

# AR-1

## Accountability Review Findings

Dates of Review: August 1 – 5, 2016  
Office Reviewed: Seattle Final Adjudication Branch  
Reviewing Office: Policy, Regulations and Procedures Unit  
Review Period: June 1, 2015 – May 31, 2016

<u>Standard:</u>	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):	245
Number of cases reviewed:	40
Number of errors in category:	3
Acceptable rating:	90%
Rating for review:	99%

### **FINDINGS: Describe Findings**

The Response to Hearing Requests Category measures whether hearings were conducted according to established policy and procedure. The Seattle FAB Office exceeded the acceptable rating of 90% for this category, with an overall score of 99%.

There were 3 errors noted in the 40 cases reviewed. The deficiencies included 2 cases where the hearing transcript was received by the Seattle FAB, but the claimant was not sent a copy of it, along with the post hearing cover letter, within 7 calendar days of transcript receipt in the FAB. There was 1 case where the hearing representative did not adequately explain to the claimant at the hearing why the recommended decision denied his claim due to lack of covered employment, and what evidence would be required to show that his employment was covered. The representative communicated the general standard for determining whether he qualified as a DOE contractor, but did not explain why the delivery of goods by itself is not considered a service. Moreover, the hearing representative did not raise any questions to see whether the claimant did anything that could be considered a covered service.

**IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:**

**OTHER SIGNIFICANT FINDINGS:**

<b>REVIEWER(s):</b>	<b>DATE:</b>
Melvin Teal, Ramona Franks, Patricia DiLeo, Angela Eaddy, Victoria Lewis, Gregg Knapp, Curtis Johnson	August 26, 2016

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<u>Standard:</u>	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):	129
Number of cases reviewed:	43
Number of errors in category:	4
Acceptable rating:	90%
Rating for review:	97%

### **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 Seattle FAB did a fantastic job in reviewing objections received in their office with an overall rating of 97% in this category. During this review, a total of four (4) deficiencies were found. In two (2) cases, the FD did not address the objections that were raised by the claimant in their written objection or raised during the hearing.

Once case contained two (2) deficiencies where the FAB did not provide a correct response to the objection raised by the claimant, and failed to fully and clearly explain the outcome of the review of the objection; i.e., the DO denied the claim for emphysema due to lack of medical evidence. The claimant filed an objection, and submitted medical evidence for COPD. FD affirmed denial of emphysema. FD should have addressed causation for COPD or remanded it for further development.

<b>IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:</b>
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<b>OTHER SIGNIFICANT FINDINGS:</b>
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<b>REVIEWER(s):</b>	<b>DATE:</b>
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<b>Standard:</b>	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):	867
Number of cases reviewed:	51
Number of errors in category:	37
Acceptable rating:	90%
Rating for review:	96%

### **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 96%. The following trends were noted in each Element of the FAB Decision Category:

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

Under this element, reviewers evaluated the accuracy and completeness of the correspondence sent to claimants with the final decision, and the introductory statement in the final decision. Six (6) errors were noted in 5 out of 51 cases reviewed. Most of these involved relatively minor omissions or typographical errors in the cover letters or the introductory portion of the final decision. In one case, the reviewer felt that the header for the FD was somewhat confusing with respect to the denial of benefits under Part E for neuropathy. For the remaining 4 cases, the errors involved: an incorrect decision date (wrong year); incorrect description of the Part of the statute that the decision covered (Part E vs. Part B); an incorrect effective date of medical benefits; and the failure to attach a travel reimbursement form to the final decision.

**Element 2: Statement of the Case:**

For this element, reviewers evaluated the quality and accuracy of the relevant case history as described in the Statement of the Case. Eleven (11) errors were noted, involving seven (7) out of 51 cases reviewed. No trends are noted, but the errors reported by the reviews included: (a) an incorrect description of the employee's cause of death as listed on the death certificate; (b) an incorrect diagnosis date for the claimed condition; (c) discussion of non-relevant SEM and toxic exposure issues in two separate cases for conditions that were being denied due to insufficient medical evidence; (d) an incorrect description of the verified employment dates; (e) failure to mention or address non-timely objection/evidence received on the date the FD was issued; (f) failure to mention that Part E survivor claims had been withdrawn in a decision addressing entitlement to benefits under Part B; (g) two separate cases denying on the basis of insufficient evidence of employment for claimed subcontractors, where the HR did not discuss or address the fact that the claimants were not sent an SSA581, or had returned an SSA581 but it was never sent to SSA; (h) a case in which the decision incorrectly states that the DOE provided no records pertaining to the claimed employment, when the DAR records showed visitor passes, radiological monitoring, and medical records for the claimant.

**Element 3: Findings of Fact:**

For this element, reviewers evaluated the accuracy, relevance and completeness of the findings of fact. Four (4) errors were noted involving four (4) out of 51 cases reviewed. No trends were noted. In one case, the claimant filed several claims, but the FOF does not list the dates with the claimed conditions. In one case, the dates of employment are not correct. In one case, the finding of fact that covered employment was not established was not correct since the DO erred in not taking the necessary development actions to assist in verifying such employment. In one case, the finding regarding toxic causation was irrelevant as the claim was denied for insufficient medical.

**Element 4: Conclusions of Law:**

For this element, reviewers evaluated the quality of the analysis in the Conclusions of Law and whether the outcome was correct. Sixteen (16) errors were noted involving ten (10) out of 51 cases reviewed. Most of these involved errors or omissions in the analysis or legal citations used in cases that were otherwise correctly decided. These included issues such as duplicative or unnecessary legal citations (5 cases), and lack of adequate analysis of the relevant evidence in explaining why the legal standard for compensation was not met (6 cases). In two cases of the cases reviewed, however, the following errors may have affected the outcome of the claim: In one case, a consequential condition was denied based on no evidence of direct causation attributable to the covered illness, but the record did contain evidence indicating that the covered illness may have aggravated or contributed to the claimed consequential condition. In another case, the claim was denied because of insufficient evidence to establish subcontractor employment at a DOE facility, but the claimant was never asked to complete an SSA581 and receipt of SSA records might have changed this determination.

<b>IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:</b>
<b>OTHER SIGNIFICANT FINDINGS:</b>

<b>REVIEWER(s):</b>	<b>DATE:</b>
Melvin Teal, Ramona Franks, Patricia DiLeo, Angela Eaddy, Victoria Lewis, Gregg Knapp, Curtis Johnson	August 26, 2016

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## Accountability Review Findings

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

Office Reviewed: Seattle FAB

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

<b>Standard:</b>	<b>Category #4 :</b>	<b>Remand Orders</b>
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Sample Size (total # of indicators in the element that were reviewed):	205
Number of cases reviewed:	41
Number of errors in element:	4
Acceptable rating:	90%
Rating for review:	98%

### **Describe Findings:**

Review of the Remand Category measures whether Seattle FAB remands were correct and based on file evidence, communicated relevant historical information, whether the response is correct pursuant to EEOICPA regulations, policies and procedures, contained clear language, and that the remand has been returned to the correct district office (DO). The Seattle FAB exceeded the acceptable rating for this Category with a rating of 98%.

Four errors were identified within this category. Claim (last four) 9371 was remanded to the DO because the recommended decision (RD) did not include a medical benefits statement. However, the review noted that the FAB should have included a retroactive benefits statement in the final decision (FD) instead of remanding the case and delaying compensation payment, per Procedure Manual (PM) Chapter 2-1800.4. In regard to claim 1821, the remand was determined to lack relevant details; specifically, why the submission of a birth certificate warranted a remand. Finally, with regard to claim 9596, the FAB remanded the case based on an employment period of 10/25/90 to 11/19/90 which the RD failed to address; however, this employment period had previously been found to be non-covered in a prior FD of 10/6/06.

<b>REVIEWER(s):</b>	<b>DATE:</b>
Anthony Fix	August 18, 2016

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## Accountability Review Findings

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

Office Reviewed: Seattle FAB

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

**Standard:** Category # 5 : Reconsideration Requests

Sample Size (total # of indicators in the element that were reviewed):	164
Number of cases reviewed:	41
Number of errors in element:	7
Acceptable rating:	90%
Rating for review:	96%

### **Describe Findings:**

The Seattle FAB office performed exceptionally well in this category with a 96% rating.

A total of seven errors were identified within this category. Four of the seven errors noted were found in claims (last four) 0091, 3829 and 5891. These errors involved a missing reconsideration decision in the case file. Additionally, two claims (4643 and 9646) were identified in which the reconsideration decision erroneously noted that no new evidence had been submitted, although the objections raised should have been considered as new evidence. The final error (8224) was based on a reconsideration decision to deny the claim where new evidence should have resulted in a remand.

<b>REVIEWER(s):</b>	<b>DATE:</b>
Curtis Johnson	August 18, 2016

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## Accountability Review Findings

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

Office Reviewed: Seattle FAB

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

<b>Standard:</b>	<b>Category #6 :</b> ECS Coding
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<b>Sample Size (total # of indicators in the element that were reviewed):</b>	134
<b>Number of cases reviewed:</b>	52
<b>Number of errors in element:</b>	8
<b>Acceptable rating:</b>	90%
<b>Rating for review:</b>	93%

### **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 the following: 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 rating for review exceeded the acceptable rating with a score of 93%. As such, so the majority of ECS coding reviewed was correct.

There were eight deficiencies identified within six specific cases. Two trends noted. For claims (last four) 4829 and 3571, the FD did not address all the years of wage-loss recorded in ECS. The second trend was that the Conclusions of Law in the FDs denied medical conditions based on a lack of medical diagnosis/sufficient medical evidence, but the ECS denial reason was recorded as negative toxic causation (4450, 8439, 8636, and 8832).

<b>REVIEWER(s):</b>	<b>DATE:</b>
Sidne M. Valdivieso	August 18, 2016