

# AR-1

## Accountability Review Findings

Dates of Review: June 26 – 30, 2017

Office Reviewed: Denver Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

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

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<b>Standard:</b>	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):	138
Number of cases reviewed:	23
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	94%
Acceptable rating:	90%
Rating for review:	94%

### **Describe Findings:**

#### Category 1

The Response to Hearing Requests category measures whether hearings are scheduled and conducted according to established policy and procedure.

Element 2: Hearings reviewed whether or not a hearing was appropriate; (ie should hearing have been remanded rather than holding a hearing.)

Indicator 1: Two decisions warranted remand prior to conducting the hearing, but hearings were conducted. In the first case the claimant had tongue cancer that was sent

to NIOSH and recommended for denial, but clarification regarding the location of the tongue cancer was not obtained, from the claimant, his doctor or a CMC. The claim was remanded after hearing when claimant showed his tongue and it became clear that it would be an SEC grant.

In the second case the claimant submitted new evidence that would have been sufficient to a remand or a reverse to accept. It appears as though this information was not reviewed prior to the hearing.

Indicator 2: Does the transcript of the hearing reflect the HR addressed all required topics to include opening statement, oath, purpose and process of hearing, discussion of objections?

All the transcripts reviewed follow the script and covered all the required topics.

Indicator 3: Does the hearing transcript reflect that the assigned HR had familiarity with the decision under contention and direct the hearing in a manner that ensured that claimant had an opportunity to fully present objections?

The Denver Fab transcripts reviewed show the HRs reviewed the objections and claimants were given the opportunity to address the objections.

Indicator 4: Does the hearing transcript demonstrate that the HR accurately communicate program policy or procedure, asked logical and relevant questions relating the issue under contention and direct the hearing responsive to the issues raised by the claimant?

One case stood out in the review in which the claimant was contesting the 1% impairment issued when 2 years prior he was at 4%. The HR stated that the claimant needs a doctor who specializes in impairment ratings. HR should have explained that impairments are conducted by doctors certified to conduct impairment ratings based on the AMA guides 5<sup>th</sup> edition when conditions have reached maximum medical improvement.

Indicator 5: Did the HR inform claimant and or representative of the 30 day period following the hearing to submit evidence and that a transcript would be provided?

The Denver hearing transcripts reviewed showed all HRs did this correctly.

Indicator 6: Was the claimant sent a copy of the transcript with a post hearing cover letter within 7 calendar days of receipt of the transcript?

There were 5 cases in which this element was not met. 1 case exceeded the 7 calendar days by a few days. 1 case transcript was received on 10-27-16 and sent out 12-6-16,

another case transcripts were received on 9-21-16 and sent out in December of 2016. In the fourth case, the transcript was received on 9-8-16 and sent out on November 23, 2016. In the fifth case, there was no correspondence created in ECS to show a letter went out with the transcripts and no letter uploaded into OIS to show the transcripts were sent out. Lastly, the hearing screen still says hearing convened and was not changed to transcripts sent out. OIS does show the claimant sent in a letter confirming receipt of the transcript.

**Improvements Since Last Accountability Review:**

**Other Significant Findings:**

<b>REVIEWER(s):</b>	<b>DATE:</b>
Tony Zona, David Howell, Wendell Perez	June 30, 2017

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<b>Standard:</b>	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:	40
Number of errors in element:	3
Acceptable rating:	90%
Rating for review:	97%

### **Describe Findings:**

This category measures whether the HR identifies every objection and provides a correct and thoroughly explained response.

We found three errors in this category. One final decision only addressed one of three objections provided by the claimant. Another error was for not providing a more complete response as to why pulmonary hypertension was not included in an impairment rating for the same organ system. The final error was noted because the Remand Order did not fully explain the reasoning behind the remand or explain how the newly submitted medical evidence warrants a remand.

**Improvements Since Last Review:**

**Other Significant Findings:**

<b>REVIEWER(s):</b>	<b>DATE:</b>
Wendell Perez, Lawrence Ricci, David Howell, Kristina Green, Tonya Fields	June 30, 2017

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<b>Standard:</b>	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):	401
Number of errors in element #1:	1
Rating for element #1	97%
Number of errors in element #2:	0
Rating for Element #2	100%
Number of Errors in element #3	6
Rating for element #3	97%
Acceptable rating:	90%
Rating for review:	97%

### **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 32 cases reviewed where the claimants had filed a response, only one case was found to have an error.

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 two 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 had a missing skin cancer component.
- One case had an FD where the FD release date did not match the date on the FD in OIS.
- One case had an incorrect denial reason recorded in ECS.
- One case had an incorrect remand reason code entered in ECS.
- Two cases had incorrect ICD codes.

**Improvements Since Last Accountability Review:**

**Other Significant Findings:**

<b>REVIEWER(s):</b>	<b>DATE:</b>
Mary Sullivan	June 30, 2017

# AR-1

## Accountability Review Findings

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

Office Reviewed: Denver Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

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

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Standard:	Category Name: Remands	Category # 4
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Sample Size (total # of indicators in the element that were reviewed):	215
Number of cases reviewed:	43
Number of errors in element:	6
Acceptable rating:	90%
Rating for review:	97%

### **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 two cases identified in which the purpose of the remand was unclear. Of these, one indicated that there was new medical evidence, but did not discuss the



importance of the new evidence. The other contained extraneous information which confused the purpose of the remand.

One case was remanded due to an incorrect finding of 250 days in the Special Exposure Cohort. In another case, a typographical error led to inconsistency in the remand. And finally, one case was remanded when it should have been administratively closed.

**Improvements Since Last Accountability Review:**

N/A

**Other Significant Findings:**

N/A

<b>REVIEWER(s):</b>	<b>DATE:</b>
Susan Price	August 25, 2017

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

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Standard:	Category Name: Reconsiderations	Category # 5
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Sample Size (total # of indicators in the element that were reviewed):	161
Number of cases reviewed:	41
Number of errors in element:	1
Acceptable rating:	90%
Rating for review:	99%

### **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 were no trends identified in this category. However, there was one case where the reviewer concluded that the reconsideration did not contain sufficient narrative language that clearly explained the basis for the request and subsequent decision.

**Improvements Since Last Accountability Review:**

N/A

**Other Significant Findings:**

N/A

<b>REVIEWER(s):</b>	<b>DATE:</b>
Karen McKnight	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):	867
Number of cases reviewed:	51
Number of errors in element #1:	1
Rating for element #1	99%
Number of errors in element #2:	0
Rating for element #2	100%
Number of errors in element #3	2
Rating for element #3	99%
Number of errors in element #4	3
Rating for element #4	99%
Acceptable rating:	90%
Rating for review:	99%

**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. One (1) case was found to have an error. The error found there was an incorrect cancer identified in the cover letter.

Element 2 pertained specifically to the Statement of the Case portion of the FD. No errors were noted under this element.

Element 3 assessed the Findings of Fact portion of the FD. Reviewers noted two (2) cases with errors under this element, in both of which the incorrect condition was identified.

Element 4 pertained to the Conclusions of Law portion of the FD. Reviewers noted two (2) deficiencies based on duplicative citations.

**Improvements Since Last Accountability Review:**

N/A

**Other Significant Findings:**

N/A

<b>REVIEWER(s):</b>	<b>DATE:</b>
Betty Jo Fortune	August 25, 2017