST VIRGINIA

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February 13, 1980

The Honorable Ray Marshall
Secretary of Labor
200 Constitution Avenue, N. W.
Washington, D. C. 20210

Dear Mr. Secretary:

This is to call your attention to an enigmatic situation that exists within the administration of the Black Lung Benefits Program, and to request that you personally investigate the operation of the Coal Mine Workers' Compensation Office to bring about a satisfactory working arrangement between that office and mine.

As you know, I represent the Fourth Congressional District of West Virginia - one of the largest coal mining areas in the nation, and as a result of the preponderance of the industry in my District, a very large portion of my constituency suffers from black lung disease.

When I came to Congress in 1977, I found the volume of black lung claims to be so demanding that I had to subsequently set aside a very large segment of my Congressional office budget to establish four Congressional District offices with eight full-time caseworkers to handle the caseload.

In 1977 and 1978, the problems my office was experiencing with the Office of Coal Mine Workers' Compensation were many, and as time passed, those problems grew far worse rather than better. Finally the situation became so critical that in January 1979, I asked Ms. June E. Patron, then the Associate Director of that office, to come to my office in Washington to meet with me and my staff in an effort to bring about a better working arrangement.

I brought my District Representative and all eight District office caseworkers to Washington to meet with Ms. Patron and several members of her staff. I attended the meeting and frankly at its conclusion I felt that both offices had a better understanding, and that

Ms. Patron and her staff were sincere in their expressed intent to bring about a satisfactory solution to the problems we were having with the program.

It is now quite apparent that all such arrangements were for naught in that during this past year the problems have grown in number and occurrence, and the situation has progressed from bad to worse. I now feel that any attempt on my part to work with the Director of the Office of Coal Mine Workers' Compensation will only bring about the same insensitive effect as the meeting I had with the director of that office a year ago.

Being a co-sponsor of the Black Lung Benefits Reform Act of 1977, I can unequivocally state that the manner in which the Act is presently being administered was most certainly not the intent of Congress at the time the law was passed, and therefore the misadministration of the program must fall within the agency and its regulations. As Secretary of Labor, I respectfully request that you look into the following:

- Due to unwarranted and excessive delays in processing claims, many of the claimants die before a decision is rendered on their claim. Some claims have been in my files and in "the works" since I took office three years ago.
- Once the agency has granted an approval, it takes literally months for the claimant to receive interim or permanent benefits, and again, often the claimant receives word that his claim has been approved and dies before he receives his benefits.
- Not every approved claimant is put into current pay status from the Trust Fund until it can be determined if there is a responsible operator - which may take months and months. The result is that some claim approvals receive benefits and others do not.
- Once a coal company is deemed responsible, the agency is not only lax, but appears to condone the company taking far longer than the legal 60 days to develop its appeal. Certainly, since the companies involved have a great financial responsibility in paying the claims, they should - and do under the law, have every right to protest. However, the companies should be held within the 60 day guideline set down for the program.
- On many occasions, after the company finally agrees to pay a

claim, the Department of Labor sends the company incorrect pay information. Without proper authorization, the claimant does not receive his benefits even though he is entitled to them.

- File after file is lost within the agency and a great many claimants have had to supply the agency with the requisite supporting evidence not once, but two and three times. A "lost" file represents a great deal of time and effort by both the claimant and my office. Often months have gone by with the claimant thinking his case was complete and in the hands of the proper authorities only to find that the agency has "misplaced" his file and he must reconstruct his case all over again. Several times we have had to call a constituent to tell him his file was "lost" at the very time he was expecting to get a final decision on his case.
- In many instances, claimants are being sent to physicians who have long since stopped testing black lung applicants. It is inconceivable that the agency cannot keep track of the physicians they have authorized to perform the requisite medical tests on such applicants.
- When claims are approved, Department of Labor regulations state that a date must be set for an informal hearing. In general, not the exception, this is not being done.
- Letters from my office to the agency making specific inquiry about a case are ignored. My staff takes the time and effort to prepare the letter to the agency - and I personally sign every one of those letters, and a reply is never received from the agency. On many occasions, when I do receive a reply, it contains utterly irrelevant and often outdated information, making it impossible to send the response along to the claimant.
- Telephone calls to the agency making inquiry about a case are not returned. Often one of my offices can make as many as three and four calls to the agency and never receive a call back from the person or office they called.
- The agency rarely notifies my office of decisions on claims in a timely manner permitting my office to follow through in notifying the claimant of the disposition of his case. Usually my office receives word long after the claimant has been notified by the agency. Not to mention the blatant breach of courtesy

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customarily afforded a Member of Congress, my office can go on making inquiry about cases long after they have been closed. Recently the Department of Labor notified my office seven months after the claimant had been notified.

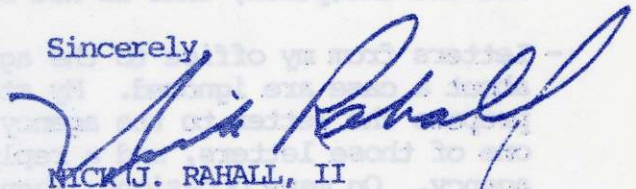
Recently an article appeared in several newspapers in my District which applauded the Department of Labor's implementation of the Black Lung Benefits Program. In light of the above, I am sure you can imagine my astonishment. However, my amazement was minor in comparison to the claimants who have had to reconstruct "lost" files; claimants who have been waiting several years to receive some word from the Department of Labor on their claim; and most of all, the families of claimants who have died from black lung disease many months before a decision was rendered on the case.

The present administration of the Black Lung Benefits Program is abominable - a far cry from the intent of the law, and I feel it deserves your personal attention.

Your consideration of this matter is greatly appreciated and I look forward to hearing from you in the near future.

With regard, I am

Sincerely,


NICK J. RAHALL, II
Member of Congress

NJR/kjb