

AR-1

Accountability Review Findings

Dates of Review: June 26 – 30, 2017

Office Reviewed: Cleveland Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

Review Period: June 1, 2016 – April 30, 2017

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Standard:	Category # 1 - Response to Hearing Requests Element # 1- Hearing Pre-Scheduling Element # 2- Hearings
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Sample Size (total # of indicators in the element that were reviewed):	228
Number of cases reviewed:	38
Number of errors in element #1:	N/A
Rating for element #1	N/A
Number of errors in element #2	8
Rating for element #2	96%
Acceptable rating:	90%
Rating for review:	96%

Describe Findings:

The Response to Hearing Requests category measures whether hearings are scheduled and conducted according to established policy and procedure. Element 2, Hearings, was reviewed.

In all cases reviewed, the assigned HR demonstrated familiarity with the decision under contention, and directed the hearing in a manner that ensured the claimant(s) had an opportunity to fully present their objections. Also, no deficiency was noted in the hearing transcript demonstrating that the HR accurately communicated program policy or procedure, asked logical and relevant questions relating to the issue under contention,

and directed the hearing conversation in a manner responsive to input or issues raised by the hearing participants.

There were 8 errors noted in 38 cases reviewed. Six (6) of the errors relate to either not sending the transcript out within 7 calendar days or no record of it being sent out at all. Half of the six errors concern the hearing transcript not being sent within 7 calendar days of receipt at the FAB and the other half are for no record of the transcript being sent at all to either the claimant or authorized representative.

The other two errors were due to specific objections in the hearing request not being acknowledged or addressed at the hearing.

Improvements Since Last Accountability Review:

Other Significant Findings:

REVIEWER(s):	DATE:
David Howell, Kristina Green, Tonya Fields, Lawrence Ricci, Hang Tung	June 30, 2017

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Standard:	Category # 2 Category Name: Addressing Claimant Objections
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Sample Size (total # of indicators in the element that were reviewed):	123
Number of cases reviewed:	41
Number of errors in element:	2
Acceptable rating:	90%
Rating for review:	98%

Describe Findings:

This category measures whether the HR identifies every objection and provides a correct and thoroughly explained response. The FAB exceeded the acceptable rating criterion with a score of 98%.

Only two deficiencies were noted. These deficiencies included the following: 1. failure to identify claimant stated objections or address objections in the review of the written record; 2. failure to provide claimant with comprehensive rationale that justifies need for NIOSH rework.

Improvements Since Last Review:

Other Significant Findings:

REVIEWER(s):	DATE:
Rodney Alston, Kristina Green, Wendell Perez, David Howell Hang Tung	June 30, 2017

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Standard:	Category # 3- ECS Coding Element #1 - Recording the Claimant's Response Element #2 – Coding RWR or Hearings Element #3- Recording FAB Determinations
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Sample Size (total # of indicators for element that were reviewed):	477
Number of errors in element #1:	13
Rating for element #1	65%
Number of errors in element #2:	0
Rating for Element #2	100%
Number of Errors in element #3	4
Rating for element #3	98%
Acceptable rating:	90%
Rating for review:	92%

Describe Findings:

This category reviews the accuracy of Energy Compensation System (ECS) coding as it relates to the FAB actions – recording the claimant's response, recording hearings and reviews of the written record (RWR), and FAB determinations (FDs), which include final decisions and remands. The documents and dates seen in the electronic case file will be directly compared to the ECS entries.

For Element 1, Recording the Claimant's Response, we reviewed the recording of the claimants' response type and the filing date. The filing date is determined by the earliest date of: fax receipt, postmark, date stamp, receipt through portal or the receipt by the Central Mail Room. Of 37 cases reviewed where the claimants had filed a response, 13 cases were found to have errors. The primary issue was that signature dates or various OIS dates (like captured date, submission date, or received date) were being used, instead of the postmark dates of the attached envelopes or the fax dates.

For Element 2, ECS Coding RWR or Hearings, if there were a hearing or RWR, we reviewed the hearing or RWR status and status date. There were only 3 cases that were reviewed under this category, but none contained errors.

For Element 3, Recording FAB Determinations, we reviewed ECS to see if it matched the written final decision. This included ensuring all claimants and components were entered with the correct decision type, benefits were properly allocated, the correct release date was recorded, the correct denial reasons and remand reasons were recorded, and the proper eligibility begin dates and ICD codes were entered to properly generate medical benefits. The following errors were noted in the FAB Determinations:

- One case did not include 7 of 8 claimants for the Part E decision because they had withdrawn their claims, but the FD in ECS denied them for Part E lung cancer, instead of marking them as "not included" in the decision.
- One case never stated the amount of compensation being awarded in the written decision. Because of the lack of information to compare to ECS, that counted as an ECS error.
- One case had an incomplete ICD-10 code on the cover letter.
- One case had an incorrect filing and medical eligibility date in the written decision that differs from what was in ECS. ECS actually contains the correct information, but the discrepancy between the written decision and ECS makes it an ECS error.

Improvements Since Last Accountability Review:

Other Significant Findings:

REVIEWER(s):	DATE:
Kathy Matau	June 30, 2017

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Accountability Review Findings

Dates of Review: August 21, 2017 - August 25, 2017

Office Reviewed: Cleveland Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

Review Period: June 1, 2016 – April 30, 2017

Standard:	Category Name: Remands	Category # 4
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Sample Size (total # of indicators in the element that were reviewed):	210
Number of cases reviewed:	41
Number of errors in element:	15
Acceptable rating:	90%
Rating for review:	93%

Describe Findings:

This category measures whether a remand was necessary and appropriate based on the evidence in the file. It also measures whether or not the basis of the remand and further action taken were accurately and clearly described. Specifically, it evaluates whether the decision to remand was correct and consistent with program policies; whether the decision clearly explained the specific evidentiary, legal, regulatory and/or policy guidelines which resulted in the recommendation of the district office not being finalized; that the Final Adjudication Branch (FAB) took all necessary actions to avoid a remand; and that the remand order included a cover letter to the claimant(s) explaining that the claim was returned to a specific district or co-located FAB office.

- There were five errors identified in five cases. In all five cases, the cover letters of the remand order did not specify which district office the case was being returned to.
- There were four errors found in two cases. These errors were related to indicators 2 and 4. The remand order did not clearly communicate what new employment or medical evidence was received and lacked any discussion on why the case was being returned to the district office.
- In one case, two errors were found which applied to indicators 1 and 4. The remand order was based on the employee not meeting the 250 aggregate workday requirement to be qualified as a member of the Special Exposure Cohort (SEC). However, the employment evidence of record shows that the employee did exceed the 250 work day requirement; consequently, no remand was required.
- In one case, two errors were found which applied to indicators 1 and 3. The claimant withdrew their claim. The case was remanded back to the district office to administratively close the claim. In accordance with the Procedure Manual, instead of remanding the case, the FAB should have administratively closed the file.
- In one case, one error was found which applied to indicator 4. The remand order did not specify that the recommended decision was to accept and deny. The remand order stated that the recommended decision was to deny.
- In one case, one error was found which applied to indicator 4. The recommended decision denied the employee's claim for chronic obstructive pulmonary disease (COPD) and skin cancers due to insufficient evidence to establish employment. Employment evidence was submitted. The remand order only stated that the claimed skin cancers were being remanded. The remand order did not include the employee's COPD. **A final decision needs to be issued to adjudicate COPD.**

Improvements Since Last Accountability Review:

N/A

Other Significant Findings:

N/A

REVIEWER(s):	DATE:
Carolina R. Harris	August 25, 2017

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Dates of Review: August 21, 2017 - August 25, 2017

Office Reviewed: Cleveland Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

Review Period: June 1, 2016 – April 30, 2017

Standard:	Category Name: Reconsiderations	Category # 5
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Sample Size (total # of indicators in the element that were reviewed):	152
Number of cases reviewed:	39
Number of errors in element:	5
Acceptable rating:	90%
Rating for review:	96%

Describe Findings:

This category measures whether the Final Adjudication Branch (FAB) provided an appropriate response to formal requests for reconsideration. It also measures whether the response was clearly explained and correct pursuant to program regulations, policies and procedures.

Specifically, this category reviews whether the National Office FAB sent an acknowledgement letter in response to the reconsideration request, or new evidence submitted within 30 days of the Final Decision (FD) which could be considered a request for reconsideration; whether a FAB Claims Examiner (CE) or Hearing Representative (HR) not affiliated with the FD under review considered the request; whether the response to the request was correct given the evidence of record; and whether the reconsideration decision contained narrative language that clearly

explained the basis for the decision, including the granting of a reconsideration constituting a new FD.

There was one trend identified in this category; specifically, the reconsideration responses were not bronzed into OIS. Consequently, there is no record of the reconsideration response.

Improvements Since Last Accountability Review:

N/A

Other Significant Findings:

N/A

REVIEWER(s):	DATE:
Susan Price	August 25, 2017

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Standard:	Category # 6 - FAB Decisions
	Element #1: Decision Correspondence, FD Introduction; and Formatting
	Element #2: FD - Statement of Case
	Element #3: FD - Findings of Fact
	Element #4: FD - Conclusions of Law

Sample Size (total # of indicators for element that were reviewed):	850
Number of cases reviewed:	50
Number of errors in element #1:	14
Rating for element #1	94%
Number of errors in element #2:	9
Rating for element #2	96%
Number of errors in element #3	13
Rating for element #3	94%
Number of errors in element #4	7
Rating for element #4	97%
Acceptable rating:	90%
Rating for review:	95%

Describe Findings:

This category measures whether final decisions (FDs) and medical/monetary benefits issued by the Final Adjudication Branch (FAB) were written in the proper format, with correct content supported by the evidence of record.

Element 1 addresses the decision correspondence, FD Introduction, and FD formatting. Several FDs were noted containing the incorrect docket numbers. Additionally, the reviewers identified several cover letters which contained errors. One cover letter did not list the authorized representative (AR); one cover letter belonged to another case not associated with the FD; one did not indicate which Part the decision pertained to; one did not address a portion of the claim filed by one of the claimants; and one gave the incorrect effective date for medical benefits;

Element 2 pertained specifically to the Statement of the Case portion of the FD. Two FDs contained errors in the Statement of the Case regarding the covered Department of Energy facility - one listed the wrong confirmed employment facility and one stated the wrong period of coverage. In another two FDs, the diagnosis date of the claimed condition was not listed in the Statement of the Case. In another, a male employee was referred to as "she" in the Statement of the Case, and in another the Statement of the Case did not address one of the claimant's Part E claim. One (1) case identified multiple errors that apply to several indicators; specifically a vacated FD was used to establish details to include employment, diagnosis date, employment and causation development.

Element 3 assessed the Findings of Fact portion of the FD. Several cases were identified as containing errors, including Findings of Fact that were actually Conclusions of Law; toxic substances cited in the Findings of Fact did not match toxic substances that were cited in the Conclusions of Law; and in another the Findings of Fact did not address one of the claimant's Part E claims.

Element 4 pertained to the Conclusions of Law portion of the FD. Deficiencies identified within this element included an FD in which a condition that was not included in the Recommended Decision was addressed in the Conclusions of Law; a FD in which the Conclusions of Law did not address one of the claimant's Part E claims; one FD pertaining to a survivor claim where the Conclusions of Law included citations for an employee claim; one file failed to deny a Part E claim when there was no indication that it was withdrawn; two cases had either no or incorrect citations; and three FDs addressed the incorrect condition(s).

Improvements Since Last Accountability Review:

N/A

Other Significant Findings:

N/A

REVIEWER(s):	DATE:
Keiran Gorny	August 25, 2017