

AR-1

Accountability Review Findings

Dates of Review: August 1 – 5, 2016
Office Reviewed: National Office 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):	451
Number of cases reviewed:	41
Number of errors in category:	33
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 National Office exceeded the acceptable rating of 90% for this category, with an overall score of 92%.

There were 33 errors noted in the 41 cases reviewed. In the hearing pre-scheduling category there were multiple deficiencies. These deficiencies included 2 cases where the FAB did not acknowledge receipt of the letter or objection/request for hearing within 5 business days of receipt. There were 21 cases wherein the hearing was not scheduled within 40 days of the receipt of the hearing request. In all cases that were reviewed, the hearing notice was mailed to the claimant at least 30 days prior to the hearing and the hearing notice accurately advised the claimant of the time and location of the applicable live, videoconference, or telephone hearing. In all of the cases wherein the acknowledgment letter did inform the claimant of the option of a telephone/video hearing, no errors were found.

There were 10 cases wherein there were deficiencies in the hearing process, which included 2 cases where the HR did not mention that the case would be held open for additional information, or that a

transcript would be sent. In 7 cases, the transcript was either not sent or was sent after the required 7 day period. In 1 case it appears that the HR was not familiar with the case file prior to the hearing.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:

OTHER SIGNIFICANT FINDINGS:

REVIEWER(s):	DATE:
Mark Stewart , Melvin Teal, Victoria Lewis	September 6, 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):	123
Number of cases reviewed:	42
Number of errors in category:	17
Acceptable rating:	90%
Rating for review:	86 %

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 rating for this category is 86%. There were 17 errors in this category out of the 42 cases reviewed. The deficiencies included summaries of the objections that are incorrect or misstated by the FAB; summary of the objections that left out the relevant facts; ignored or failed to address newly submitted evidence in support of objections; failed to address the objections in the FD; did not respond appropriately/correctly to the objections; incorrectly stated the claimant did not submit any evidence when the claimant submitted multiple pieces of evidence that FAB failed to address in the FD; instances where the FD indicated a response to the claimant but did not have any specific objections; the response was overwhelming and did not apply to the denial reasons; and confusing summaries of the objections.

There was an instance where the claimant had withdrawn the claim prior to the hearing, which was cancelled and FAB still issued the FD.

One of the FDs could not be reviewed since it had not been scanned into OIS.

In summary the main errors were:

1. Failing to address objections
2. Summarizing the objections incorrectly
3. Failing to acknowledge evidence submitted in support of the objections
4. Incorrect responses to objections
5. Too detailed responses to objections when no specific objection had been made
6. A decision issued when the claim had been withdrawn.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:

OTHER SIGNIFICANT FINDINGS:

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<u>Standard:</u>	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):	884
Number of cases reviewed:	53
Number of errors in category:	65
Acceptable rating:	90%
Rating for review:	92 %

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 92%. The following trends were noted in each Element of the FAB Decision Category:

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

53 cases were reviewed with 15 deficiencies noted. One Final Decisions should not have been issued, when the Recommended Decision was returned. Three Final Decisions had errors in the cover letters: one addressed the claimant's objections, another included the incorrect street number, and the last referred to a female claimant as "Mr." Two Final Decisions had errors in the header: one included an incorrect issuance date and the other did not include the case number. One Certificate of Service included two cities, states, and zip codes. Two decisions were appropriately sent to an authorized representative (AR), but the cover letter did not note that the decisions were being sent to the AR. In one case, there were two issues: 1) the Introduction did not indicate a condition was being denied and 2) the Final Decision was not sent to one of the claimants, who indicated in the transcript that he was withdrawing his claim but did not put the withdrawal in a signed statement.

Element 2: Statement of the Case:

53 cases were reviewed with 24 deficiencies noted in the Statement of the Case section. As indicated above, 1 Final Decision should not have been issued. In 8 Final Decisions, an authorized representative (AR) existed, but the Final Decision did not note the existence of the AR and/or indicate that the decisions were being sent to the AR. In 3 Final Decisions, the Statement of Case was difficult to follow due to its arrangement: In one, an impairment decision, did not address the Final Decision accepting the covered illnesses, but started with the impairment claim; another started with the issuance of the Recommended Decision; the last did not clearly frame the deficiency (no diagnoses or no causation), provided the information out of chronological order, and discussed medical information concerning conditions already accepted. Three Final Decisions contained inaccurate information: one included a typographical error when providing employment dates; another noted the labor category had potential exposure to manganese, which was not accurate; and the last included a discussion of a general SEM search, which implied exposure that did not exist, and noted that the CMC did not find evidence of exposure, which is not left up to the CMC to decide. Three Final Decisions contained insufficient information: one did not note the submission of a waiver; another did not describe the submitted affidavits or information submitted in support of survivorship; and the last did not mention the existence of non-filing step-children, which was the reason compensation was held in abeyance, or the District Office's claim solicitation and telephone call to one of them who decided not to file. One Final Decision denied a condition that was not clearly recommended for denial.

Element 3: Findings of Fact:

53 Final Decisions were reviewed with 14 deficiencies found in the Findings of Fact section. As indicated above, 1 Final Decision should not have been issued. Two Final Decisions included Findings of Fact worded as Conclusions of Law. One included a Finding on both no diagnosis *and* no causation; a claim should be denied on only *one* of these bases. One Final Decision included a Finding of Fact in contradiction to a Conclusion of Law. One Final Decision included a typographical error (non-claimed condition). One Final Decision's Findings of Fact included a confusing presentation of the survivor's various names. One Final Decision should have

combined three different findings into one concise finding; this Final Decision also included one unnecessarily long finding lifted word for word from the Statement of the Case. One Final Decision included two unnecessary findings concerning a previous Final Decision and the Director's Order that vacated this Final Decision.

Element 4: Conclusions of Law:

53 Final Decisions were reviewed with 12 deficiencies found in the Conclusions of Law section. As indicated above, one Final Decision should not have been issued. One Final Decision discusses objections that were not previously mentioned. One Final Decision did not analyze evidence submitted in support of common-law marriage. One Final Decision did not explain why a portion of the compensation was being held in abeyance, while another did not explain why a claim for right breast cancer was being denied when the claim for left breast cancer was being accepted. One Final Decision included repetitive citations. One Final Decision did not clearly explain the distribution of funds in the multiple survivors claim.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:
Other significant findings: National Office FAB generally does not indicate that we consider the PoC under Part E, too. We must determine under Part E whether a cancer is radiogenic, just as we do under Part B.

REVIEWER(s):	DATE:
Mark Stewart , Melvin Teal, Victoria Lewis	September 6, 2016

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Accountability Review Findings

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

Office Reviewed: National Office FAB

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

Standard:	Category #4 :	Remands
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Sample Size (total # of indicators in the element that were reviewed):	225
Number of cases reviewed:	44
Number of errors in element:	6
Acceptable rating:	90%
Rating for review:	97%

Describe Findings:

Review of this category measured whether a remand was necessary and appropriate based on the evidence in the file. It also measures if the basis of the remand and further action to be taken are accurate and clearly described. The National Office Final Adjudication Branch (FAB) exceeded the acceptable rating for this Category with a rating of 97%.

There were six cases identified as containing errors. Specifically, in claim 4764, the remand cited the wrong medical condition. In claims (last four) 0954, 0414 and 0603, deficiencies were noted as the remand decisions in question failed to list the appropriate legal citations. In claim 0418, the cover letter was incorrect as it cited to the wrong district office (DO) to which the case was being returned. Finally, claim 5140 was noted as deficient as the remand order was found to be confusing and failed to clearly communicate necessary information.

REVIEWER(s):	DATE:
Anna DePasquale	August 18, 2016

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Accountability Review Findings

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

Office Reviewed: National Office 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:	41
Number of errors in element:	3
Acceptable rating:	90%
Rating for review:	98%

Describe Findings:

The review for the reconsideration category measures FAB's response to requests for reconsiderations and whether those responses are clearly explained and follow the guidance of the EEOICPA and relevant procedures and policies. The National Office FAB exceeded this category with a rating of 98%.

Only three errors were identified within this category. Claim numbers (last four) 6285, 8943 and 8889 all were found to include reconsideration decisions which failed to sufficiently address all the claimant's concerns and objections in the reconsideration decision.

REVIEWER(s):	DATE:
Rodney Alston	August 18, 2016

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Accountability Review Findings

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

Office Reviewed: National Office 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):	260
Number of cases reviewed:	52
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 relates 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 National Office FAB did an excellent job in this category. The four errors were of various types, so no trend was identified. In claim (last four) 0812, the FD deferred the condition of chronic beryllium disease (CBD) but the ECS final determination did not contain a deferral for CBD. In claim 0957, the 1/19/16 FD for 2 survivors contained differing coding for each survivor, although the written decision adjudicated their claims identically. For claim 1379, the waiver was never recorded in ECS (so the 2/25/16 FD is untimely); and in claim 5499, there were multiple duplicative entries for medical components.

REVIEWER:	DATE:
Sidne M. Valdivieso	August 18, 2016