

AR-1

Accountability Review Findings

Dates of Review: August 1 – 5, 2016

Office Reviewed: Denver Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category Name <u>Response to Hearings Requests</u> Category # <u>1</u>
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Sample Size (total # of indicators in the category that were reviewed):	240
Number of cases reviewed:	40
Number of errors in category:	19
Acceptable rating:	90%
Rating for review:	93%

FINDINGS: Describe Findings

The Response to Hearing Requests Category measures whether hearings are scheduled and conducted according to established policy and procedure. The FAB Denver Office exceeded the acceptable rating of 90% for this category, with an overall score of 93%. There were 19 errors noted in the 40 cases reviewed.

In the hearings category, there were two instances where a remand in lieu of a hearing would have been more appropriate, and in a third instance the HR advised, prior to allowing testimony, that the case was being remanded. However, the reviewer felt that although the hearing testimony would have been helpful in deciding to remand or not, the new medical submitted prior to the hearing was sufficient to remand without a hearing.

The other deficiencies included 4 cases total where the reviewer(s) felt the hearing transcript failed to address all required topics during the hearing. Of the 4 cases, there were 3 cases where the claimants objections were not summarized prior to allowing testimony, 1 case where the authorized representative was not sworn in but provided a great deal of testimony, and 1 case where the reviewer felt that the HR should have done more to help clarify the diagnosis (in this case COPD

versus restrictive lung disease, both lung diseases). The reviewer felt that the claimant was likely claiming the wrong condition due to begin misdiagnosed by the treating physician.

There were 2 cases where the reviewer(s) felt that the HR did not demonstrate familiarity with the decision under contention or direct the hearing in a manner to fully address objections. In both cases, the HR was unable to respond to questions raised at the hearing that were clearly raised in the objection letter.

Finally, there were 8 cases where the post hearing cover letter and transcript were not sent within 7 calendar days. Of these 8 cases, 1 letter was undated and therefore the reviewer relied upon the date in ECS, which was still determined to be outside of the 7 days.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:

OTHER SIGNIFICANT FINDINGS:

REVIEWER(s):	DATE:
Karen McKnight, Anthony Zona, Victoria Lewis, Angela Eaddy, Curtis Johnson, Susan Price	August 26, 2016

AR-1

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Review Period: June 1, 2015 – May 31, 2016

Standard:	Category Name <u>Addressing Claimant Objections</u> Category # <u>2</u>
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Sample Size (total # of indicators in the category that were reviewed):	123
Number of cases reviewed:	38
Number of errors in category:	5
Acceptable rating:	90%
Rating for review:	96%

FINDINGS: Describe Findings

The Addressing Claimant Objections Category measures whether every objection is identified and provided a response. It also measures if the response is correct pursuant to EEOICPA regulations, policies and procedures, as well as clearly explained.

The FAB Denver Office exceeded the acceptable rating of 90% for this category with an overall score of 96%. There were 5 errors noted in the 38 cases reviewed.

In 1 case, the objections raised by the claimant were not appropriately addressed because the HR stated there was no need to discuss objections since the case was being remanded, and 1 case where the response to the objections was not appropriate because there is no discussion of the evidence that led to the remand.

There were 3 cases where the response to the objections was not easily understood or written in language that clearly communicated the determination. In 1 of the cases, a 28 line paragraph detailing the definition of an illness and possible etiologies was inappropriate and failed to address the objection and was very difficult to read. In 1 case there is no discussion of the new employment and what this evidence established to support the remand. In 1 case the submitted evidence did not

support the objections, and the case was remanded with no discussion of the evidence used to support the remand.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:
OTHER SIGNIFICANT FINDINGS:

REVIEWER(s):	DATE:
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Standard:	Category Name <u>FAB Decisions</u>	Category # <u>3</u>
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Sample Size (total # of indicators in the category that were reviewed):	850
Number of cases reviewed:	53
Number of errors in category:	46
Acceptable rating:	90%
Rating for review:	95%

FINDINGS: Describe Findings.

This FAB Decisions category measures whether final decisions (FD), and medical/monetary benefits issued by the FAB, are written in the proper format with correct content supported by the evidence of record. The FD must be a fair and independent assessment of the claim, and must correctly apply program policies and procedures to ensure a final outcome that is appropriate.

The elements for this category include: (1) Decision Correspondence, FD Introduction, Written Quality & Formatting; (2) Statement of the Case; (3) Findings of Fact; and (4) Conclusions of Law.

The rating for this category is 95%. The following trends were noted in each Element of the FAB Decision Category:

Element 1: Decision Correspondence, FD Introduction; Written Quality & Formatting:

Category 3 Final Decision, Element 1 had 14 deficiencies. In 2 cases the AR, who was the employee's spouse was not recognized on the Certificate of Service or the cover letter (i.e.; c/o AR.) Two cases had misspellings. One was the claimant's name the second was an error in the street name. Three cover letters did not contain the Case ID. One case did not have the number indicator on the docket number. One cover letter stated there is a final decision and remand order, but the decision is just a final decision with no remand. Two cover letters did not indicate what condition was being denied or accepted. In one case, the FD introduction did not identify Part B or E. In one case the FD intro denied skin cancer under Part E and deferred skin cancer creating confusion because it did not indicate deferred under Part B.

Element 2: Statement of the Case:

Element 2 had 14 deficiencies in the SOC. One Case was a B & E denial of grandchildren, but the SOC made no mention of Part E eligibility. One case stated the claimant did not submit medical records showing a diagnosis of colon cancer, but there were over 600 pages of records that did show evidence of colon cancer. One case was denied for lack of covered employment but was inaccurate in referring to the medical evidence. One case for wage loss did not reference SSA records that showed no earnings for the wage loss period claimed, and hearing exhibit #1 was not bronzed into OIS. One case was denied for lack of medical evidence establishing wage loss. One case grants benefits under Part E for minor children, but the SOC makes no reference to birth certificates or the ages of the minor children to support the findings and conclusions. Birth certificates were in OIS and case was correct, but lacking info in the SOC to support the grant. One SOC discussed the SEM search that was not relevant because there was insufficient medical to support the claim. One SOC did not refer to the SEM search that FAB conducted. One SOC lacked any discussion of Part E requirements. One SOC did not discuss the development letters that were sent on the case. In that case, there were a number of development letters that were sent to the claimant, but only one was specific and properly informed the claimant of what exactly was needed. Four cases were found to be confusing: three of those cases were due to the order of the discussion of the Occupational History Questionnaire, employment and medical; and one case had a number of footnotes, one 8 lines long and confusing to the reader.

Element 3: Findings of Fact:

Element 3 had 8 deficiencies. One case finding listed a previous FD that denied a condition and was not relevant. One case lacked a finding that grandchildren are not covered under Part E. One impairment grant appears to cover two conditions, but the CMC report indicates one condition is not at MMI and not included in the evaluation. The claimant will have no idea that only one condition was evaluated because the accepted condition evaluations were not listed. One case finding is negative for toxic substance link, but that was not relevant as the medical is insufficient. One finding of fact that children are minor children is not supported by evidence cited in the SOC, but decision is correct.

Element 4: Conclusions of Law:

Element 4 had 10 deficiencies. The case involving impairment of two accepted conditions in which one condition was not at MMI and not considered in the impairment evaluation might be a grant and a denial, not just a grant of impairment benefits. One decision included burden of proof language that was not needed as it was a NIOSH denial. One case had extensive, redundant and duplicate citations to include the PM, regulations, and the statute, and was not reader friendly. Four cases had incorrect citations or citations that were not needed. One case had impairment/wage loss citation when there was no covered illness. One case had Part E citations for employment but was only a Part B case. One FD listed the wrong illnesses in the conclusions of law where the decision was actually denying another condition.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:
OTHER SIGNIFICANT FINDINGS:

REVIEWER(s):	DATE:
Karen McKnight, Anthony Zona, Victoria Lewis, Angela Eaddy, Susan Price, Curtis Johnson	August 26, 2016

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Accountability Review Findings

Dates of Review: August 15, 2016 – August 19, 2016

Office Reviewed: Denver FAB

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category # 4: Remand Orders
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Sample Size (total # of indicators in the element that were reviewed):	220
Number of cases reviewed:	44
Number of errors in element:	5
Acceptable rating:	90%
Rating for review:	97%

Describe Findings:

Review of the Remand Category measures whether the FAB remands were correct and the reasons for remand were clearly explained in accordance with EEOICPA regulations, policies and procedures. The Denver FAB exceeded the acceptable rating for this Category with a rating of 97%.

There were 5 deficiencies noted within this category. Claim numbers (last four) 7009, 8739, and 4171 were noted as deficient as the remand orders in question failed to cite the appropriate regulations or Procedure Manual (PM) citations. Finally, the cover letter in claims 6192 and 6405 failed to advise the claimant as to the district office (DO) the claim was being returned to.

REVIEWER(s):	DATE:
Keiran Gorny	August 18, 2016

AR-1

Accountability Review Findings

Dates of Review: August 15, 2016 – August 19, 2016

Office Reviewed: Denver FAB

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category #5: Reconsideration Requests
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Sample Size (total # of indicators in the element that were reviewed):	164
Number of cases reviewed:	44
Number of errors in element:	1
Acceptable rating:	90%
Rating for review:	99%

Describe Findings:

This category reviews the accuracy of the coding in the Energy Compensation System (ECS) as it related to Final Adjudication Branch (FAB) determinations, final decisions (FD) and remands. The indicators (elements) reviewed included did the decision coding recorded in ECS match the written FD; is the correct denial reason recorded in ECS; is the most accurate remand reason recorded in ECS; are the conditions approved for medical benefits correctly coded in ECS; and are the ICD codes and Eligibility Begin Dates accurately recorded in ECS based on the final decision and final decision cover letter. The Denver FAB exceeded the acceptable rating for this category with a rating of 99%.

Only one error was identified within this category. Specifically, in claim number (last four) 8119, the 07/31/2015 reconsideration/remand contained excessive discussion of the history of case which was found to be unnecessary and unrelated to the issue at hand.

REVIEWER(s):	DATE:
Alison M. Supanich	August 18, 2016

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Accountability Review Findings

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Office Reviewed: Denver FAB

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category #6 : ECS Coding
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Sample Size (total # of indicators in the element that were reviewed):	255
Number of cases reviewed:	51
Number of errors in element:	4
Acceptable rating:	90%
Rating for review:	97%

Describe Findings:

This category reviews the accuracy of the coding in the Energy Compensation System (ECS) as it related to Final Adjudication Branch (FAB) determinations, final decisions (FD) and remands. The indicators (elements) reviewed include: did the decision coding recorded in ECS match the written FD; is the correct denial reason recorded in ECS; is the most accurate remand reason recorded in ECS; are the conditions approved for medical benefits correctly coded in ECS; and are the ICD codes and Eligibility Begin Dates accurately recorded in ECS based on the FD and FD cover letter.

The Denver FAB (FAD) did an excellent job in this category. The four errors identified were of various types so no trend was identified. Claim number (last four) 3900 was found to be deficient as the 3/2/16 FD was coded as two separate FDs; however, only one FD was issued. In claim 7284, the 7/14/15 FD noted deferred conditions which were not listed in ECS. For claim 9392, in the 6/9/15 FD, the SEC acceptance was not coded in ECS under the causation path. Finally, in claim 4624, two survivor claims were coded incorrectly.

REVIEWER(s):	DATE:
Yolanda Greer	August 18, 2016