

News
From _____

CONGRESSMAN

Nick Rahall

WEST VIRGINIA-4th DISTRICT

FOR IMMEDIATE RELEASE
FEBRUARY 3, 1989

CONTACT: JERRY BURKOT
(202) 225-3452

RAHALL CHARGES GOVERNMENT SUBJECTING BLACK LUNG CLAIMANTS TO 'CRUEL HOAX'

WEST VIRGINIA CONGRESSMAN INTRODUCES REMEDIAL LEGISLATION

WASHINGTON, D.C. -- Charging that the letter and spirit of the federal black lung laws are being thwarted by federal bureaucrats and the courts, U.S. Rep. Nick J. Rahall (D-WV) yesterday introduced legislation "to foster a new awareness within the Congress of the severity of the situation and to prompt some substantive remedial actions."

"As it now stands, disabled miners who suffer from the crippling effects of black lung disease are being pressed beyond reason by a monolithic federal bureaucracy so totally lacking in compassion to their plight that it appears intent upon harrassing their efforts to obtain just compensation at every single step of the claim adjudication process," Rahall charged in a statement before the House. "I aim to do something about this," he added.

Rahall said that the current four percent claim approval rate "represents nothing less than a cruel hoax being perpetrated against hard working citizens who have dedicated their lives to the energy security and economic well being of this Nation."

The bill, entitled the "Black Lung Benefits Eligibility Clarification Act of 1989" is in response to a 1987 Supreme Court decision and seeks to impose the type of eligibility standard Congress intended by reiterating that a claimant can establish a presumption of black lung with a single piece of qualifying evidence. The High Court in what is known as the Mullins case found the claimant to be ineligible despite the existence of a qualifying x-ray, two qualifying ventilatory studies and one qualifying physician's opinion.

"Through years of administrative maneuverings aggravated by some extremely harmful judicial interpretations, there can be no denial of the fact that black lung proceedings before the Labor Department today are extremely adversarial in nature against the claimant," Rahall stated.

Rahall explained that the Black Lung Benefits Reform Act of 1977 required the Labor Department to adopt eligibility standards not less restrictive than what had been in effect on June 30, 1973; a reference to a set of standards promulgated in response to the Black Lung Benefits Act of 1972 by what was then the Secretary of Health, Education and Welfare which expired on that date. The regulations promulgated by the Labor Department, which were the subject of the Mullins case, are widely believed to be far more restrictive than HEWs, the Court's decision in Mullins to the contrary, Rahall noted.

"This belief is supported by the fact that the claim approval rate dramatically improved under the HEW standards while it continued to decline under the Labor Department's administration. Obviously, this difference in claim approval rates hardly supports the "no more restrictive" criteria established by the Congress in the 1977 Act," he explained.

"My legislation would clearly impose the type of eligibility standard intended by the Congress in the 1977 Act by reiterating that a claimant can establish a presumption of black lung with a single piece of qualifying evidence, just as was required under the HEW regulations in effect on June 30, 1973," Rahall added.

While the Congressman recognized that the bill does not address all of the problems plaguing the black lung program, he said that he views it as a vehicle "to foster a new awareness within the Congress of the severity of the situation and to prompt some substantive remedial actions."

"During the Presidential campaign George Bush promised us a kinder and gentler Nation. Let us hope this promise extends to the black lung benefits program," he concluded.