WEST VIRGINIA CODE: §23-4-6a

§23-4-6a. Benefits and mode of payment to employees and dependents for occupational pneumoconiosis; further adjustment of claim for occupational pneumoconiosis.

If an employee is found to be permanently disabled due to occupational pneumoconiosis as defined in §23-4-1 of this code, the percentage of permanent disability is determined by the degree of medical impairment that is found by the Occupational Pneumoconiosis Board. The Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, shall enter an order setting forth the findings of the Occupational Pneumoconiosis Board with regard to whether the claimant has occupational pneumoconiosis and the degree of medical impairment, if any, resulting therefrom. That order is the final decision of the Insurance Commissioner, private carrier, or self-insured employer, whichever is applicable, for purposes of §23-5-1a of this code. If a decision is objected to, the Board of Review shall affirm the decision of the Occupational Pneumoconiosis Board made following hearing unless the decision is clearly wrong in view of the reliable, probative, and substantial evidence on the whole record. Compensation is paid therefor in the same manner and at the same rate as is provided for permanent disability under the provisions of §23-4-6 of this code: *Provided*, That for any employee who applies for occupational pneumoconiosis benefits whose award was granted on or after the effective date of the amendment and reenactment of this section during the year 2003, there shall be no permanent partial disability awarded based solely upon a diagnosis of occupational pneumoconiosis, it being the intent of the Legislature to eliminate any permanent partial disability awards for occupational pneumoconiosis without a specific finding of measurable impairment.

If the employee dies from occupational pneumoconiosis, the benefits shall be as provided for in §23-4-10 of this code; as to the benefits, §23-4-11 through §23-4-14 of this code, inclusive, of this article apply.

In cases of permanent disability or death due to occupational pneumoconiosis, as defined in §23-4-1 of this code, accompanied by active tuberculosis of the lungs, compensation shall be payable as for disability or death due to occupational pneumoconiosis alone.

The provisions of §23-4-16 of this code and §23-5-2, §23-5-3a, §23-5-4, and §23-5-5a of this code providing for the further adjustment of claims are applicable to the claim of any claimant who receives a permanent partial disability award for occupational pneumoconiosis.

WV Legislature