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From _____

CONGRESSMAN

Nick Rahall

WEST VIRGINIA-4th DISTRICT

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RAHALL INTRODUCES BLACK LUNG BENEFITS BILL

WASHINGTON, D.C. -- U.S. Rep. Nick J. Rahall (D-WV) today introduced legislation aimed at ensuring that approximately 10,000 pending black lung benefit claims are fairly treated by the Labor Department.

Entitled the "Black Lung Benefits Eligibility Clarification Act of 1988," the Rahall bill comes close on the heels of a recent U.S. Supreme Court decision affecting claims filed between July 1, 1973, and April 1, 1980, under the Labor Department's "interim" regulations.

"West Virginia's disabled coal miners who are afflicted with the crippling affects of black lung disease deserve compensation, not additional bureaucratic barriers," Rahall stated.

"The central issue in the Supreme Court decision this legislation seeks to address involves what constitutes a presumption of black lung benefit eligibility," Rahall explained. "According to the majority opinion of the Court, a single item of qualifying evidence such as an X-ray does not necessarily make a person eligible for black lung disability benefits under the Labor Department's interim program. I disagree. My legislation is premised on the need to clarify the intent of Congress in this matter," Rahall noted.

Rahall said that 1972 amendments to the Federal Coal Mine Health and Safety Act of 1969 clearly indicated the frustration of Congress with the Social Security Administration's management of the black lung program. The amendments sought to expedite the adjudication of benefit claims and to reduce the number of benefit denials. The 1972 law also transferred administrative responsibility of the program to the Labor Department for claims filed after July 1, 1973.

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After enactment of the 1972 law, the Social Security Administration's claim approval rate increased due to new regulations the agency had implemented. However, for post-1973 claims, the Labor Department's benefit approval rate remained low. In response, Congress again amended the law in 1977 by requiring the Labor Department to adopt eligibility standards not less restrictive than those of the Social Security Administration.

"It was the clear intent of the Congress in 1977 that the Labor Department adopt a similar standard for considering claims filed after July 1973 as that used by the Social Security Administration. This standard allowed a claimant to prove disability based on a single piece of qualifying evidence. My legislation intends to reiterate this criteria and ensure its adoption," Rahall stated.

Rahall pointed out that the claimant in the Supreme Court case not only had a qualifying X-ray, but two qualifying ventilatory studies and one qualifying physician's opinion as well. Yet, the claimant was denied benefit eligibility.

"This is an alarming and dangerous precedent," Rahall said. We have a claimant with not one, but four qualifying pieces of evidence and yet under the standard set by the Supreme Court he was still denied eligibility. It should be obvious to all that corrective measures must be taken."