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*Due Process, Black Lung, and the Shaping of Administrative Justice*

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Abstract by Erika Miller

In this article, Professor Murchison explores the problems that initiated the Department of Labor's efforts to solve the problem of occupational lung disease in the coal fields. Murchison attempts to answer the question of whether the Department's reforms can bring procedural fairness and credible results to a thirty year-old program. While there are certain similarities between the claims brought before the Department, including the suppression of evidence favorable to the miner and multiple claims, the similarity of most concern is the lack of procedural due process. By modifying the existing adversarial model, the Department sought to reform a process that was inefficient, unnecessarily complex, and skewed towards parties with greater resources.

When examining the review process, four common flaws emerged. First, the courts never consistently defined black lung disease. Second, there is a substantial imbalance between employers and claimants in terms of the resources they have to produce evidence. Third, there is judicial confusion about the required causal connection between the disease and disability. And fourth, it was not clear about how much weight should be given to the medical opinion of the miner's treating physician. To reform the process, the Department sought to address these concerns. While the new rules take a significant step towards reform of the process, the role of ALJs and federal judges is critical in these cases. As long as due process is a function of the sound application of agency rules by adjudicators, inequities will persist.