National Black Lung Association Meeting

The National Black Lung Association meeting was held virtually on October 22nd. Acting President Jimmy Moore opened the meeting with a welcome and prayer. The guest speaker was Levi Allen, the International Secretary-Treasurer of the UMWA.

Levi spoke about the challenges of the COVID-19 pandemic and the threat of the disease to working and retired miners, the need for dust sampling reform and a stronger silica standard, for bankruptcy reform such that miners are valued and prioritized in bankruptcy proceedings, and to ensure the continued solvency of the black lung disability trust fund. The excise tax is critical for the trust fund but it is also important to consider additional solutions. For example, coal that is exported out of the country is not taxed and that needs to change. In spite of all the challenges, Levi offered encouraging words and words of gratitude for all of the work that members of the BLA do to make sure that the black lung benefits system is secure and improved - the work of the BLA impacts thousands of mining families.

After Levi spoke, the meeting was followed by Secretary and Treasurer Reports as well as nominations and protocols for voting for the national officers. All of those that attended the meeting were able to cast a vote for the national officers.

Meet the Newly Elected Leadership
President - Gary Hairston, Fayette County Black Lung Association

Gary Hairston speaking at the Senator Casey Panel in 2019.
Photo courtesy of Earl Dalter,

Gary Hairston lives in Raleigh County, West Virginia. He worked as an underground coal miner for 27.5 years and is a member of the UMWA. Gary has been active with the Fayette County BLA since 2004 and is the former Vice President of this chapter. Gary was also recently elected as the President of the Fayette County chapter this year. He has attended lobbying trips to his state capital in Charleston, WV, and to Washington, D.C to advocate for miners' benefits. Gary also attended the July 2019 lobbying trip to Washington D.C. and was invited to be on a
Vice President - Vonda Robinson, Black Lung Association of Southwest Virginia Chapter II

Vonda Robinson lives in Nickelsville, Virginia with her husband John. Originally from Coeburn, John worked as an underground miner for 28 years until he was diagnosed with black lung at the age of 47. Vonda is the Coordinator of the BLA of Southwest Virginia Chapter 2 and has assisted with the growth of this chapter since 2015. While watching her husband’s battle with black lung, Vonda has become an active champion for miners. She has attended lobbying trips to Washington D.C. since 2015 and assisted with organizing the 2019 D.C. lobbying trip. Vonda also regularly meets with Virginia legislators to discuss the importance of the excise tax and improved benefits for miners. She is a passionate advocate for miners and is excited to continue working on their behalf.

Treasurer - Nancy Massie, Fayette County Black Lung Association

Nancy Massie lives in Oak Hill, West Virginia and has been active with the Fayette County Chapter since the early 2000s. Nancy’s husband Joe was the previous National Black Lung President and worked as a mine electrician for over 30 years. Joe and Nancy were married for 61 years. He was her husband and best friend, and a great father and grandfather to their son and three grandchildren. Nancy has also been an active participant in lobbying events in Charleston, WV and attended at least four lobbying trips to Washington D.C. to fight for miners suffering with black lung. Black lung is a personal fight for Nancy after watching both her husband and her father battle this disease. Nancy enjoyed working alongside her husband to fight for coal miners and she is honored to continue working as a voice for those suffering with black lung in honor of Joe’s memory.

COVID-19 Update

This holiday season will certainly look and feel differently than holidays past, especially for those families that are missing a loved one due to this virus. If you or your family need masks to help stay safe over the holidays, please contact ACLC and we will send masks to you!

Also, please consider this advice for staying safe during the holidays from Kelly S. Kenney, MPH, RN and Dr. Ellen J. Hahn, the Director of UK-CARES:

As we move closer to the holiday season, COVID-19 cases are increasing in Kentucky, West Virginia and Virginia. Three simple steps can protect you, your loved ones and your community and help you stay safe. First, always wear a mask or cloth face covering when out in public. In addition to wearing a mask, stay physically distanced, or apart from other people (at least 6 feet apart). Third, wash your hands often (for at least 20 seconds with soap and water or use hand sanitizer containing 60% alcohol when handwashing is not possible).

Consider gathering virtually over the holidays by using the computer or phone. If you plan to gather in person, do so outside (not indoors where the virus can easily spread). If you feel sick, have any COVID-19 symptoms (fever or chills; cough; headache; muscle or body aches; nausea or vomiting; diarrhea; new fatigue; new loss of taste or smell; shortness of breath or difficulty breathing; or sore throat), or have been around someone with COVID-19, isolate yourself and call your healthcare provider or your local health department. Make sure you are COVID-19 free before being near other people. Call 911 if you have an emergency. Let’s make this a happy and healthy holiday season!

About the Bulletin:

The Bulletin was originally published from 1970-1972. The Bulletin has reemerged, now, as a way to stay connected in a time when it is challenging to be together. In collaboration with Black Lung Association leaders, this bulletin has been organized by John Cline, Debbie Wills (Valley Health), Willie Dodson (Appalachian Voices), Courtney Rhoades (Appalachian Citizens’ Law Center), and Rebecca Shelton (Appalachian Citizens’ Law Center) and published by Appalachian Citizens’ Law Center. We hope that a bulletin can be sent out every few months. Please contact your chapter president or Courtney Rhoades if you have ideas for content (articles you would like to see, or art or poetry you would like to share), if you would like to participate in editing and distributing this bulletin, if you do not want to receive this bulletin, or if you would prefer to receive this bulletin via email.

Courtney Rhoades: courtney@aclc.org or (606) 633-3329
[Virginia Update cont'd] The Southwest Virginia Chapters also met with Representative Griffith through Zoom on October 23rd. Members of both chapters held Griffith accountable for his recent lack of support for coal miners. Griffith stated that he would not cosponsor a ten-year tax extension bill like HB 3876 that was introduced by Representative Bobby Scott during the July 2019 lobby trip to Washington D.C., but that if it came to a vote on the House floor, he would find it difficult to vote against it. He also commented that he was open to the idea of working with Representative Bobby Scott on an excise tax extension bill in the future. Chapter members met with Senator Warner on October 30th to discuss the issues surrounding coal miners and those suffering black lung. Senator Warner confirmed in the meeting that he remains an advocate for coal miners. Senators Warner and Kaine are both cosponsors of the Black Lung Benefits Improvement Act of 2019 and the Black Lung Disability Trust Fund Solvency Act of 2020.

Senator Mark Warner speaking at the event held October 30. Photo courtesy of Yonda Robinson.

Extending the Black Lung Excise Tax

If Congress fails to take action at the end of this year, the excise tax that funds the Black Lung Disability Trust Fund will be cut in half. Unfortunately, there is no time to pass the bill that would extend the excise tax for ten years. It is unlikely that Congress will pass any legislation other than the budget bill to fund the federal government. In mid-November, national BLA leaders sent a letter to Senate and House leadership urging them to include the one-year extension as a tax extender as part of the spending bill. The bill will be voted on in early December.

Update on the Supreme Court Case concerning the Affordable Care Act

As noted in the August issue of the Black Lung Bulletin, the Trump administration joined the Republican Attorney Generals in Texas, West Virginia and 16 other states in a petition asking the Supreme Court to overturn the entire Affordable Care Act (ACA). If they are successful:

(1) About 21 million Americans – mostly low-income adults - would lose their health insurance, and millions more would lose subsidized private insurance or coverage under their parents’ plan until age 26.

(2) All Americans would lose the guaranteed coverage for pre-existing conditions (that may include COVID), provisions for emergency care, prescription drugs, and maternity care.

(3) Community health centers that support black lung clinics would lose funding.

(4) And it would eliminate both of our black lung provisions: Coal miners disabled by black lung would lose the 15-year presumption. Widows and dependent children would lose derivative benefits.

In order to overturn the entire ACA, however, the Republican states and Trump administration have to prove that:

(1) The states have suffered the sort of injury that gives them the right to sue,

(2) The “mandate” that individuals purchase medical insurance or pay a penalty that was reduced to zero by Congress in 2017 is unconstitutional, and

(3) Without the “mandate” the entire Act cannot stand.

On November 10th, the Supreme Court heard oral arguments, and despite assertions that the entire law should be struck down, several justices seemed skeptical:

Chief Justice Roberts said, “I think it’s hard for you to argue that Congress intended the entire act to fail if the mandate were struck down when the same Congress that lowered the penalty to zero did not even try to repeal the rest of the act.” He also said, “I think, frankly, that [congressional Republicans] wanted us to do that. But that’s not our job.”

Justice Sotomayor said the argument for striking down the whole law, without proof of substantial harm to anyone, including Texas and other conservative states, did not make much sense. “At some point, common sense seems to me would say ‘Huh?’”

Justice Kagan asked, “How does it make sense to say that what was not an unconstitutional command before has become an unconstitutional command now [that the penalty has been reduced to zero].”

Justice Kavanaugh said, “It does seem fairly clear that the proper remedy would be to sever the mandate provision and leave the rest of the act in place – the provisions regarding pre-existing conditions and the rest.”

And when addressing the Trump administration’s acting attorney general, Judge Alito posed this question: “At the time of the first case [against the affordable care act], there was a strong reason to believe that the individual mandate was like a part in an airplane that was essential to keep the plane flying...But now the part has been taken out, and the plane has not crashed. So, if we were to decide [to strike down the entire Act] the way you advocate, how would we explain why the individual mandate in its present form is essential to the operation of the Act?”

A decision in the case is expected by June of 2021.
Kanawha County, WV
Chapter Profile

Contribution by Ron Massey, Reporter for the Kanawha County Black Lung Association

The Kanawha County Black Lung Association was organized in March 2019, and meets every first Thursday of each month, hosted at the Zion Assembly Church of God on Cabin Creek Road in Sharon, West Virginia. When we first organized we did so based on the model that began in the 1980s and 1970s, with Charles Brooks leading the cause. Within this past year and a half, we have had chapter representatives visit Washington, D.C. and our capital Charleston, WV, advocating for what we believe to be justice for the coal miners and their families.

Our group met on July 2, 2020 and had eight members in attendance. An auto recording of UMWA President Cecil Roberts was played and then we discussed the issues. We talked about the need to call our representatives about raising the excise tax on coal production. Also, we discussed state legislation issues and passed out handouts about the National Black Lung Association resolution of June 2020. Our chapter decided to sell ‘Black Lung Kills’ shirt, which are available to anyone for $15.00 each with sizes from small to 6x.

We met on Aug. 6, 2020 with twenty-three in attendance. The discussion included the possibility of the breathing center on facebook, the upcoming election, the need to be very aware of social distancing, and continued need to wear a mask. We also discussed using zoom for the National Black Lung Association.

We met on Sept. 3, 2020 with fourteen in attendance. The shirts were passed out with a statement of appreciation to all who helped with the printing and distribution. Brandy Lawrence (304.543.3254) has the information about the availability of t-shirts. If your call is not answered, please leave a message. Also if you write a check for a shirt, write it out to our treasurer Dianna Perdue. Our president Jerry Coleman had an interview with Public Broadcasting where they discussed black lung and the COVID pandemic. Debbie Wills talked about the National Black Lung Committee strategy group. We discussed that the excise tax is due to run out on December 31, 2020 and the necessity to get the taxes extended for ten years. We met on Oct. 1, 2020 with nine in attendance. Tom Martin became a member at this meeting and our discussion included the usage of the money raised from our shirt sell and decided the proceeds will help offset the local chapter’s expenses. We discussed the zoom appointments with Senator Manchin, Senator Capito, and Representative Mooney. We were honored to have Sam Petersen, candidate for WV Attorney General to speak to us and he answered any questions from the people.

Secretary - Dianna Perdue, Kanawha County Black Lung Association

Dianna Perdue lives in Winifred, West Virginia and is the Treasurer of the Kanawha County BLA. Dianna continues to fight for the excise tax extension and the protection of benefits through the Affordable Care Act. Dianna’s husband retired as a coal miner after working 30 years underground and was a member of the UMWA. She continues to fight to receive his black lung benefits. She has also attended lobbying events at her state capital, Charleston, and traveled to Washington D.C. to lobby to protect miners’ benefits. Dianna and her husband have also served on the Cabin Creek Clinic’s board where they became involved with the organizing of the Kanawha County chapter.

Congressional Meeting Updates

Kentucky

Kentucky groups had meetings with staffers from both Representative Rogers’ office and Senator McConnell’s office in October. Rogers’ staff told us that they would “be surprised” if a one-year extension of the black lung excise tax was not included in the end of the year federal budget spending bill. However, they could not assure us that it would be nor had they talked to anyone on the Ways & Means committee about the one-year extension. They did not know whether Congressmen Rogers would support a ten-year extension of the excise tax next year.

The message from Senator McConnell’s office has not changed since our trip to Washington D.C. in 2019. They continue to say that black lung benefits will be maintained, but will not offer any solutions or perspective on how they plan to ensure the solvency of the black lung disability trust fund. We pressed them on the one-year extension of the excise tax and they said that it would be up to the House of Representatives to include this issue in the spending bill.

Virginia

The Virginia chapters hosted a Zoom meeting with Senator Kaine on October 13th. Senator Kaine expressed that he is working with Representative Bobby Scott to ensure the excise tax is placed in the tax extender’s bill at the end of this year. The Senator also highlighted the need to provide education about black lung to lawmakers outside of coal states.

Do you have an update from your chapter?
Tell us about your chapter and what you are working on and we’ll include it in the next edition of the bulletin!