

Final Decisions



FAB Review Objectives

- **Equal partner in the claims adjudication process**
 - Independent review of the sufficiency of proposed action – *as decided by the district office*
- **Evaluation of the recommended decision**
 - Legal/Regulatory/Procedural - Compliant
 - Reasonable and convincing interpretation of the evidence
 - Appropriate narrative content to explain decision-making
 - Decision outcome is justifiable given evidence presented

FAB Final Decisions

- **Final Decisions or Remands –**
 - *Explain* the analysis of the sufficiency of the findings or recommended outcomes
 - Application of program policy
 - Clear error in judgment or interpretation of evidence
 - Need for corrective action
 - Define concepts/terminology
 - Judge the reasonableness of the recommended findings – does it make sense given the evidence or CE argument?

Remands

- **Explanation of Basis for Remand**
 - Narrative discussion of evidentiary defect
 - Explain problem - don't prescribe solution
 - e.g. requiring IH referral, referee opinion
- **Recognize the conceptual complications**
 - CE generalizations from one case to another
 - Likely outcome – will it likely change outcome

Statement of the Case - What Do You Have?

- **Background Information**
 - Outline of *relevant* claim history
 - Context of actions taken to collect information
 - Assistance provided
 - Steps leading to issue for determination
- **Content Relevant to the Matter Being Decided**
 - Limit content to information used in Conclusions of Law

Findings of Fact

- **Relevant findings derived from evidence**
 - Relatively brief, unequivocal and plainly stated
 - Critical factors relevant to the decision outcome
 - Connected to the decision outcome (COL)

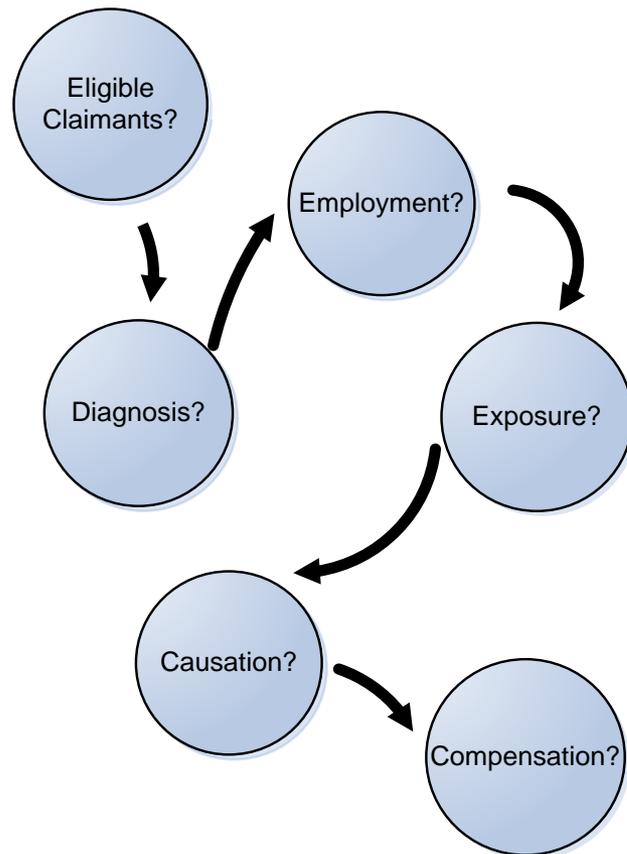
Objections

- **Summary of Claimant Objections**
- **Analysis and Response**
 - Discusses objections raised by claimant in writing or through oral hearing
 - Includes analysis of objections based on:
 - Evidence of file
 - Entitlement requirements
 - Whether objections have an impact on claim

Conclusions of Law

- **Statutory/Regulatory Analysis to Support Decision on Benefit Entitlement**
- **Apply Legal Citations That Have Connection to Claim Outcome**
 - Focus on legal/regulatory concepts with direct connection to issue(s) deciding claim
 - Avoid standardized citations irrelevant to decision
 - Identifies benefits are being awarded or denied and under which Part of the Act.

The Need for Explanation



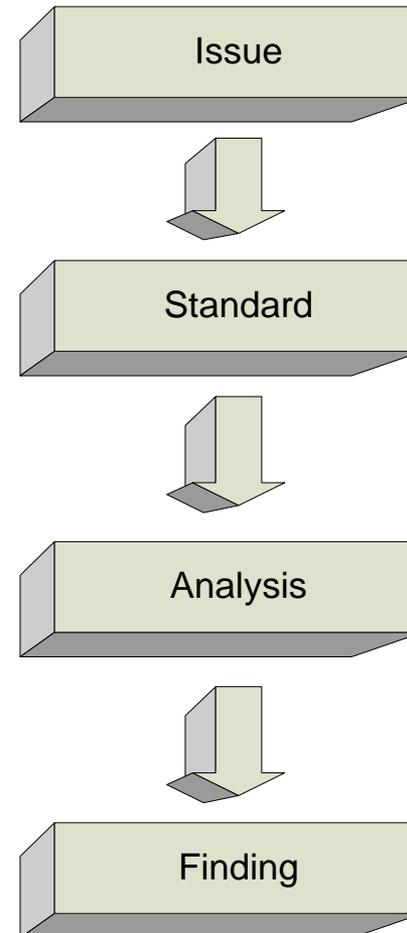
- **Complicated Process Design**
- **Understandability**
- **Rationale**
- **Outcome Context**
- **Appeals/Objections**
- **Math**

Expectations

- **Provide Narrative Discussion on How Relevant “conclusions” are Decided**
 - Obvious findings do not require lengthy explanation
 - Link findings decision outcome
- **Reference Legal or Procedural Standard by Which Evidence is Judged**
- **Discuss How Evidence is Interpreted to Satisfy Relevant Standard, i.e. Justification for Factual Finding**
 - Avoid open-ended inferences i.e. factual findings with no underlying explanation

Factual Finding Framework

- Issue for Decision
- Standard Applied to Judge Issue
- Interpretative Analysis of Evidence
- CE/HR Finding



Logical and Sequential Findings

- **Frame The Decision Before You Make It**
 - Map the path to decided outcome
- **Chronology of Issues**
- **Address Issues *Relevant* to the Entitlement Determination**
 - Avoid identifying subjects irrelevant to decision that require lengthy explanation e.g. SEM for a non-covered medical condition
- **Undisputed - Obvious Findings Do Not Need Detailed Supporting Argument**

Claimant Orientation

- Findings Made **Within Scope of Law** to Produce a Positive Outcome for Claimant
 - Consider claimant point of view i.e. knows nothing about the program
 - Explain concepts – define terminology
- When Possible, Benefit of the Doubt Should Go to Claimant...But Explain Why

Situational Analysis Required

- **Contested Facts**
 - Identify and fully explain evidence supporting decision
- **Complex Subject Matter**
 - Explanation of how you applied evidence
- **Mathematics**
 - Fully explain figures used to arrive at finding
- **Application of Policy**
 - How policy applies to issue for determination