



RELEASE – TRANSMISSION OF FEDERAL (EEOICPA) PROCEDURE MANUAL  
VERSION 4.1:

EEOICPA TRANSMITTAL NO. 20-02

March 31, 2020

EXPLANATION OF MATERIAL TRANSMITTED:

The Division of Energy Employees Occupational Illness Compensation (DEEOIC) is issuing this transmittal to notify staff of the publication of Version 4.1 of the Federal (EEOICPA) Procedure Manual (PM). Version 4.1 (v4.1) replaces Version 4.0 (v4.0), effective the date of publication of this transmittal.

Following are the content edits that make up Federal (EEOICPA) PM v4.1:

- Chapter 2 – The EEOICPA
  - Incorporates Bulletin 20-01, which, in part, updated and replaced Chapter 2 – The EEOICPA.
  - Exhibit 2-2 has been edited to update the address of the Final Adjudication Branch in Washington, D.C.
- Chapter 8 – Case Maintenance
  - Ch. 8.7 has been added to Incorporate Bulletin 14-01, National Instant Criminal Background Check System (NICS) Improvement Amendments Act of 2007 (NIAA).

*7. National Instant Criminal Background Check System (NICS) Improvement Amendments Act of 2007 (NIAA). The NICS is a computerized system designed to help determine if a person is disqualified from possessing or receiving firearms by conducting a search of available relevant records. Among its requirements, the NIAA mandates that federal departments and agencies provide relevant information to the Attorney General for the NICS. The databases used by the NICS in its searches contain records with information relevant to the various legal prohibitions against firearm possession and purchasing under both Federal and State law. There are ten categories of Federal firearm prohibitions. For each category of prohibition, there are relevant record types that should be reported to the NICS. During the administration of the EEOICPA, the DEEOIC takes possession of a variety of claim documentation including some that is reportable. Records that DEEOIC is obligated to report under the NIAA are those that it receives during the administration of claims that originate from State or Local agencies.*

a. *Under the NIAA, DEEOIC has the potential to have reportable records in several of the ten categories of Federal firearm prohibitions.*

(1) *Felons.*

(a) *This includes any person “who has been convicted in any court of a crime punishable by imprisonment for a term exceeding one year,” (including general court-martial) regardless of whether or not that term of imprisonment was imposed.*

(b) *The term “offense punishable by imprisonment for a term exceeding one year” does not include:*

(i) *any federal or state offenses pertaining to antitrust violations, unfair trade practices, restraints of trade or other similar offenses relating to the regulation of business practices; or*

(ii) *any state offense classified by the laws of the state as a misdemeanor and punishable by a term of imprisonment of two years or less.*

(c) *What constitutes a conviction is determined in accordance with the law of the jurisdiction in which the proceedings were held. If a conviction has been expunged or set aside, or the person has been pardoned or had his/her civil rights restored, it is not considered a conviction unless it was provided in the expungement, pardon, or restoration that the person may not ship, transport, possess, or receive firearms.*

*Relevant records defined by DOJ: Judgment and commitment orders from the courts – only if the conviction is secured without collaborating with a U.S. Attorney’s Office or other DOJ component.*

*Potential DEEOIC specific relevant records: Judgments in state court actions, usually received in conjunction with 42 U.S.C. § 7385i(a) which states that a person convicted of fraud in the application for or receipt of benefits under the Energy Employees Occupational Illness Compensation Program Act (EEOICPA) or any other federal or state workers’ compensation law forfeits any entitlement to the EEOICPA benefits for any injury, illness or death for which the time of injury was on or before the date of the conviction.*

(2) *Fugitives from justice.*

- (a) *This includes any person who has fled from any State to avoid prosecution for a felony or a misdemeanor leaves the state to avoid giving testimony in any criminal proceeding, or who knows that misdemeanor or felony charges are pending against him/her and who leaves the state of prosecution.*

*Relevant records defined by DOJ: Misdemeanor and felony warrants and charging documents – only if obtained without collaborating with a U.S. Attorney’s Office or other DOJ component.*

*Potential DEEOIC specific relevant records: None anticipated.*

(3) *Persons unlawfully using or addicted to any controlled substance.*

- (a) *This includes any person who uses a controlled substance and has lost the power of self-control with reference to the use of the controlled substance or who is a current user of a controlled substance in a manner other than as prescribed by a licensed physician.*
- (b) *Unlawful use need only to have occurred recently enough to indicate that the individual is actively engaged in such conduct, not necessarily at the precise time the person seeks to acquire a firearm.*
- (c) *An inference of current use may be drawn from evidence of recent use or possession of a controlled substance, or a pattern of use or possession that reasonably covers the present time (i.e., conviction for use or possession within the past year or multiple arrests for possession within the past five years if the most recent arrest occurred within the past year).*
- (d) *For a current or former member of the Armed Forces, an inference of current use may be drawn from recent disciplinary or other administrative action based on confirmed drug use (i.e., discharged based on drug rehabilitation failure).*
- (e) *The term “controlled substance” includes, but is not limited to, marijuana, depressants, stimulants, and narcotic*

*drugs, but excludes distilled spirits, wine, malt beverages, and tobacco.*

*Relevant records defined by DOJ: Drug-related convictions, drug-related arrests, and disciplinary or other administrative actions in the Armed Forces based on confirmed drug use – only if obtained without collaborating with a U.S. Attorney’s Office or other DOJ component. Therapeutic or medical records that are created in the course of treatment in hospitals, medical facilities, or analogous contexts that demonstrate drug use or addiction should not be submitted.*

*Potential DEEOIC specific relevant records: Judgments in state court actions, usually received in conjunction with 42 U.S.C. § 7385i(a).*

- (4) *Persons “adjudicated as a mental defective” or “committed to a mental institution”*
  - (a) *This includes any person who has been determined by a court, board, commission, or other lawful authority as being a danger to himself/herself or others, or lacking the mental capacity to contract or manage his/her own affairs.*
  - (b) *A mental institution is a facility that provides diagnoses by licensed professionals of mental retardation or mental illness.*
  - (c) *“Mentally defective” does not include a person:*
    - (i) *who has been granted relief from the disability through a qualifying federal or state relief from disability program as authorized by the NIAA; or*
    - (ii) *whose adjudication or commitment was imposed by a federal department or agency and: the adjudication or commitment has been set aside or expunged; the individual has been fully released or discharged from all treatment, supervision or monitoring; the individual has been found by a court, board, commission or other lawful authority to no longer suffer from the mental health condition that was the basis for the adjudication or commitment, or whose adjudication or commitment is based on a medical finding of disability, without an opportunity for a hearing by a court, board,*

*commission, or other lawful authority and the person has not been “adjudicated as a mental defective” pursuant to 18 U.S.C. § 922(g)(4).*

- (d) Formal commitment of a person to a mental institution by a court, board, commission or other lawful authority includes commitment to a mental institution involuntarily, commitment for mental defectiveness or mental illness or commitment for other reasons, such as for drug use. It does not include a person in a mental institution for observation or a voluntary admission to a mental institution.*

*Relevant records defined by DOJ: Judgment and commitment orders, sentencing orders, and court or agency records of adjudications of an individual’s inability to manage his or her own affairs if such adjudication is based on marked subnormal intelligence or mental illness, incompetency, or disease (including certain agency designations of representative or alternate payees for program beneficiaries).*

*Potential DEEOIC specific relevant records: Court ordered guardianship and conservatorship documents received during the course of claims adjudication.*

- (5) Illegal/unlawful aliens, and aliens admitted on a non-immigrant visa.*
  - (a) This includes any person who is illegally or unlawfully in the United States or has been admitted to the United States under a non-immigrant visa.*

*This includes those persons who:*

- (i) unlawfully entered the United States without inspection and authorization by an immigrant officer and who have not been paroled into the United States under § 212(d)(5) of the INA;*
- (ii) are a non-immigrant and whose authorized period of stay has expired or who has violated the terms of the non-immigrant category in which he/she was admitted;*

- (iii) *were paroled under INA § 212(d)(5) whose authorized period of parole has expired or whose parole status has been terminated, or;*
  - (iv) *are under an order of deportation, exclusion or removal, or voluntary departure, whether or not he/she has left the United States.*
- (b) *Permanent resident aliens and aliens lawfully present in this country without a visa are not prohibited.*

*Relevant records defined by DOJ: Deportation orders, visa applications (including denials), and immigration papers.*

*Potential DEEOIC specific relevant records: None anticipated.*

- (6) *Persons dishonorably discharged from the military.*
- (a) *This includes any person whose separation from the U.S. Armed Forces was characterized as a dishonorable discharge or a dismissal adjudged by a general court-martial.*
  - (b) *Any person who was separated for any other discharge (for example, a bad conduct discharge) or whose dishonorable discharge or dismissal has been upgraded under the authority of a discharge review board or a board for the correction of military records is not prohibited.*

*Relevant records defined by DOJ: Discharge records, court-martial records, and disciplinary orders – only if no other federal agency would be submitting.*

*Potential DEEOIC specific relevant records: None anticipated.*

- (7) *Citizen renunciates.*
- (a) *This includes any person who having been a U.S. citizen renounced U.S. citizenship either before a diplomatic or consular office of the United States in a foreign state pursuant to 8 U.S.C. § 1481(a)(5) or before an officer designated by the Attorney General when the United States is in a state of war pursuant to 8 U.S.C. § 1481(a)(6).*

- (b) *Any person whose renunciation of citizenship has been reversed as a result of administrative or judicial appeal is not prohibited.*

*Relevant records defined by DOJ: Form DS-4083, Certificates of Loss of Nationality.*

*Potential DEEOIC specific relevant records: None anticipated.*

- (8) *Persons subject to a domestic violence restraining order.*

- (a) *This includes any person subject to a domestic violence restraining order as long as the court order was:*

- (i) *issued after a hearing of which such person received actual notice and had an opportunity to participate;*
- (ii) *restrains such person from harassing, stalking, or threatening his/her intimate partner or his/her child with that intimate partner or person, or engaging in other conduct that would place the intimate partner in reasonable fear of bodily injury to the partner or child; and*
- (iii) *includes a finding that such person represents a credible threat to the physical safety of the intimate partner or child or, by its terms, prohibits the use, attempted use or threatened use of physical force against the intimate partner or child that would reasonably be expected to cause bodily injury.*

- (b) *The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF) has clarified that an “intimate partner” is defined as:*

- (i) *the spouse of the person*
- (ii) *a former spouse of the person*
- (iii) *an individual who is a parent of a child of the person*
- (iv) *an individual who cohabits or has cohabited with the person.*

*Relevant records defined by DOJ: Protective orders.*

*Potential DEEOIC specific relevant records: Protective orders potentially received in conjunction with child support orders.*

(9) *Persons convicted of a misdemeanor crime of domestic violence.*

(a) *This includes any person who meets all of the following criteria:*

(i) *has been convicted of a federal, state, local or tribal offense that is a misdemeanor, or in states that do not classify offenses as misdemeanors, is an offense punishable by imprisonment for a term of one year or less or only by a fine;*

(ii) *the offense has, as an element, the use or attempted use of physical force or the threatened use of a deadly weapon; and*

(iii) *the offense was committed by a current or former spouse, parent or guardian of the victim, by a person with whom the victim shares a child, by a person who is cohabitating with or has cohabited with the victim as a spouse, parent or guardian, or by a person similarly situated to a spouse, parent or guardian of the victim.*

(b) *If a conviction of a misdemeanor crime of domestic violence has been expunged or set aside, or the person has been pardoned or had his/her civil rights restored, it is not considered a conviction unless it was provided in the expungement, pardon, or restoration that the person may not ship, transport, possess, or receive firearms (and the person is not otherwise lawfully prohibited in the jurisdiction in which the proceedings were held).*

*Relevant records defined by DOJ: Convictions – only if obtained without collaborating with a U.S. Attorney’s Office or other DOJ component.*

*Potential DEEOIC specific relevant records: Judgments in state court actions, usually received in conjunction with 42 U.S.C. § 7385i(a).*

(10) *Persons under indictment.*

- (a) *This includes any person “who is under indictment for a crime punishable by imprisonment for a term exceeding one year.”*
- (b) *The ATF has clarified that this includes:*
  - (i) *a person under indictment or information in any court under which a crime punishable by imprisonment for a term exceeding one year may be prosecuted, or;*
  - (ii) *a military service member charged with any offense punishable by imprisonment for a term exceeding one year which has been referred to a general court-martial.*

*Relevant records defined by DOJ: Indictments and information – only if obtained without collaborating with a U.S. Attorney’s Office or other DOJ component.*

*Potential DEEOIC relevant records: Indictments in state court actions – usually received in conjunction with 42 U.S.C. § 7385i(a).*

- b. *DEEOIC Responsibilities. All DEEOIC staff is to familiarize themselves with the stipulations for reporting records under the NIAA. During the course of claim adjudication, should a DEEOIC staff person identify any reportable records, he or she is to notify the assigned CE and Supervisory CE by email that a potentially reportable document exists in a DEEOIC case file. Once notified, it becomes the responsibility of the assigned CE to then undertake closer scrutiny of the potentially reportable document to ascertain the proper action to be undertaken.*
  - (1) *The CE is to examine the document, informed by the guidance provided in this section of the Procedure Manual on the ten categories of reportable documents, to make a decision on whether the document is sufficient to identify the named individual as a potential prohibitor under NIAA. The CE is to prepare a draft Memo to File that provides a summary of the matter and explains the outcome of their analysis, including justification for action as a potentially reportable document under NIAA or closure of the matter with no further action necessary. The CE then will forward the draft Memo to File for the DD to review. The DD is to review the Memo and certify that it represents an accurate finding with regard to the CE’s review of the available evidence. If certified,*

*the CE will finalize the Memo to File, and upload it into the OIS case file record.*

- (2) *If the Memo to File, certified by the DD, identifies a potentially reportable document, the case file is to be transferred to the National Office Policy Branch for further action.*
- (3) *Once the Policy Branch receives the case file, a Policy Analyst will evaluate whether the further action is appropriate. If the assigned Policy Analyst concurs with the Memo to File, the case file will be transferred to the Office of the Solicitor for evaluation. If the Solicitor agrees that the document meets the NICS reporting requirement, it will notify the Policy Analyst. The Policy Analyst will then update the ECS case record with the completion of the NICS indicator, along with a note on the input screen about the reportable document, the identified prohibitor and the relevant NIAA category. DEEOIC will coordinate the reporting of all cases with a positive ECS NICS indicator to the proper DOJ point of contact. Once all actions are complete, the Policy Analyst will transfer the case file back to the originating district office with a brief memo describing the disposition of the NICS evaluation. If any future developments occur with regard to the reportable document, including changes that warrant removal of a reported document, the CE may contact the Policy Branch for guidance.*

- Chapter 10 – Resource Centers

- Ch. 10.2b has been edited to amend guidance to reflect new duties/responsibilities of the RC staff as it relates to incoming phone calls. The language in v4.0 read:

- b. *Claim Status. The RC fields claim status requests to assist claimants with general questions not requiring DO or FAB involvement. The RC staff member reviews ECS and answers claimant inquiries, memorializing such activities in ECS. If the claim status request is beyond the scope of the RC staff to address, the RC staff member determines the case file location in ECS and directs the caller to the proper CE or FAB HR.*

*When RC's receive inquiries from a claimant or AR seeking claim status, they refer the claimant to the adjudicatory DO CE or the FAB HR as necessary. When referring a claimant or AR to a DO or FAB, the RC provides the claimant/AR with the toll-free number to the DO or FAB. All RC Managers have full read only access to ECS and OIS in order to better assist claimants with inquiries. Any inquiries cannot be addressed by the RC staff/Manager go to the CE or FAB HR, as appropriate.*

It has been updated in v4.1 to:

- b. *Phone Calls: RC staff will serve as the initial responder for incoming DEEOIC phone inquiries, regardless of case location/jurisdiction or request status. RC staff members will use all available program resources in responding to inquiries in the most efficient and expedient manner possible.*

*When RC's receive phone inquiries from a claimant or AR seeking a status of a claim or medical authorization request that requires further review/analysis by DEEOIC staff, they are to transfer the call to the appropriate adjudicatory DO CE, FAB HR or assigned MBE. Calls transferred in this manner will be documented as a pending phone call in ECS until closed by RC or DEEOIC staff. In the event that a transferred phone call is not answered by the designated DEEOIC staff member, the caller will have the option to either leave a voice mail message with the intended call recipient or be returned back to the RC staff member who may then annotate ECS with a request for a returned phone call.*

*When RC's receive onsite inquiries from a claimant or AR seeking claim status that requires further review/analysis by DEEOIC staff, they initiate contact with the DO CE, FAB HR or assigned MBE. When referring a claimant or AR to a DO, FAB or assigned MBE, the RC will initiate a telephone call with the appropriate DEEOIC staff member, requesting assistance to address an incoming inquiry received at the RC. If the DEEOIC staff member is not available to take the call, an automated record of a pending phone call will be created in ECS.*

- Chapter 14 – Establishing Special Exposure Cohort Status
  - Exhibit 14-1, List of SEC Designated Classes, has been updated to include Circular 19-04, pertaining to the most recent SEC class added to the Idaho National Laboratory (INL) from January 1, 1963 through February 28, 1970.
- Chapter 15 – Establishing Toxic Substance Exposure and Causation
  - Incorporates Bulletin 20-02, which updated Exhibit 15-4: Exposure and Causation Presumptions with Development Guidance for Certain Conditions, Section 15 pertaining to Non-Hodgkin's lymphoma.
- Chapter 17 – Development of Radiogenic Cancer Claims
  - Exhibit 17-1, NIOSH Referral Summary Document (NRSD), has been updated to remove outdated references to ICD-9 codes.
  - Exhibit 17-2, Instructions for Completing the NRSD, has been updated to remove outdated references to ICD-9 codes.

- Chapter 20 – Establishing Survivorship

- Ch. 20.11c has been edited to delete language regarding RD cover letters. The language in v4.0 read:

*c. Individual Addresses. The RD does not include the addresses of the various claimants. Instead, a cover letter is addressed to each claimant and a copy of the decision is sent to all filing parties.*

It has been updated in v4.1 to:

*c. Individual Addresses. The RD does not include the addresses of the various claimants. Instead, an address sheet is prepared for each claimant and a copy of the decision is sent to all filing parties.*

- Chapter 21 – Impairment Ratings

- Ch. 21.17 has been edited to ensure language conformity with regard to election of benefits across multiple chapters. The language in v4.0 read:

*17. Issues Involving Survivor Election. If a covered Part E employee dies after submitting a Part E claim, but before that claim is paid, and death is caused solely by a non-covered illness or illnesses, the survivor may elect to receive the compensation that would have been payable to the employee (known as election of benefits), including impairment (refer to Chapter 20 – Establishing Survivorship). The survivor must file a written confirmation that he or she is seeking an election of benefits. The claim filing date of the election of benefits for impairment is the postmark date of the written confirmation, if available, or the date the DO, FAB, CMR, or RC receives the written confirmation, whichever is the earliest determinable date.*

It has been updated in v4.1 to:

*17. Issues Involving Survivor Election. If a covered Part E employee dies after submitting a Part E claim, but before that claimed payment is received, and if the employee's death was caused solely by a non-covered illness or illnesses, the survivor may elect to receive the compensation that would have been payable to the employee (known as election of benefits), including impairment (refer to Chapter 20 – Establishing Survivorship). It is not necessary for the employee to have filed a claim specifically for impairment benefits to have the election of benefits option available. As long as the employee filed a claim for Part E benefits, the CE presumes that claims for impairment and wage-loss were filed. The earlier receipt by the employee of monetary benefits under Part E for wage-loss and/or impairment does not negate the availability of this election for any subsequent amount of monetary benefits claimed by the survivor up to the aggregate maximum amount of compensation payable under Part E.*

- Chapter 22 – Wage-Loss Determinations

- Ch. 22.15b has been edited to ensure language conformity with regard to election of benefits across multiple chapters. The language in v4.0 read:

*b. Survivor Election. If an employee dies after filing a claim, but before any payment is received, and if the employee's death was caused solely by a non-covered illness, the survivor (any survivor including the spouse) has the election of benefits option. The survivor may elect to receive compensation that the employee would have received had he/she not died prior to payment. It is not necessary for the employee to have filed a claim specifically for wage-loss or impairment to have the election of benefit option available. As long as the employee filed a claim for Part E benefits, claims for impairment and wage-loss are assumed. However, if the employee received any compensation for impairment or wage-loss, prior to his death, such payment voids the election of benefit option.*

It has been updated in v4.1 to:

*b. Survivor Election. If a covered Part E employee dies after filing a Part E claim but before the claimed payment is received, and if the employee's death was caused solely by a non-covered illness, the survivor(s) has the option to elect to receive the payment that the covered Part E employee would have received, had he/she not died prior to payment, rather than survivor benefits. It is not necessary for the employee to have filed a claim specifically for wage-loss benefits for the election option to be available to the survivor(s). As long as the employee filed a claim for Part E benefits, claims for impairment and wage-loss benefits are presumed by the CE. The earlier receipt by the employee of monetary benefits under Part E for impairment or wage-loss does not negate the availability of this election for any subsequent amount of monetary benefits claimed by the survivor.*

- Chapter 24 – Recommended Decisions

- Ch. 24.6e has been edited include language regarding RD address sheets. The language in v4.0 read:

*e. Mailing Addresses. The decision is to be addressed to each claimant who has filed a claim, and/or his or her AR. This ensures that each person who has filed a claim receives official notification of the decision and is granted the opportunity to object should any claimant disagree with any aspect of the conclusions.*

It has been updated in v4.1 to:

*e. Mailing Addresses. Mailing Addresses. For mailing purposes, the CE is to print a separate mailing sheet for each claimant who is to receive a copy of the RD. The mailing sheet is to include only the mailing address of the claimant, and when*

*applicable, his/her authorized representative. The CE is to image each mailing sheet in OIS, along with the final version of the RD and accompanying documents (as a consolidated document) to record the transmission of the RD to all claimants named as a party of the decision.*

- Ch. 24.7 has been edited to remove language regarding RD cover letters and the use of two distinctive types of waivers. New language has been inserted regarding guidance on the use of RD address sheets and the use of a singular consolidated waiver form. The language in v4.0 read:

7. *Content and Format.* *A RD is comprised of a cover letter, a written decision, a waiver, and an information sheet provided to a claimant explaining his or her right to challenge the recommendation. The CE is responsible for preparing the RD and all its component parts. The format and content of a RD is as follows:*

- a. *Cover Letter. A cover letter summarizes the recommendation(s) of the DO to accept, deny or defer claimed benefit entitlement(s) under Part B, Part E, or both. It advises that the accompanying is a recommendation, is not a final decision, and that the case file has been forwarded to the FAB for review and the issuance of a FD. Further, the cover letter advises the claimant of his or her right to waive any objection or to file objections within 60 days of the date of the RD. Finally, if the DO issued a recommendation to deny based on written input received from a DEEOIC medical health scientist (TOX/IH or HP) or CMC, the CE must attach the document(s) for reference.*

*A separate cover letter is addressed to each individual party to the claim. In some instances, it may be necessary to tailor or individualize each cover letter to the specific circumstances affecting the claimant addressed. Exhibit 24-1 provides a sample cover letter.*

- b. *Written Decision. The written decision is comprised of an Introduction, a Statement of the Case, Explanation of Findings, and Conclusions of Law. Exhibit 24-2 and Exhibit 24-3 provide samples RDs.*
  - (1) *Introduction. This portion of a RD succinctly summarizes what benefit entitlement is being recommended for acceptance, denial or deferral. Distinction is made between benefits addressed under Part B vs. Part E.*
  - (2) *Statement of the Case. The Statement of the Case is a clear, chronological, and concise narrative of the relevant factual evidence leading up to the decision. It describes the steps taken by the CE to develop evidence, the outcome of any development, and any other relevant information derived from examination of the case records. The Statement of the Case should not be overly technical covering every minute detail of the case evidence, nor*

*should it include interpretation of the evidence; as this is to be covered in the “Explanation of Findings” outlined below. Essentially, the Statement of the Case tells the relevant history of the case leading up to the present decision and includes basic information such as the relevant evidence submitted, development actions taken, and any other relevant information that correlates to the discussion and analysis in the Explanation of Findings. Basic information that may be covered in the Statement of the Case, when relevant, includes:*

- (a) Name of the claimant or survivor, name of employee, and when the claim was filed;*
- (b) Benefit(s) the claimant is seeking. In the case of a survivor claim, the relationship of the claimant to the employee and documentation submitted in support of the relationship, if any;*
- (c) Claimed employment and evidence submitted to establish covered employment, if any;*
- (d) Claimed medical condition and the pertinent medical evidence submitted to establish a diagnosed illness;*
- (e) In a recommended acceptance, pertinent issues may include specific medical documents received from the claimant or other sources, which confirm the diagnosis of the claimed condition, and evidence establishing the claimed employment and exposure. Also important for inclusion are the results of any searches conducted or documentation generated from the SEM, OHQ, records from the DOE FWP, and DAR records. The evidence and development actions discussed in the Statement of the Case should correlate with the discussion and analysis, which follows in the Explanation of Findings.*

*In a recommended denial, the CE discusses what evidence he or she sought, how the CE advised the claimant of the deficiencies, any assistance provided to overcome a defect, and the claimant’s response.*

- (3) Explanation of Findings. This section of the RD explains the CE’s analysis of the case evidence used to arrive at the various factual findings necessary to substantiate a conclusion on benefit entitlement. It is critical that the CE writing the decision include a compelling, robust justification of his or her decision to accept or*

*deny a claim. CE findings made without any explanatory justification, or communicated in vague or overly broad language is not appropriate. A poorly written decision increases the likelihood that a claimant will not understand the outcome of the claim and the probability of objection. Moreover, it serves to increase the potential objection by the claimant, or remand by the FAB.*

*In writing the content of the Explanation of Findings, the CE follows a logical and sequential presentation of findings and explains the relevant legal, regulatory or procedural guidelines of DEEOIC claims adjudication, the relevant evidence, and how the evidence does or does not satisfy the referenced criteria. In this manner, the CE communicates to the claimant his or her interpretive analysis of available evidence in satisfying the legal requirement for claim acceptance or denial. Moreover, it provides the narrative content, which allows the FAB to properly conduct its role of independently assessing the sufficiency of the CE's recommendation.*

*Given the various types of benefit entitlements that may be involved, the content of this section will vary depending on the context of the matter under review. However, the CE is to communicate information pertinent to the issue for determination in a logical, comprehensive manner. For example, the logical presentation of findings for a new Part E claim for causation will follow this general order – diagnosis, employment, relation to employee (in survivor claims), exposure, and causation. However, a different presentation of findings is needed depending on the circumstances of the claim; such as with impairment, where the presentation of findings would follow a different order – accepted condition, evaluation for impairment, and outcome of evaluation with award or denial of impairment benefit.*

*Given the disparate types of evidence that may exist in a claim record, there may be instances where the discussion is based exclusively on the presentation of undisputed evidence that clearly affirms findings leading to a conclusion. In other instances, there will be a need to use inference or extrapolation to support a finding. In either situation, the CE is to provide a compelling argument as to how the evidence is interpreted to support the various findings leading to acceptance or denial of benefit entitlement. This is particularly important in situations involving toxic chemical exposure analysis under Part E, conflicting medical opinion, or other complex procedural applications. The assessment will rest on various factors, such as the probative value of documentation, relevance to the issue under contention, weight*

*of medical opinion, or the reliability of testimony, affidavits, or other circumstantial evidence.*

*In instances where the claim is being denied, the discussion should focus on the first logical element that failed to meet the eligibility criteria. However, in multi-claimant cases, the reason for denial may differ for each claimant. In such instances, the CE should explain the basis of denial for each individual party to the claim.*

*Within the context of decision analysis, the CE is to maintain a claimant-oriented perspective. This can be defined as decisions made within the scope of the law that have the effect or potential to produce a positive benefit to the claimant(s).*

- (a) Contested Factual Items and Other Claim Disputes. Written analysis is particularly important when reaching judgment on a claim issue that differs from the position of the claimant or has negative consequences to the claim. The CE is to identify the differences, clearly note the decision made, and the evidence or argument that supports such a decision. This is frequently the case where there is disagreement over medical diagnosis, dates or location of employment, health effects of toxic exposure, interpretation of program procedure, or medical opinion on causation. In any instance where a dispute involves a decision based on the weight of medical evidence, the CE is to describe completely the weighing methodology in support of the chosen medical opinion.*
- (b) Complex subject matter and other complicated evidentiary situations. Evidence presented in support of DEEOIC claims can often be open to a variety of interpretations, especially in situations involving complicated subject matter or in situations where evidence is vague. Whenever a CE is presented with a situation involving a complex set of issues for which a finding is necessary; e.g. establishing intermittent covered employment at multiple facilities, it is essential that the CE provide sufficient explanation as to how he or she chose to apply the evidence in arriving at a finding. Simply making a factual statement in these situations without providing the underlying rationale for making such a finding will not suffice.*
- (c) Mathematical Calculations. In any decision involving a mathematical calculation, the CE fully explains the figures used to arrive at the finding listed. Situations where*

*calculations need to be described include impairment or wage-loss, division of benefits between multiple claimants or Part B vs. Part E claims, aggregated workdays for SEC classes, latency periods for diseases, and offsets for State Worker's Compensation or tort settlements.*

*For example, when accepting a claim for wage-loss, the CE is expected to provide a narrative explanation of how he or she arrived at the various components of the decision. Specifically, how the first date of wage-loss was determined, the evidence of wages used to calculate AAW, how the average annual wage was compared to future calendar years of wage-loss, and any explanation of how the wage-loss benefit is calculated to arrive at the amount being awarded.*

- (d) *Application of Written Program Policy, Regulations, Procedure or case precedent. A CE may have to explain the use of policy guidance from various program resources in support of a decision being made in a claim. In these situations, the CE must clearly reference the resource being used, and if necessary, make a specific citation or reference. The program policy must pertain to the issue at hand and the CE must explain how it provides guidance in resolving a particular claim issue.*

  - (i) *Case precedent. A CE is permitted to use only those case decisions that are specifically authorized and recognized as setting precedent. These can be found on the DEEOIC main web page and are updated periodically. It is not appropriate for a CE to generalize information or findings from a non-precedent setting case to address a separate case under review.*

- (4) *Conclusions of Law. This portion of the RD summarizes the determination of eligibility reached based on the discussion and analysis contained in the Explanation of Findings. The CE's conclusion either accepts or rejects the claim in its entirety, or it may address a portion of the claim presented. The conclusions should be limited to a simple recommendation of acceptance or denial of the claim(s) under consideration under Part B and/or Part E.*

*As a RD does not represent the final program determination regarding eligibility under the EEOICPA, it is not necessary to cite*

*sections of the EEOICPA or its governing regulations in support of the conclusions reached.*

- (a) When the conclusion is to accept a claim, the CE must include the amount of payable lump-sum compensation or award of medical benefits effective the date of filing, and under what Part of the Act the benefit is being awarded.*
- (b) In a conclusion that results in a denial of benefits, the CE is to identify the denied claimed condition. The CE is not to state the lump-sum amount to be denied.*
- (6) Signatory Line. The signature line must include the name and title of the person who prepared the recommendation and the name and title of the person who reviewed and certified the decision, when applicable. When a decision is certified by a SrCE/Supervisor, this means that the reviewer has assessed the overall accuracy and readability of the decision to ensure quality.*
- (7) Notice of Recommended Decision and Claimant's Rights. Provides information about the claimant's right to file specific objections to the RD and to request either a review of the written record or an oral hearing before the FAB. A sample Notice of Recommended Decision and Claimant's Rights is included as part of Exhibit 24-4.*
- (8) Waiver of Rights. A waiver form is sent with each RD and is to include the case ID number, name of the employee, name of the claimant, and the date of the decision in the upper right hand corner. The claimant may waive his or her right to a hearing or review of the written record and request that the FAB issue a FD. In this instance, the claimant is required to sign a waiver and return it to the FAB. Exhibit 24-5 contains a sample Waiver.*

  - (a) Bifurcated Waivers. In many instances, the DO accepts one element of a claim and denies another, all within one RD. It is therefore possible for a claimant to waive the right to object to the acceptance portion of the decision and file an objection regarding the denied portion of the same decision. A claimant has 60 days from the date the RD is issued to file an objection, and may waive this right at any time.*

*Exhibit 24-6 provides a sample Bifurcated Waiver of Rights for a partial acceptance/partial denial. Option 1 allows the claimant to waive the right to object to the benefits*

*awarded but reserve the right to object to the findings of fact or conclusions of law that led to the denial. Option 2 allows the claimant to waive the rights to object to all findings and conclusions.*

It has been updated in v4.1 to:

7. *Content and Format.* *A RD is comprised of a written decision and a Notice of Recommended Decision provided to a claimant explaining his or her right to challenge the recommendation. With the Notice of Recommended Decision, the DEEOIC provides a waiver for claimant to complete if they agree with the decision entirely or in part. The CE is to attach to the decision any Medical Health Science (HP, IH, TOX or CMC) input that provides justification or support for a claim denial. The CE is responsible for preparing the RD and all its component parts. The format and content of a RD is as follows:*

- a. *Written Decision. The written decision is comprised of an Introduction, a Statement of the Case, Explanation of Findings, and Conclusions of Law. Exhibit 24-1 and Exhibit 24-2 provide sample RDs.*
  - (1) *Notice of Recommended Decision. This portion of a RD succinctly summarizes what benefit entitlement is being recommended for acceptance, denial or deferral. Distinction is made between benefits addressed under Part B vs. Part E.*
  - (2) *Statement of the Case. The Statement of the Case is a clear, chronological, and concise narrative of the relevant factual evidence leading up to the decision. It describes the steps taken by the CE to develop evidence, the outcome of any development, and any other relevant information derived from examination of the case records. The Statement of the Case should not be overly technical covering every minute detail of the case evidence, nor should it include interpretation of the evidence; as this is to be covered in the “Explanation of Findings” outlined below. Essentially, the Statement of the Case tells the relevant history of the case leading up to the present decision and includes basic information such as the relevant evidence submitted, development actions taken, and any other relevant information that correlates to the discussion and analysis in the Explanation of Findings. Basic information that may be covered in the Statement of the Case, when relevant, includes:*
    - (a) *Name of the claimant or survivor, name of employee, and when the claim was filed;*

- (b) *Benefit(s) the claimant is seeking. In the case of a survivor claim, the relationship of the claimant to the employee and documentation submitted in support of the relationship, if any;*
- (c) *Claimed employment and evidence submitted to establish covered employment, if any;*
- (d) *Claimed medical condition and the pertinent medical evidence submitted to establish a diagnosed illness;*
- (e) *In a recommended acceptance, pertinent issues may include specific medical documents received from the claimant or other sources, which confirm the diagnosis of the claimed condition, and evidence establishing the claimed employment and exposure. Also important for inclusion are the results of any searches conducted or documentation generated from the SEM, OHQ, records from the DOE FWP, and DAR records. The evidence and development actions discussed in the Statement of the Case should correlate with the discussion and analysis, which follows in the Explanation of Findings.*

*In a recommended denial, the CE discusses what evidence he or she sought, how the CE advised the claimant of the deficiencies, any assistance provided to overcome a defect, and the claimant's response.*

- (3) *Explanation of Findings. This section of the RD explains the CE's analysis of the case evidence used to arrive at the various factual findings necessary to substantiate a conclusion on benefit entitlement. It is critical that the CE writing the decision include a compelling, robust justification of his or her decision to accept or deny a claim. CE findings made without any explanatory justification, or communicated in vague or overly broad language is not appropriate. A poorly written decision increases the likelihood that a claimant will not understand the outcome of the claim and the probability of objection. Moreover, it serves to increase the potential objection by the claimant, or remand by the FAB.*

*In writing the content of the Explanation of Findings, the CE follows a logical and sequential presentation of findings and explains the relevant legal, regulatory or procedural guidelines of DEEOIC claims adjudication, the relevant evidence, and how the evidence does or does not satisfy the referenced criteria. In this*

*manner, the CE communicates to the claimant his or her interpretive analysis of available evidence in satisfying the legal requirement for claim acceptance or denial. Moreover, it provides the narrative content, which allows the FAB to properly conduct its role of independently assessing the sufficiency of the CE's recommendation.*

*Given the various types of benefit entitlements that may be involved, the content of this section will vary depending on the context of the matter under review. However, the CE is to communicate information pertinent to the issue for determination in a logical, comprehensive manner. For example, the logical presentation of findings for a new Part E claim for causation will follow this general order – diagnosis, employment, relation to employee (in survivor claims), exposure, and causation. However, a different presentation of findings is needed depending on the circumstances of the claim; such as with impairment, where the presentation of findings would follow a different order – accepted condition, evaluation for impairment, and outcome of evaluation with award or denial of impairment benefit.*

*Given the disparate types of evidence that may exist in a claim record, there may be instances where the discussion is based exclusively on the presentation of undisputed evidence that clearly affirms findings leading to a conclusion. In other instances, there will be a need to use inference or extrapolation to support a finding. In either situation, the CE is to provide a compelling argument as to how the evidence is interpreted to support the various findings leading to acceptance or denial of benefit entitlement. This is particularly important in situations involving toxic chemical exposure analysis under Part E, conflicting medical opinion, or other complex procedural applications. The assessment will rest on various factors, such as the probative value of documentation, relevance to the issue under contention, weight of medical opinion, or the reliability of testimony, affidavits, or other circumstantial evidence.*

*In instances where the claim is being denied, the discussion should focus on the first logical element that failed to meet the eligibility criteria. However, in multi-claimant cases, the reason for denial may differ for each claimant. In such instances, the CE should explain the basis of denial for each individual party to the claim.*

*Within the context of decision analysis, the CE is to maintain a claimant-oriented perspective. This can be defined as decisions*

*made within the scope of the law that have the effect or potential to produce a positive benefit to the claimant(s).*

- (a) *Contested Factual Items and Other Claim Disputes. Written analysis is particularly important when reaching judgment on a claim issue that differs from the position of the claimant or has negative consequences to the claim. The CE is to identify the differences, clearly note the decision made, and the evidence or argument that supports such a decision. This is frequently the case where there is disagreement over medical diagnosis, dates or location of employment, health effects of toxic exposure, interpretation of program procedure, or medical opinion on causation. In any instance where a dispute involves a decision based on the weight of medical evidence, the CE is to describe completely the weighing methodology in support of the chosen medical opinion.*
- (b) *Complex subject matter and other complicated evidentiary situations. Evidence presented in support of DEEOIC claims can often be open to a variety of interpretations, especially in situations involving complicated subject matter or in situations where evidence is vague. Whenever a CE is presented with a situation involving a complex set of issues for which a finding is necessary; e.g. establishing intermittent covered employment at multiple facilities, it is essential that the CE provide sufficient explanation as to how he or she chose to apply the evidence in arriving at a finding. Simply making a factual statement in these situations without providing the underlying rationale for making such a finding will not suffice.*
- (c) *Mathematical Calculations. In any decision involving a mathematical calculation, the CE fully explains the figures used to arrive at the finding listed. Situations where calculations need to be described include impairment or wage-loss, division of benefits between multiple claimants or Part B vs. Part E claims, aggregated workdays for SEC classes, latency periods for diseases, and offsets for State Workers' Compensation or tort settlements.*

*For example, when accepting a claim for wage-loss, the CE is expected to provide a narrative explanation of how he or she arrived at the various components of the decision. Specifically, how the first date of wage-loss was determined, the evidence of wages used to calculate AAW,*

*how the average annual wage was compared to future calendar years of wage-loss, and any explanation of how the wage-loss benefit is calculated to arrive at the amount being awarded.*

- (d) Application of Written Program Policy, Regulations, Procedure or case precedent. A CE may have to explain the use of policy guidance from various program resources in support of a decision being made in a claim. In these situations, the CE must clearly reference the resource being used, and if necessary, make a specific citation or reference. The program policy must pertain to the issue at hand and the CE must explain how it provides guidance in resolving a particular claim issue.*
  - (i) Case precedent. A CE is permitted to use only those case decisions that are specifically authorized and recognized as setting precedent. These can be found on the DEEOIC main web page and are updated periodically. It is not appropriate for a CE to generalize information or findings from a non-precedent setting case to address a separate case under review.*

- (4) Conclusions of Law. This portion of the RD summarizes the determination of eligibility reached based on the discussion and analysis contained in the Explanation of Findings. The CE's conclusion either accepts or rejects the claim in its entirety, or it may address a portion of the claim presented. The conclusions should be limited to a simple recommendation of acceptance or denial of the claim(s) under consideration under Part B and/or Part E.*

*As a RD does not represent the final program determination regarding eligibility under the EEOICPA, it is not necessary to cite sections of the EEOICPA or its governing regulations in support of the conclusions reached.*

- (a) When the conclusion is to accept a claim, the CE must include the amount of payable lump-sum compensation or award of medical benefits effective the date of filing, and under what Part of the Act the benefit is being awarded.*
- (b) In a conclusion that results in a denial of benefits, the CE is to identify the denied claimed condition. The CE is not to state the lump-sum amount to be denied.*

- (6) *Signatory Line. The signature line must include the name and title of the person who prepared the recommendation and the name and title of the person who reviewed and certified the decision, when applicable. When a decision is certified by a SrCE/Supervisor, this means that the reviewer has assessed the overall accuracy and readability of the decision to ensure quality.*
- (7) *Notice of Recommended Decision. Provides information about the claimant's right to file specific objections to the RD and to request either a review of the written record or an oral hearing before the FAB. The notice also outlines the claimant's State Workers' Compensation and Tort reporting requirements in the case of recommended acceptances. A sample Notice of Recommended Decision is included as part of Exhibit 24-4.*
- (a) *Waiver of Rights. A waiver is included within the Notice of Recommended Decision and the CE is to list the case ID number, name of the employee, name of the claimant, and the date of the decision in the upper right hand corner. With the completion of the waiver, the claimant may waive his or her right to a hearing or review of the written record and request that the FAB issue a FD. The claimant may waive any objection to the decision in its entirety or in part. A claimant has 60 days from the date a CE issues the RD to file an objection, and may waive this right at any time.*

- A Sample Cover Letter, which was previously found in v4.0 as Exhibit 24-1, has been deleted.
- Accordingly, what was previously Exhibit 24-2: Sample RD, Accept, has been renumbered to Exhibit 24-1 in v4.1. Additionally, this Exhibit now includes a new field in the header for inclusion of a "Date of Issuance."
- Accordingly, what was previously Exhibit 24-3: Sample RD, Denial, has been renumbered to Exhibit 24-2 in v4.1. Additionally, this Exhibit now includes a new field in the header for inclusion of a "Date of Issuance."
- What was previously, in v4.0, Exhibit 24-4: Notice of Recommended Decision and Claimant Rights; has been deleted.
- What was previously, in v4.0, Exhibit 24-5, Sample Waiver; has been deleted.
- What was previously, in v4.0, Exhibit 24-6, Sample Bifurcated Waiver, has been deleted.
- As such, the deleted exhibits listed above have been replaced in v4.1 with a new Exhibit 24-3, Notice of Recommended Decision.

- Ch. 24.10c-d has been edited to clarify the issuance of letter decisions for HHC or DME. The language in v4.0 read:

*c. Acceptance or denial of medical care or treatment, including home health care.*

*d. Acceptance or denial of DME or housing/vehicle modification.*

It has been updated in v4.1 to:

*c. Acceptance of medical care or treatment, including home health care.*

*d. Acceptance of DME or housing/vehicle modification.*

- Chapter 25 – FAB Review Process

- Ch. 25.5 has been edited to reflect the use of a singular consolidated waiver form. The language in v4.0 read:

*5. Waivers. A waiver gives a claimant(s) the opportunity to voluntarily relinquish their right to object to the findings and conclusions of law contained in a RD, either in part or in full. The FAB may issue a FD at any point after receiving a written notice of waiver. To expedite the FAB review process, the DO must immediately forward all signed waivers to FAB upon receipt.*

*a. Implied Waivers. A claimant's rights to object and/or to request a hearing are considered waived if not timely exercised.*

*b. Signed Waivers. A claimant may waive his or her rights to object and to request a hearing by submitting a signed waiver form to the DO or the FAB within 60 calendar days of the RD issuance date. The submission of a signed waiver denotes the claimant's willingness to accept the findings of fact and conclusions of law reached by the DO in the RD.*

*However, in cases where the FAB has determined that the claimant is to be awarded less benefit than those identified in the RD, the FAB remands the claim to the DO for the issuance of a new RD.*

*c. Bifurcated Waivers. By submitting a bifurcated waiver, a claimant may waive his or her rights to object to one portion of the decision while retaining his or her rights to object to another portion of the decision.*

*If the claimant files a bifurcated waiver objecting to the denial of a claim, but waiving his right to object to another portion which has been accepted, the FAB issues a timely FD adjudicating the waived portion of the RD. FAB then issues a separate FD adjudicating the objected-to portion of the RD after a review of the written record or a hearing, or*

*upon the expiration of the 60-day period in which the claimant may submit objections or new evidence. However, in cases in which a claim is recommended for denial based on multiple components, and the claimant objects to one or more portions of the denial, the FAB must issue a single FD adjudicating all components of the RD.*

*If FAB receives a bifurcated waiver that is unclear, or does not specify to which portion of the decision the claimant objects, FAB contacts the claimant for clarification prior to conducting its review and issuing its decision.*

It has been updated in v4.1 to:

5. *Waivers. A waiver gives a claimant(s) the opportunity to voluntarily relinquish their right to object to the findings and conclusions of law contained in a RD, either in part or in full. The FAB may issue a FD at any point after receiving a written notice of waiver. To expedite the FAB review process, the DO must immediately forward all signed waivers to FAB upon receipt.*

a. *Signed Waivers. A claimant may waive his or her rights to object and to request a hearing by submitting a signed waiver form to the DO or the FAB within 60 calendar days of the RD issuance date. The submission of a signed waiver denotes the claimant's willingness to accept the findings of fact and conclusions of law reached by the DO in the RD. If FAB receives a waiver that is unclear, or does not specify to which portion of the decision the claimant objects, FAB contacts the claimant for clarification prior to conducting its review and issuing its decision.*

- Chapter 26 – FAB Decisions

- Ch. 26.3b(4)(a) has been edited to delete an incorrect reference to DEEOIC HP referrals. The language in v4.0 read:

(a) *Objections to NIOSH Dose Reconstruction Decisions. Detailed procedures for objections to the NIOSH process and referrals to the DEEOIC HP are found in Chapter 25, FAB Review Process.*

It has been updated in v4.1 to:

(a) *Objections to NIOSH Dose Reconstruction Decisions. Detailed procedures for assessment of objections to the NIOSH process are found in Chapter 25, FAB Review Process.*

- Chapter 28 – Medical Bill Process

- Incorporates Bulletin 20-01, which, in part, updated and replaced Chapter 28 – Medical Bill Process.
- Ch. 28.5 has been edited to clarify the medical records procurement policy. The language in v4.0 read:

*5. Medical Records Procurement. DEEOIC pays costs associated with obtaining medical records regardless of whether a claim has been approved for benefits. This reimbursement is payable only to a hospital, physician's office, or other medical facility that charges a fee to produce records. The maximum allowable reimbursement is \$100 per employee.*

It has been updated in v4.1 to:

*5. Medical Records Procurement. DEEOIC pays costs associated with obtaining medical records regardless of whether a claim has been approved for benefits. This reimbursement is payable only to a hospital, physician's office, or other medical facility that charges a fee to produce records. The maximum allowable reimbursement is \$100 per request.*

- Chapter 29 – Ancillary Medical Services and Related Expenses

- Incorporates Bulletin 20-01, which, in part, updated and replaced Chapter 29 – Ancillary Medical Services and Related Expenses.
- New content has been added as Ch., 29.19 to incorporate guidance regarding claims for corrective eyewear. The new language at Ch. 29.19 in v4.1 reads:

*19. Corrective Eyewear. The MBE may evaluate a claim for reimbursement of corrective eyewear, including eyeglasses and contact lenses that serve to accommodate a medically necessary effect from an accepted illness. In assessing a claim for corrective eyewear, the MBE is to obtain a LMN that convincingly and reasonably establishes the medical need for corrective lenses to address the effect of an accepted illness. The MBE may authorize eyewear reimbursement for those costs limited to correcting a vision deficiency brought about by an accepted illness. The MBE is to exclude from any calculation of reimbursement those costs relating to enhancements or other added features unrelated to accommodating a medical need, including tinting, polarization, colorization etc. Once the MBE provides an initial authorization for the reimbursement of eyeglasses, the MBE may authorize replacement with appropriate documentation of a change in medical need or other established circumstance such as damage or loss. Reimbursement of authorized contact lenses may occur in increments of time communicated in the claimant's LMN or prescription.*

- New content has been added as Ch., 29.20 to incorporate guidance regarding claims for marijuana reimbursement. The new language at Ch. 29.20 in v4.1 reads:

*20. Marijuana Reimbursement Policy. All products that contain any amount of tetrahydrocannabinol (THC), an active ingredient of marijuana, are considered schedule I controlled substances by the U.S. Drug Enforcement Administration and are therefore not eligible for payment/reimbursement. State laws authorizing the use of Schedule I drugs, such as marijuana, even when characterized as medicine, are contrary to Federal Law. The Controlled Substances Act (Title 21 United States Code 801 et al.) designates Schedule I drugs as having no currently accepted medical use and there are criminal penalties associated with production, distribution, and possession of these drugs.*

- Accordingly, content that was previously located in v4.0 at Ch.20.19 (Rehabilitative Therapy Services) and Ch. 20.20 (Ancillary Services Or Expense Authorization RD) has been moved and renumbered in v4.1 to Ch. 20.21 and Ch. 20.22, respectively.

- Chapter 31 – Tort Action and Election of Remedies

- Ch. 31.3c has been edited to clarify guidance regarding FABs handling of cases in which a claimant does not return the completed EN-16. The language in v4.0 read:

*c. It is the responsibility of the FAB to obtain this signed response if a RD is issued without receipt of the signed response (i.e. the CE only received verbal confirmation). The FAB makes every effort to obtain this signed response including calling the claimant and sending a follow up development letter. However, if the FAB is unable to obtain the signed response after 30 days from the FAB’s follow up development letter, the FAB remands the case to the DO for administrative closure of the claim. The FAB sends a letter advising the claimant of this course of action.*

It has been updated in v4.1 to:

*c. It is the responsibility of the FAB to obtain this signed response if a RD is issued without receipt of the signed response (i.e. the CE only received verbal confirmation). The FAB makes every effort to obtain this signed response including calling the claimant and sending a follow up development letter. However, if the FAB is unable to obtain the signed response after 30 days from the FAB’s follow up development letter, the FAB administratively closes the case and returns it to the DO. The FAB sends a letter advising the claimant of this course of action.*

- Chapter 32 – Coordinating State Workers’ Compensation Benefits

- Ch. 32.6c has been edited to clarify guidance regarding FABs handling of cases in which a claimant does not return the completed EN-16. The language in v4.0 read:

- c. *It is the responsibility of the FAB to obtain this signed response if a RD is issued without receipt of the signed response (i.e. the CE only received verbal confirmation). Every effort should be taken by the FAB to obtain this signed response, including calling the claimant and sending a follow up development letter. However, if the FAB is unable to obtain the signed response after 30 days from the FAB's follow up development letter, the FAB remands the case to the DO for administrative closure of the claim.*

It has been updated in v4.1 to:

- c. *It is the responsibility of the FAB to obtain this signed response if a RD is issued without receipt of the signed response (i.e. the CE only received verbal confirmation). Every effort should be taken by the FAB to obtain this signed response including calling the claimant and sending a follow up development letter. However, if the FAB is unable to obtain the signed response after 30 days from the FAB's follow up development letter, the FAB administratively closes the case and returns it to the DO. The FAB sends a letter advising the claimant of this course of action.*

- Chapter 33 – Compensation Payments

- Ch. 33.3a-c have been updated. The language in v4.0 read:

- a. *DO Mailroom Handling. The FD cover letter instructs the claimant to return the completed EN-20 to the DO that issued the RD. Upon receipt of the completed EN-20, mailroom staff date stamps the form (AOP Received Date), in the upper right corner, using an ink date stamp, and writes the Case ID in the top, right corner.*
- b. *Retention of Form EN-20.*
- c. *ECS Routing. Once the completed EN-20 is bronzed into the OIS case record, the document automatically appears in the OIS Unreviewed Document Tab of the ECS-assigned DO or FAB CE, for initial review.*
  - (1) *Accuracy of Payment Data. The CE reviews the signed EN-20, in OIS, (or the original document if so desired,) to determine if the form contains correct payment data, and that the form has been correctly completed by the payee, examining each of the following items:*
    - (a) *File number.*

It has been updated in v4.1 to:

- a. *DO Mailroom Handling. The FD cover letter instructs the claimant to return the completed EN-20 to the DO that issued the RD. Upon receipt of the completed EN-20, mailroom staff date stamps the form (AOP Received Date), in the upper right corner, using an ink date stamp.*
- b. *Retention of Form EN-20.*
- c. *ECS Routing. Once the completed EN-20 is bronzed into the OIS case record, the document automatically appears in the OIS Unreviewed Document Tab of the ECS-assigned DO or FAB CE, for initial review.*
  - (1) *Accuracy of Payment Data. The CE reviews the signed EN-20, in OIS, (or the original document if so desired,) to determine if the form contains correct payment data, and that the form has been correctly completed by the payee, examining each of the following items:*
    - (a) *Case ID*

Rachel D. Pond  
Director, Division of  
Energy Employees Occupational Illness Compensation