To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as "black lung disease"), and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

DECEMBER 1, 2021

Mr. CARTWRIGHT (for himself and Mr. SCOTT of Virginia) introduced the following bill; which was referred to the Committee on Education and Labor, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

A BILL

To ensure that claims for benefits under the Black Lung Benefits Act are processed in a fair and timely manner, to better protect miners from pneumoconiosis (commonly known as “black lung disease”), and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Black Lung Benefits Improvement Act of 2021”.

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SEC. 2. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Short title.
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TITLE I—BLACK LUNG BENEFITS

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Sec. 101. Mandatory disclosure of medical information and reports.
Sec. 102. Attorneys’ fees and medical expenses payment program.
Sec. 103. Clarifying eligibility for black lung benefits.
Sec. 104. Restoring adequate benefit adjustments for miners suffering from black lung disease and for their dependent family members.
Sec. 105. Treatment of evidence in equipoise.
Sec. 106. Providing assistance with claims for miners and their dependent family members.
Sec. 107. False statements or misrepresentations, attorney disqualification, and discovery sanctions.
Sec. 108. Development of medical evidence by the Secretary.
Sec. 109. Medical evidence training program.
Sec. 110. Technical and conforming amendments.
Sec. 111. Readjudicating cases involving certain chest radiographs.
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PART B—REPORTS TO IMPROVE THE ADMINISTRATION OF BENEFITS UNDER THE BLACK LUNG BENEFITS ACT

Sec. 121. Strategy to reduce delays in adjudication.
Sec. 122. GAO report on black lung program.

PART C—IMPROVEMENT IN THE FINANCIAL SECURITY OF THE BLACK LUNG BENEFITS DISABILITY TRUST FUND

Sec. 131. Regulations for self-insurance.

TITLE II—ESTABLISHING THE OFFICE OF WORKERS’ COMPENSATION PROGRAMS

Sec. 201. Office of Workers’ Compensation Programs.

TITLE III—SEVERABILITY

Sec. 301. Severability.

SEC. 3. FINDINGS.

Congress finds the following:

(1) Black lung disease has been the underlying or contributing cause of death of more than 79,000
miners since 1968. The Black Lung Benefits Act (30 U.S.C. 901 et seq.) was enacted to provide health care and modest benefits to coal miners who develop pneumoconiosis (referred to in this section as “black lung disease”) resulting from exposure to coal mine dust during their employment. Yet the determination of a claimant’s eligibility for these benefits often requires complex, adversarial litigation. Resource disparities between coal companies and claimants are widespread within the statutory and regulatory framework of such Act. Comprehensive reforms are necessary to ensure that coal miners are not at a disadvantage when filing claims for benefits. 

(2) The Government Accountability Office has found that many claimants under the Black Lung Benefits Act are not equipped with the medical and legal resources necessary to develop evidence to meet the requirements for benefits. Miners often lack complete and reliable medical evidence, consequently increasing 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 claimants proceed with their claims through a complex and potentially long administrative process.
without resources that Department of Labor officials
and black lung disease experts note are important
for developing evidence and supporting their claims.
In 2020, only 42 percent of claimants were rep-
resented by an attorney during the initial claims de-
termination. Absent efforts to remedy administrative
problems and address structural weaknesses in the
process for obtaining benefits, claimants with meri-
torious claims will not receive benefits.

(3) Full exchange and disclosure between the
parties of relevant medical information is essential
for fair adjudication of claims under the Black Lung
Benefits Act, regardless of whether the parties in-
tend to submit such information into evidence.
Records of adjudications reveal that some mine oper-
ators’ 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 bene-
fits. Withholding medical information can endanger
miners by depriving them of important information
about their own health and the potential need to
seek medical treatment.
(4) 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, not on substantive grounds, but because its application conflicted with the requirements of another statute. Such principle needs to be reinstated in the Black Lung Benefits Act because it provides fairness and improves the administration of benefits.

(5) Physicians who read lung x-rays as part of pulmonary assessments used in proceedings for claims under the Black Lung Benefits Act are required to demonstrate competency in classifying chest radiographs by becoming certified as B Readers by the National Institute for Occupational Safety and Health (referred to in this section as “NIOSH”). However, investigations have uncovered that there are NIOSH-certified B Readers who have systematically misclassified chest radiographs while employed by coal operators or their law firms for the purpose of opposing claims under such Act. In response, the Department of Labor has directed claim examiners “not to credit negative chest x-ray read-
ings for pneumoconiosis” by one widely used physi-
cian employed at a prominent medical center unless
the conclusions of such physician “have been reha-
bilitated”. Where chest radiographs are needed to
establish entitlement to benefits, claimants should
have access to accurate interpretations so as to en-
sure the fair adjudication of such claims.

(6) Since survivors were denied benefits on
claims under the Black Lung Benefits Act that in-
volved the consideration of chest radiograph inter-
pretations rendered by a certain physician whose in-
terpretations have since been determined by the De-
partment of Labor to be generally not worthy of
credit, such survivors should be permitted to file a
new claim for benefits under such Act. However, a
survivor is effectively barred from filing a new claim
one year after a decision regarding such benefits is
final, constituting an injustice that merits a remedy.

(7) Benefit payments under the Black Lung
Benefits Act do not automatically increase 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 2011 through 2013, there was a
pay freeze for Federal employees, which had the ef-
fect of eliminating cost-of-living adjustments for
miners, surviving spouses, and dependents under the Black Lung Benefits Act during such years.

(8) A competent assessment of medical information and testimony, which often involves multiple physicians disputing a diagnosis, is necessary in determining whether to award benefits under the Black Lung Benefits Act. To ensure that a determination regarding a claim for benefits under such Act is fair and accurate, regular training is needed regarding—

(A) developments in pulmonary medicine relating to black lung disease;

(B) medical evidence necessary to sustain claims for such benefits; and

(C) the proper weight to be given to conflicting evidence.

(9) To eliminate an avoidable delay in evaluating claims under such Act, the Department of Labor’s Inspector General has recommended legislation that would authorize the Department of Labor to have electronic access to miners’ earning records held by the Social Security Administration.
TITLE I—BLACK LUNG BENEFITS

PART A—IMPROVING THE PROCESS FOR FILING
 AND ADJUDICATING CLAIMS FOR BENEFITS

SEC. 101. MANDATORY DISCLOSURE OF MEDICAL INFORMATION AND REPORTS.

Part A of the Black Lung Benefits Act (30 U.S.C. 901 et seq.) is amended by adding at the end the following:

“SEC. 403. MANDATORY MEDICAL INFORMATION DISCLOSURE.

“(a) REPORT.—In any claim for benefits under this title, an operator that requires a miner to submit to a medical examination regarding the miner’s respiratory or pulmonary condition shall timely deliver to the claimant a complete copy of the resulting medical information. The medical information shall—

“(1) be in writing;

“(2) set out in detail the findings of any examining or non-examining physician, including any diagnoses and conclusions, the results of any diagnostic imaging tests, and any other tests performed on the miner; and

“(3) be delivered not later than 30 days after the operator or operator’s agent has received the medical information and, in the case of medical inform-
formation received after a claim is already scheduled for hearing before an administrative law judge, not later than 20 days before the scheduled hearing is held.

“(b) Disclosure.—

“(1) In general.—In any claim for benefits under this title, each party shall provide all other parties in the proceeding with a copy of all medical information developed regarding the miner’s physical condition relating to such claim, even if the party does not intend to submit the information as evidence.

“(2) Definition of medical information.—For purposes of paragraph (1), the term ‘medical information’—

“(A) shall include the opinion of any examining or non-examining physician’s assessment of the miner, the results of any medical tests or procedures, and any physician’s or other medical professional’s interpretations of those tests or procedures; and

“(B) shall not include—

“(i) any record of a miner’s hospitalization or other medical treatment; or
“(ii) any communication from a party’s representative to a medical expert.

“(c) REGULATIONS.—The Secretary shall promulgate regulations regarding the disclosure of medical information under this section, and such regulations may establish sanctions for noncompliance with this section.”.

SEC. 102. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAYMENT PROGRAM.

Part A of the Black Lung Benefits Act (30 U.S.C. 901 et seq.), as amended by section 101, is further amended by adding at the end the following:

“SEC. 404. ATTORNEYS’ FEES AND MEDICAL EXPENSES PAYMENT PROGRAM.

“(a) Program Established.—

“(1) In general.—Not later than 180 days after the date of enactment of the Black Lung Benefits Improvement Act of 2021, the Secretary shall establish a payment program to pay attorneys’ fees and other reasonable and unreimbursed medical expenses incurred in establishing the claimant’s case, using amounts from the fund, to the attorneys of claimants in qualifying claims.

“(2) Qualifying claim.—A qualifying claim for purposes of this section is a contested claim for benefits under this title for which a final order has
not been entered within one year of the filing of the claim.

“(3) Use of Payments from the Fund.—Notwithstanding any other provision of law, amounts in the fund shall be available for payments authorized by the Secretary under this section.

“(b) Payments Authorized.—

“(1) Attorneys’ Fees.—If a claimant for benefits under this title obtains a proposed decision and order from a district director with an award of benefits for a qualifying claim, or an award for a qualifying claim before an administrative law judge, the district director may approve attorneys’ fees for work done before such director in an amount not to exceed $1,500 and an administrative law judge may approve attorneys’ fees for work done before such judge in an amount not to exceed $3,000. The Secretary shall, through the program under this section, pay such amounts approved.

“(2) Medical Expenses.—If a claimant for benefits under this title obtains a proposed decision and order from a district director with an award of benefits for a qualifying claim, or an award for a qualifying claim before an administrative law judge, such district director and administrative law judge
may each approve an award to the claimant’s attor-
ney of reasonable and unreimbursed medical ex-
penses incurred in establishing the claimant’s case in
an amount not to exceed $1,500. The Secretary
shall, through the program under this section, pay
such amounts approved.

“(3) Maximum.—The program established
under this section shall not pay more than a total
of $4,500 in attorneys’ fees nor more than $3,000
in medical expenses for any single qualifying claim.

“(c) Reimbursement of Funds.—In any case in
which a qualifying claim results in a final order awarding
compensation, the liable operator shall reimburse the fund
for any fees or expenses paid under this section, subject
to enforcement by the Secretary under section 424 and
in the same manner as compensation orders are enforced
under section 21(d) of the Longshore and Harbor Work-
ers’ Compensation Act (33 U.S.C. 921(d)).

“(d) Additional Program Rules.—Nothing in
this section shall limit or otherwise affect an operator’s
liability for any attorneys’ fees, medical expenses, or other
allowable and unreimbursed expenses awarded by the dis-
trict director or an administrative law judge that were not
paid by the program under this section. Nothing in this
section shall limit or otherwise affect the Secretary’s au-
thority to use amounts in the fund to pay approved attor-
neys’ fees and other allowable and unreimbursed expenses
in claims for benefits under this title for which a final
order awarding compensation has been entered and the
operator is unable or refuses to pay.

“(e) NO RECOUPMENT.—Any payment for attorneys’
fees or medical expenses made by the Secretary under this
section shall not be recouped from the claimant or the
claimant’s attorney.”.

SEC. 103. CLARIFYING ELIGIBILITY FOR BLACK LUNG BEN-
EFITS.

Section 411(c) of the Black Lung Benefits Act (30
U.S.C. 921(c)) is amended by striking paragraphs (3) and
(4) and inserting the following:

“(3)(A) If x-ray, CT scan, biopsy, autopsy, or
other medically accepted and relevant test or proce-
dure establishes that a miner is suffering or has suf-
fered from a chronic dust disease of the lung, diag-
nosed as complicated pneumoconiosis or progressive
massive fibrosis (as determined in accordance with
subparagraph (B)), then there shall be an
irrebuttable presumption that such miner is totally
disabled due to pneumoconiosis, that the miner’s
death was due to pneumoconiosis, or that at the
time of death the miner was totally disabled by pneumoconiosis, as the case may be.

“(B) For purposes of subparagraph (A), complicated pneumoconiosis or progressive massive fibrosis can be established by any of the following:

“(i) A chest radiograph, which yields one or more large opacities whose greatest diameter exceeds 1 centimeter and would be classified in Category A, B, or C in the International Classification of Radiographs of Pneumoconiosis by the International Labor Organization, in the absence of more probative evidence sufficient to establish that the etiology of the large opacity is not pneumoconiosis.

“(ii) A chest CT scan, which yields one or more large opacities whose greatest diameter exceeds 1 centimeter, in the absence of more probative evidence sufficient to establish that the etiology of the large opacity is not pneumoconiosis.

“(iii) A lung biopsy or autopsy, which would yield a lesion at least 1 centimeter in its long axis diameter if measured at the time of gross dissection.
“(iv) A diagnosis by other means that
would reasonably be expected to yield results
described in clause (i), (ii), or (iii).

“(4) If a miner was employed for 15 years or
more in one or more coal mines, and if there is a
chest radiograph submitted in connection with the
claim under this title of such miner or such miner’s
surviving spouse, child, parent, brother, sister, or de-
dependent and it is interpreted as negative with re-
spect to the requirements of paragraph (3), and if
other evidence demonstrates the existence of a to-
tally disabling respiratory or pulmonary impairment,
then there shall be a rebuttable presumption that
such miner is totally disabled due to pneumoconiosis,
that the miner’s death was due to pneumoconiosis,
or that at the time of death the miner was totally
disabled by pneumoconiosis. In the case of a living
miner, a spouse’s affidavit may not be used by itself
to establish the presumption under this paragraph.
The presumption under this paragraph may be re-
butted only by establishing that such miner does
not, or did not, have pneumoconiosis, or that no part
of such miner’s respiratory or pulmonary impair-
ment or death was caused by pneumoconiosis.”.
SEC. 104. RESTORING ADEQUATE BENEFIT ADJUSTMENTS FOR MINERS SUFFERING FROM BLACK LUNG DISEASE AND FOR THEIR DEPENDENT FAMILY MEMBERS.

Section 412(a) of the Black Lung Benefits Act (30 U.S.C. 922(a)) is amended by striking paragraph (1) and inserting the following:

“(1) In the case of total disability of a miner due to pneumoconiosis, the disabled miner shall be paid benefits during the disability—

“(A) for any calendar year preceding January 1, 2020, at a rate equal to $8,643.85 per year, payable in 12 equal monthly payments; and

“(C) for each calendar year thereafter, at a rate equal to the product of the rate in effect under this paragraph for the calendar year immediately preceding such calendar year multiplied by the ratio (not less than 1) of—

“(i) the Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI–W, as published by the Bureau of
Labor Statistics of the Department of Labor) for the calendar year immediately preceding such calendar year, to

“(ii) the CPI–W for the second calendar year preceding such calendar year.”.

SEC. 105. TREATMENT OF EVIDENCE IN EQUIPOISE.

Section 422 of the Black Lung Benefits Act (30 U.S.C. 932) is amended by adding at the end the following:

“(m) In determining the validity of a claim under this title, an adjudicator who finds that the evidence is evenly balanced on an issue shall resolve any resulting doubt in the claimant’s favor and find that the claimant has met the burden of persuasion on such issue.”.

SEC. 106. PROVIDING ASSISTANCE WITH CLAIMS FOR MINERS AND THEIR DEPENDENT FAMILY MEMBERS.

Section 427(a) of the Black Lung Benefits Act (30 U.S.C. 937(a)) is amended by striking “the analysis, examination, and treatment” and all that follows through “coal miners.” and inserting “the analysis, examination, and treatment of respiratory and pulmonary impairments in active and inactive coal miners and for assistance on behalf of miners, spouses, dependents, and other family members with claims arising under this title.”.
SEC. 107. FALSE STATEMENTS OR MISREPRESENTATIONS, ATTORNEY DISQUALIFICATION, AND DISCOVERY SANCTIONS.

Section 431 of the Black Lung Benefits Act (30 U.S.C. 941) is amended to read as follows:

“SEC. 431. FALSE STATEMENTS OR MISREPRESENTATIONS, ATTORNEY DISQUALIFICATION, AND DISCOVERY SANCTIONS.

“(a) IN GENERAL.—No person, including any claimant, physician, operator, duly authorized agent of such operator, or employee of an insurance carrier, shall—

“(1) knowingly and willfully make a false statement or misrepresentation for the purpose of obtaining, increasing, reducing, denying, or terminating benefits under this title; or

“(2) knowingly and willfully threaten, coerce, intimidate, deceive, or mislead a party, representative, witness, potential witness, judge, or anyone participating in a proceeding regarding any matter related to a proceeding under this title.

“(b) FINE; IMPRISONMENT.—Any person who engages in the conduct described in subsection (a) shall, upon conviction, be subject to a fine in accordance with title 18, United States Code, imprisoned for not more than 5 years, or both.
“(c) Prompt Investigation.—The United States Attorney for the district in which the conduct described in subsection (a) is alleged to have occurred shall make every reasonable effort to promptly investigate each complaint of a violation of such subsection.

“(d) Disqualification.—

“(1) In general.—An attorney or expert witness who engages in the conduct described in subsection (a) shall, in addition to the fine or imprisonment provided under subsection (b), be permanently disqualified from representing any party, or appearing in any proceeding, under this title.

“(2) Attorney disqualification.—In addition to the disqualification described in paragraph (1), the Secretary may disqualify an attorney from representing any party in any administrative proceeding under this title for either a limited term or permanently, if the attorney—

“(A) engages in any action or behavior that is prejudicial to the fair and orderly conduct of such proceeding; or

“(B) is suspended or disbarred by any court of the United States, any State, or any territory, commonwealth, or possession of the
United States with jurisdiction over the proceeding.

“(e) DISCOVERY SANCTIONS.—An administrative law judge may sanction a party who fails to comply with an order to compel discovery or disclosure, or to supplement earlier responses, in a proceeding under this title. These sanctions may include, as appropriate—

“(1) drawing an adverse inference against the noncomplying party on the facts relevant to the discovery or disclosure order;

“(2) limiting the noncomplying party’s claims, defenses, or right to introduce evidence; and

“(3) rendering a default decision against the noncomplying party.

“(f) REGULATIONS.—The Secretary shall promulgate regulations that—

“(1) provide procedures for the disqualifications and sanctions under this section and are appropriate for all parties; and

“(2) distinguish between parties that are represented by an attorney and parties that are not represented by an attorney.”.
SEC. 108. DEVELOPMENT OF MEDICAL EVIDENCE BY THE SECRETARY.

Part C of the Black Lung Benefits Act (30 U.S.C. 931 et seq.) is amended by adding at the end the following:

“SEC. 435. DEVELOPMENT OF MEDICAL EVIDENCE BY THE SECRETARY.

“(a) Complete Pulmonary Evaluation.—Upon request by a claimant for benefits under this title, the Secretary shall provide the claimant an opportunity to substantiate the claim through a complete pulmonary evaluation of the miner that shall include—

“(1) an initial report, conducted by a qualified physician on the list provided under subsection (d), and in accordance with subsection (d)(5) and sections 402(f)(1)(D) and 413(b); and

“(2) if the conditions under subsection (b) are met, any supplemental medical evidence described in subsection (c).

“(b) Diagnosing Complicated Pneumoconiosis.—In diagnosing whether there is complicated pneumoconiosis as a part of a medical examination conducted under subsection (a), the Secretary shall authorize a high-quality, low-dose or standard computerized tomography scan where any or a combination of the following is found:
“(1) Any certified B reader of a chest radiograph associated with an exam conducted under section 413(b) finds advanced pneumoconiosis (ILO category 1/0 or greater) and an examiner preparing a report under section 413(b) determines, in the exercise of clinical judgment, that the miner presents symptomatology of advanced pneumoconiosis to a greater extent than indicated by the chest radiograph.

“(2) Any certified Long of a chest radiograph associated with an exam conducted under section 413(b) finds a coalescence of small opacities.

“(c) CONDITIONS FOR SUPPLEMENTAL MEDICAL EVIDENCE.—The Secretary shall develop supplemental medical evidence, in accordance with subsection (d)—

“(1) for any claim in which the Secretary recommends an award of benefits based on the results of the initial report under subsection (a)(1) and a party opposing such award submits evidence that could be considered contrary to the findings of the Secretary; and

“(2) for any compensation case under this title heard by an administrative law judge, in which—

“(A) the Secretary has awarded benefits to the claimant;
“(B) the party opposing such award has submitted evidence not previously reviewed that could be considered contrary to the award under subparagraph (A); and

“(C) the claimant or, if the claimant is represented by an attorney, the claimant’s attorney consents to the Secretary developing supplemental medical evidence.

“(d) Process for Supplemental Medical Evidence.—

“(1) In General.—Except as provided under paragraph (2), to develop supplemental medical evidence under conditions described in subsection (c), the Secretary shall request the physician who conducted the initial report under subsection (a)(1) to—

“(A) review any medical evidence submitted after such report or the most recent supplemental report, as appropriate; and

“(B) update his or her opinion in a supplemental report.

“(2) Alternative Physician.—If such physician is no longer available or is unwilling to provide supplemental medical evidence under paragraph (1),
the Secretary shall select another qualified physician
to provide such evidence.

“(e) Qualified Physicians for Complete Pulmonary Evaluation and Protections for Suitability and Potential Conflicts of Interest.—

“(1) Qualified Physicians List.—The Secretary shall create and maintain a list of qualified physicians to be selected by a claimant to perform the complete pulmonary evaluation described in subsection (a).

“(2) Public Availability.—The Secretary shall make the list under this subsection available to the public.

“(3) Annual Evaluation.—Each year, the Secretary shall update such list by reviewing the suitability of the listed qualified physicians and assessing any potential conflicts of interest.

“(4) Criteria for Suitability.—The Secretary shall include on the list only those physicians whom the Secretary determines are qualified, capable, and willing to provide credible opinions consistent with the premises underlying this Act. In determining whether a physician is suitable to be on the list under this subsection, the Secretary shall consult the National Practitioner Data Bank of the
Department of Health and Human Services and assess reports of adverse licensure, certifications, hospital privilege, and professional society actions involving the physician. In no case shall such list include any physician—

“(A) who is not licensed to practice medicine in any State or any territory, commonwealth, or possession of the United States;

“(B) whose license is revoked by a medical licensing board of any State, territory, commonwealth, or possession of the United States; or

“(C) whose license is suspended by a medical licensing board of any State, territory, commonwealth, or possession of the United States.

“(5) CONFLICTS OF INTEREST.—The Secretary shall develop and implement policies and procedures to ensure that any actual or potential conflict of interest of qualified physicians on the list under this subsection, including both individual and organizational conflicts of interest, are disclosed to the Department, and to provide such disclosure to claimants. Such policies and procedures shall provide that a physician with a conflict of interest shall not be used to perform a complete pulmonary medical eval-
uation under subsection (a) that is reimbursed pur-
suant to subsection (g) if—

“(A) such physician is employed by, under
contract to, or otherwise providing services to a
private party opposing the claim, a law firm or
lawyer representing such opposing party, or an
interested insurer or other interested third
party; or

“(B) such physician has been retained by
a private party opposing the claim, a law firm
or lawyer representing such opposing party, or
an interested insurer or other interested third
party in the previous 24 months.

“(f) RECORD.—Upon receipt of any initial report or
supplemental report under this section, the Secretary shall
enter the report in the record and provide a copy of such
report to all parties to the proceeding.

“(g) EXPENSES.—All expenses related to obtaining
the medical evidence under this section shall be paid for
by the fund. If a claimant receives a final award of bene-
fits, the operator liable for payment of benefits, if any,
shall reimburse the fund for such expenses, which shall
include interest.”.
SEC. 109. MEDICAL EVIDENCE TRAINING PROGRAM.

Part C of the Black Lung Benefits Act (30 U.S.C. 931 et seq.), as amended by section 108, is further amended by adding at the end the following:

"SEC. 436. MEDICAL EVIDENCE TRAINING PROGRAM.

(a) In General.—Not later than 60 days after the date of enactment of the Black Lung Benefits Improvement Act of 2021, the Secretary, in coordination with the National Institute for Occupational Safety and Health, shall establish and implement a training program, to provide education on issues relating to medical evidence relevant to claims for benefits under this title, to each of the following individuals who engage in work under this title:

(1) District directors.

(2) Claims examiners working under such directors.

(3) Administrative law judges and attorneys supporting such judges.

(4) Members of the Benefits Review Board established under section 21(b) of the Longshore and Harbor Workers’ Compensation Act (33 U.S.C. 921(b)) and attorneys supporting such members.

Training programs for individuals listed in subsections (3) and (4) shall be conducted separately from each other and
separately from individuals listed in subsections (1) and (2).

“(b) TRAINING PROGRAM TOPICS.—The training program under this section shall provide an overview of topics that include—

“(1) new developments in pulmonary medicine relating to pneumoconiosis;

“(2) medical evidence, and other relevant evidence, sufficient to support a claim for benefits under this title; and

“(3) weighing conflicting medical evidence and testimony concerning eligibility for such benefits.

“(c) TIMING OF TRAINING.—

“(1) INDIVIDUALS HIRED OR APPOINTED PRIOR TO THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF 2021.—Any individual described in paragraphs (1) through (4) of subsection (a) who was hired or appointed prior to the date of enactment of the Black Lung Benefits Improvement Act of 2021 shall complete the training program under this section not later than 60 days after the establishment of such program under subsection (a) and not less than annually thereafter.

“(2) INDIVIDUALS HIRED OR APPOINTED AFTER THE BLACK LUNG BENEFITS IMPROVEMENT ACT OF
2021.—Any individual described in paragraphs (1) through (4) of subsection (a) who is not described in paragraph (1) shall complete the training program under this section not later than 60 days after such individual is hired or appointed and not less than annually thereafter.”.

SEC. 110. TECHNICAL AND CONFORMING AMENDMENTS.

The Black Lung Benefits Act (30 U.S.C. 901 et seq.) is amended—

(1) in section 401(a) (30 U.S.C. 901(a)), by inserting “or who were found to be totally disabled by such disease” after “such disease”;

(2) in section 402—

(A) in subsection (a), by striking paragraph (2) and inserting the following:

“(2) a spouse who is a member of the same household as the miner, or is receiving regular contributions from the miner for support, or whose spouse is a miner who has been ordered by a court to contribute to support, or who meets the requirements of paragraph (1) or (2) of section 216(b) of the Social Security Act or paragraph (1) or (2) of section 216(f) of such Act. An individual is the ‘spouse’ of a miner when such individual is legally married to the miner under the laws of the State.
where the marriage was celebrated. The term ‘spouse’ also includes a ‘divorced wife’ or ‘divorced husband’, as such terms are defined in paragraph (1) or (4) of section 216(d) of such Act, who is receiving at least one-half of his or her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or is receiving substantial contributions from the miner (pursuant to a written agreement), or there is in effect a court order for substantial contributions to the spouse’s support from such miner.”;

(B) by striking subsection (e) and inserting the following:

“(e) The term ‘surviving spouse’ includes the spouse living with or dependent for support on the miner at the time of the miner’s death, or living apart for reasonable cause or because of the miner’s desertion, or who meets the requirements of subparagraph (A), (B), (C), (D), or (E) of section 216(c)(1) of the Social Security Act, subparagraph (A), (B), (C), (D), or (E) of section 216(g)(1) of such Act, or section 216(k) of such Act, who is not married. An individual is the ‘surviving spouse’ of a miner when legally married at the time of the miner’s death under the laws of the State where the marriage was celebrated. Such term also includes a ‘surviving divorced wife’
or ‘surviving divorced husband’, as such terms are defined in paragraph (2) or (5) of section 216(d) of such Act who for the month preceding the month in which the miner died, was receiving at least one-half of his or her support, as determined in accordance with regulations prescribed by the Secretary, from the miner, or was receiving substantial contributions from the miner (pursuant to a written agreement) or there was in effect a court order for substantial contributions to the spouse’s support from the miner at the time of the miner’s death.”;

(C) in subsection (g)—

(i) in paragraph (2)(B)(ii), by striking “he ceased” and inserting “the individual ceased”; and

(ii) in the matter following paragraph (2)(C), by striking “widow” each place it appears and inserting “surviving spouse”;

(D) in subsection (h), by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”; and

(E) in subsection (i), by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”;
(A) by striking subsection (a) and inserting the following:

“(a) The Secretary shall, in accordance with the provisions of this title, and the regulations promulgated by the Secretary under this title, make payments of benefits in respect of—

“(1) total disability of any miner due to pneumoconiosis;

“(2) the death of any miner whose death was due to pneumoconiosis;

“(3) total disability of any miner at the time of the miner’s death with respect to a claim filed under part C prior to January 1, 1982;

“(4) survivors’ benefits for any survivor’s claim filed after January 1, 2005, that is pending on or after March 23, 2010, where the miner is found entitled to receive benefits on a claim filed under part C; and

“(5) survivors’ benefits where the miner is found entitled to receive benefits on a claim filed under part C before January 1, 1982.”; and

(B) in subsection (c)—

(i) in paragraph (1), by striking “his pneumoconiosis” and inserting “the miner’s pneumoconiosis”; and
(ii) in paragraph (2), by striking “his death” and inserting “the miner’s death”; 

(4) in section 412 (30 U.S.C. 922)—

(A) in subsection (a)—

(i) by striking paragraph (2) and inserting the following:

“(2) In the case of a surviving spouse—

“(A) of a miner whose death is due to pneumoconiosis;

“(B) in a claim filed after January 1, 2005, and that is pending on or after March 23, 2010, of a miner who is found entitled to receive benefits on a claim filed under part C;

“(C) of a miner who is found entitled to receive benefits on a claim filed under part C before January 1, 1982; or

“(D) in a claim filed under part C before January 1, 1982, of a miner who was totally disabled by pneumoconiosis at the time of the miner’s death, benefits shall be paid to the miner’s surviving spouse at the rate the deceased miner would receive such benefits if he were totally disabled.”;

(ii) in paragraph (3)—

(I) by striking “(3) In the case” and all that follows through “section
411(e)” and inserting the following:

“(3)(A) In the case of the child or children of a miner described in sub-
paragraph (B)”;

   (II) by striking “he” each place it appears and inserting “the child”;

   (III) by striking “widow” each place it appears and inserting “sur-
viving spouse”; and

   (IV) by adding at the end the fol-
lowing:

“(B) Subparagraph (A) shall apply in the case of any child or children—

   “(i) of a miner whose death is due to pneumo-
coniosis;

   “(ii) in a claim filed after January 1, 2005,
that is pending on or after March 23, 2010, of a miner who is found entitled to receive benefits on a claim filed under part C;

   “(iii) of a miner who is found entitled to receive benefits on a claim filed under part C before January 1, 1982;

   “(iv) in a claim filed under part C before January 1, 1982, of a miner who was totally disabled by pneumoconiosis at the time of the miner’s death;
“(v) of a surviving spouse who is found entitled
to receive benefits under this part at the time of the
surviving spouse’s death; or

“(vi) entitled to the payment of benefits under
paragraph (5) of section 411(c).”;

(iii) in paragraph (5)—

(I) by striking the first sentence
and inserting the following: “In the
case of the dependent parent or par-
ents of a miner who is not survived at
the time of death by a surviving
spouse or a child and (i) whose death
is due to pneumoconiosis, (ii) in a
claim filed after January 1, 2005,
that is pending on or after March 23,
2010, who is found entitled to receive
benefits on a claim filed under part C,
(iii) who is found entitled to receive
benefits on a claim filed under part C
before January 1, 1982, or (iv) in a
claim filed under part C before Janu-
ary 1, 1982, who was totally disabled
by pneumoconiosis at the time of the
miner’s death; in the case of the de-
pendent surviving brother(s) or sis-
ter(s) of such a miner who is not sur-
vived at the time of the miner’s death
by a surviving spouse, child, or par-
ent; in the case of the dependent par-
ent or parents of a miner (who is not
survived at the time of the miner’s
death by a surviving spouse or child)
who are entitled to the payment of
benefits under paragraph (5) of sec-
tion 411(c); or in the case of the de-
pendent surviving brother(s) or sis-
ter(s) of a miner (who is not survived
at the time of the miner’s death by a
surviving spouse, child, or parent)
who are entitled to the payment of
benefits under paragraph (5) of sec-
tion 411(c), benefits shall be paid
under this part to such parent(s), or
to such brother(s), or sister(s), at the
rate specified in paragraph (3) (as if
such parent(s) or such brother(s) or
sister(s), were the children of such
miner).’; and

(II) in the fourth sentence—
(aa) by striking “brother only if he” and inserting “brother or sister only if the brother or sister”; and

(bb) by striking “before he ceased” and inserting “before the brother or sister ceased”; and

(iv) in paragraph (6), by striking “prescribed by him” and inserting “prescribed by such Secretary”;

(B) in subsection (b)—

(i) by striking “his” each place it appears and inserting “such miner’s”; and

(ii) by striking “widow” each place it appears and inserting “surviving spouse”;

and

(C) in subsection (c), by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”;

(5) in section 413 (30 U.S.C. 923)—

(A) in subsection (b)—

(i) in the second sentence, by striking “his wife’s affidavits” and inserting “affidavits of the miner’s spouse”;
(ii) in the ninth sentence, by striking “widow” and inserting “surviving spouse”; and

(iii) by striking the last sentence; and

(B) in subsection (c), by striking “his claim” and inserting “the claim”;

(6) in section 414 (30 U.S.C. 924)—

(A) in subsection (a)—

(i) in paragraph (1), by striking “widow, within six months after the death of her husband” and inserting “surviving spouse, within six months after the death of the miner”; and

(ii) in paragraph (2)(C), by striking “his” and inserting “the child’s”; and

(B) in subsection (e)—

(i) by striking “widow” and inserting “surviving spouse”; and

(ii) by striking “his death” and inserting “the miner’s death”;

(7) in section 415(a) (30 U.S.C. 925(a))—

(A) in paragraph (1), by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”; and

(B) in paragraph (2)—
(i) by striking “he” and inserting “such Secretary”; and
(ii) by striking “him” and inserting “such Secretary”;

(8) in section 421 (30 U.S.C. 931)—

(A) in subsection (a), by striking “widows” and inserting “spouses”; and

(B) in subsection (b)(2)—

(i) in the matter preceding subparagraph (A), by striking “he” and inserting “such Secretary”; and

(ii) in subparagraph (F), by striking “promulgated by him” and inserting “promulgated by such Secretary”;

(9) in section 422 (30 U.S.C. 932)—

(A) in subsection (a)—

(i) by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”; and

(ii) by striking “he” and inserting “such Secretary”;

(B) in subsection (i)(4), by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”; and
(C) in subsection (j), by striking “Internal Revenue Code of 1954” each place it appears and inserting “Internal Revenue Code of 1986”;

(10) in section 423(a) (30 U.S.C. 933(a)), by striking “he” and inserting “such operator”;

(11) in section 424(b) (30 U.S.C. 934(b))—

(A) in the matter following subparagraph (B) of paragraph (1), by striking “him” and inserting “such operator”;

(B) in paragraph (3), by striking “Internal Revenue Code of 1954” each place it appears and inserting “Internal Revenue Code of 1986”; and

(C) in paragraph (5), by striking “Internal Revenue Code of 1954” and inserting “Internal Revenue Code of 1986”;

(12) in section 428 (30 U.S.C. 938)—

(A) in subsection (a), by striking “him” and inserting “such operator”; and

(B) in subsection (b)—

(i) in the first sentence, by striking “he” and inserting “the miner”;

(ii) in the third sentence, by striking “he” and inserting “the Secretary”;
(iii) in the ninth sentence—

(I) by striking “he” each place it appears and inserting “the Secretary”; and

(II) by striking “his” and inserting “the miner’s”; and

(iv) in the tenth sentence, by striking “he” each place it appears and inserting “the Secretary”; and

(13) in section 430 (30 U.S.C. 940)—

(A) by striking “1977 and” and inserting “1977,”; and

(B) by striking “1981” and inserting “1981, and the Black Lung Benefits Improvement Act of 2021, and any amendments made after the date of enactment of such Act,”.

SEC. 111. READJUDICATING CASES INVOLVING CERTAIN CHEST RADIOGRAPHS.

(a) DEFINITIONS.—In this section:

(1) COVERED CHEST RADIOGRAPH.—The term “covered chest radiograph” means a chest radiograph that was interpreted as negative for simple pneumoconiosis, complicated pneumoconiosis, or progressive massive fibrosis by a physician with respect to whom the Secretary has directed, in writing
and after an evaluation by the Secretary, that such
physician’s negative interpretations of chest
radiographs not be credited, except where subse-
quently determined to be credible by the Secretary
in evaluating a claim for benefits under the Black
Lung Benefits Act (30 U.S.C. 901 et seq.).

(2) COVERED INDIVIDUAL.—The term “covered
individual” means an individual whose record for a
claim for benefits under the Black Lung Benefits
Act includes a covered chest radiograph.

(3) COVERED SURVIVOR.—The term “covered
survivor” means an individual who—

(A) is a survivor of a covered individual
whose claim under the Black Lung Benefits Act
was still pending at the time of the covered in-
dividual’s death; and

(B) who continued to seek an award with
respect to the covered individual’s claim after
the covered individual’s death.

(b) CLAIMS.—A covered individual or a covered sur-
vivor whose claim for benefits under the Black Lung Bene-
fits Act (30 U.S.C. 901 et seq.) was denied prior to the
enactment of this Act may file a new claim for benefits
under this Act not later than one year after the date of
enactment of this Act.
(c) ADJUDICATION ON THE MERITS.—

(1) IN GENERAL.—Any new claim filed under subsection (b) shall be adjudicated on the merits and shall not include consideration of a covered chest radiograph.

(2) COVERED SURVIVOR.—Any new claim filed under subsection (b) by a covered survivor shall be adjudicated as either a miner’s or a survivor’s claim depending upon the type of claim pending at the time of the covered individual’s death.

(d) TIME OF PAYMENT.—

(1) MINER’S CLAIM.—If a claim, filed under subsection (b) and adjudicated under subsection (c) as a miner’s claim, results in an award of benefits, benefits shall be payable beginning with the month of the filing of the denied claim that had included in its record a covered chest radiograph.

(2) SURVIVOR’S CLAIM.—If a claim, filed under subsection (b) and adjudicated under subsection (c) as a survivor’s claim, results in an award of benefits, benefits shall be payable beginning with the month of the miner’s death.

(e) CONTRIBUTING IMPACT.—The Secretary shall have the discretion to deny a new claim under subsection (b) in circumstances where the party opposing such claim
establishes through clear and convincing evidence that a
covered chest radiograph did not contribute to the decision
to deny benefits in all prior claims filed by the covered
individual or the covered survivor.

(f) LIMITATION ON FILING OF NEW CLAIMS.—A new
claim for benefits may be filed under subsection (b) only
if the original claim was finally denied by a district direc-
tor, an administrative law judge, or the Benefits Review
Board established under section 21(b) of the Longshore
and Harbor Workers’ Compensation Act (33 U.S.C.
921(b)).

SEC. 112. DISCLOSURE OF EMPLOYMENT AND EARNINGS
INFORMATION FOR BLACK LUNG BENEFITS
CLAIMS.

(a) TAX RETURN INFORMATION.—

(1) IN GENERAL.—Section 6103(l) of the Inter-
nal Revenue Code of 1986 is amended by adding at
the end the following new paragraph:

“(23) DISCLOSURE OF RETURN INFORMATION
TO DEPARTMENT OF LABOR TO CARRY OUT BLACK
LUNG BENEFITS ACT.—

“(A) IN GENERAL.—The Commissioner of
Social Security shall, on written request with
respect to any individual, disclose to officers or
employees of the Department of Labor return
information from returns with respect to net earnings from self-employment (as defined in section 1402) and wages (as defined in section 3121(a) or 3401(a)) for employment for each employer of such individual.

“(B) Restriction on disclosure.—The Commissioner of Social Security shall disclose return information under subparagraph (A) only for purposes of, and the extent necessary in, carrying out the proper administration of the Black Lung Benefits Act (30 U.S.C. 901 et seq.).”.

(2) Conforming amendments.—Section 6103(p)(4) of such Code is amended—

(A) in the matter preceding subparagraph (A), by striking “or (22)” and inserting “(22), or (23)”;

and

(B) in subparagraph (F)(ii), by striking “or (22),” and inserting “(22), or (23)”.

(b) Social Security earnings information.—Notwithstanding section 552a of title 5, United States Code, or any other provision of Federal or State law, the Commissioner of Social Security shall make available to the officers and employees of the Department of Labor, upon written request, the Social Security earnings infor-
information of living or deceased individuals who are the subject of a claim under the Black Lung Benefits Act (30 U.S.C. 901 et seq.), which the Secretary of Labor may require to carry out such Act. Such information shall be made available in electronic form.

PART B—REPORTS TO IMPROVE THE ADMINISTRATION OF BENEFITS UNDER THE BLACK LUNG BENEFITS ACT

SEC. 121. STRATEGY TO REDUCE DELAYS IN ADJUDICATION.

(a) In General.—Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall submit to the Committee on Health, Education, Labor, and Pensions and the Committee on Appropriations of the Senate and the Committee on Education and Labor and the Committee on Appropriations of the House of Representatives a comprehensive strategy to reduce the backlog of cases pending on such date of enactment before the Office of Administrative Law Judges of the Department of Labor.

(b) Contents of Strategy.—The strategy under this section shall provide information relating to—

(1) the current and targeted pendency for each category of cases before the Office of Administrative Law Judges of the Department of Labor;
(2) the number of administrative law judges, attorney advisors supporting such judges, support staff, and other resources necessary to achieve and maintain the targeted pendency for each category of such cases;

(3) the necessary resources to improve efficiency and effectiveness, such as equipment for video conferences, training, use of reemployed annuitants, and administrative reforms; and

(4) with respect to claims filed under the Black Lung Benefits Act (30 U.S.C. 901 et seq.), the necessary resources needed to reduce the average pendency of cases to less than 12 months from the date of receipt of the case to the date of disposition of such case.

SEC. 122. GAO REPORT ON BLACK LUNG PROGRAM.

(a) IN GENERAL.—Not later than one year after the date of enactment of this Act, the Comptroller General of the United States shall submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and Labor of the House of Representatives a report on any barriers to health care faced by coal miners with pneumoconiosis.

(b) CONTENTS.—The report required under subsection (a) shall include—
(1) an assessment of possible barriers to health care under the Black Lung Benefits Act (30 U.S.C. 901 et seq.) and the degree to which any barriers impact the ability of miners with legitimate medical needs, particularly such miners in rural areas, to access treatment for pneumoconiosis;

(2) recommendations necessary to address issues, if any, relating to patient access to care under such Act; and

(3) an evaluation of whether the benefit payments authorized under such Act, as amended by this Act, are sufficient to meet the expenses of disabled miners, surviving spouses, dependents, and other family members entitled to receive benefits under the Black Lung Benefits Act.

PART C—IMPROVEMENT IN THE FINANCIAL SECURITY OF THE BLACK LUNG BENEFITS DISABILITY TRUST FUND

SEC. 131. REGULATIONS FOR SELF-INSURANCE.

Not later than 60 days after the date of enactment of this Act, the Secretary shall publish an interim final rule setting forth the requirements for an operator of a coal mine to qualify as a self-insurer with respect any portion of the operator’s liabilities under the Black Lung
Benefits Act, as described in section 423(a)(1) of such Act. Such requirements shall—

(1) establish initial criteria, relating to the financial health of the operator, on which the eligibility of the operator to seek qualification as a self-insurer shall be determined; and

(2) establish procedures to determine the minimum amount of assets of the operator sufficient to secure such liabilities.

**TITLE II—ESTABLISHING THE OFFICE OF WORKERS’ COMPENSATION PROGRAMS**

**SEC. 201. OFFICE OF WORKERS’ COMPENSATION PROGRAMS.**

(a) Establishment.—There shall be established, in the Department of Labor, an Office of Workers’ Compensation Programs (referred to in this section as the “Office”).

(b) Director.—

(1) In general.—The Office shall be directed by a Director for the Office of Workers’ Compensation (referred to in this title as the “Director”) who shall be appointed by the President, by and with the advice and consent of the Senate.
(2) DUTIES.—The Director shall carry out all duties carried out by the Director for the Office of Workers’ Compensation as of the day before the date of enactment of this Act.

(c) FUNCTIONS.—The functions of the Office on and after the date of enactment of this Act shall include the functions of the Office on the day before the date of enactment of this Act, including all of its personnel, assets, authorities, and liabilities.

(d) REFERENCES TO BUREAU OF EMPLOYEES’ COMPENSATION.—Reference in any other Federal law, Executive order, reorganization plan, rule, regulation, or delegation of authority, or any document of or relating to the Bureau of Employees’ Compensation with regard to functions carried out by the Office of Workers’ Compensation Programs, shall be deemed to refer to the Office of Workers’ Compensation Programs.

TITLE III—SEVERABILITY

SEC. 301. SEVERABILITY.

If any provision of this Act, or an amendment made by this Act, or the application of such provision to any person or circumstance, is held to be invalid, the remainder of this Act, or an amendment made by this Act, or
1 the application of such provision to other persons or cir-
2 cumstances, shall not be affected.