

# AR-1

## Accountability Review Findings

Dates of Review: June 26 – 30, 2017  
Office Reviewed: National Office 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):	451
Number of cases reviewed:	41
Number of errors in element #1:	13
Rating for element #1	94%
Number of errors in element #2	14
Rating for element #2	94%
Acceptable rating:	90%
Rating for review:	94%

### **Describe Findings:**

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

There were a total of 27 errors in 41 cases reviewed.

There were some deficiencies in the hearing pre-scheduling category, which corresponds to Element 1. The deficiencies included 1 instance in which a hearing request was forwarded to the hearing coordinator and the request was not acknowledged within five business days of receipt. In addition, there were 12 instances in which the hearing

coordinator did not schedule the hearing within forty days from the date of the most recent hearing request. In all cases reviewed, the hearing coordinator issued an acknowledgement letter to inform the recipient of the option of a telephone or video hearing. In addition, in all cases reviewed, the hearing coordinator mailed hearing notices at least thirty days in advance of the hearing which apprised all recipients of the time, date, location and nature (live, video or telephone) of the hearing.

There were also some deficiencies in the hearing category, which corresponds to Element 2. The deficiencies included 1 instance in which the hearing representative did not adequately summarize the claimant's objections and 1 instance in which the hearing representative did not clearly explain what constitutes pharyngeal cancer for the purposes of the Special Exposure Cohort (SEC). There was also 1 instance in which the hearing representative did not identify the period for comment (transcript) following the hearing. Finally, there were 8 instances in which the hearing transcript was not sent within seven days of receipt and 3 instances in which the transcript was not sent prior to a determination of the claim.

There were two noteworthy trends. Specifically, there were several instances in which hearings were not scheduled within the established timeframe and several instances in which hearing transcripts were not issued in a timely fashion. No additional patterns were noted.

**Improvements Since Last Accountability Review:**

n/a

**Other Significant Findings:**

n/a

<b>REVIEWER(s):</b>	<b>DATE:</b>
Lawrence Ricci, Kristina Green	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:	41
Number of errors in element:	9
Acceptable rating:	90%
Rating for review:	93%

### **Describe Findings:**

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

When reviewing the cases for this element, we looked to see if the final decision appropriately addressed the distinct objections raised by the claimant either in writing or presented during an oral hearing. For each objection addressed in the final decision, we looked to see if the response was correct given the evidence of record and application of program policy/procedures. We also reviewed the case to ensure that the response was written using language that clearly communicates the decision of the writer and provides sufficient descriptive content to explain the interpretive analysis applied to justify the outcome. The standards used for this review is pursuant to Federal (EEOICPA) Procedure Manual Chapter 26 – FAB decisions.

The rating for this category is 93%. Out of 41 cases in this category, there were a total of 9 errors in 3 cases.

Indicator 1: Does the final decision appropriately address the objections raised by the claimant?

The deficiencies in the first case included the objections not being identified or addressed in a review of the written record. In the second case, the final decision denied Line 1 employment at the Iowa Ordinance Plant although the the Corporate verifier suggested medical records should be obtained. There is no evidence that medical records were requested. The third case involved a hearing loss claim for a long term employee. The hearing representative simply stated that SEM is negative but did not seek a referral to National Office in order seek guidance as to whether the job duties were similar to one of the eligible labor categories.

Indicator 2: For each objection addressed in the final decision, is the response correct given the evidence of record?

The same three cases were identified as deficient in this indicator. In the first case, since objection was not addressed, it was considered deficient. In the second case, medical evidence should have been sought from the employer to confirm possible eligible employment. Finally, in the third case, since the claimant stated that he performed similar duties as a machinist in the same shop, a possible referral to National Office was necessary but was no requested.

Indicator 3: Is the response to each objection easily understood and provides sufficient content to explain the outcome?

Same three cases were identified as deficient in this indicator. In the first case, since the objection was not addressed, this indicator was also found to be deficient. In the second case, the FD conclusion that the employee's verified employment was outside the covered time period is not accurate since the facility was covered from 1947 to 1974 and the employee's employment was verified from 1967 to 1969. Finally, in the third case, there was no explanation as to why the employee's job was not equivalent to a covered labor category for hearing loss.

**Improvements Since Last Review:**

**Other Significant Findings:**

<b>REVIEWER(s):</b>	<b>DATE:</b>
Kristina Green, Wendell Perez, Lawrence Ricci, Tony Zona	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):	356
Number of errors in element #1:	16
Rating for element #1	62%
Number of errors in element #2:	N/A
Rating for Element #2	N/A
Number of Errors in element #3	7
Rating for element #3	96%
Acceptable rating:	90%
Rating for review:	90%

### **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 42 cases reviewed where the claimants had filed a response, 16 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. Unfortunately, there were no RWR or hearing cases that were in the sample.

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 involved the cover letter and FD contradicting each other (Cover letter for 2/1/17 decision failed to deny prostate cancer although decision in ECS denied it). If the decision is inconsistent, there is no way to know what is correct in ECS and it is counted as an ECS error.
- Three cases had an incorrect denial reason coded in ECS.
- One case had an incorrect remand reason recorded in ECS (reason should have been coded as an error due to SWC award not being considered in the recommended decision).
- One case had an incorrect medical eligibility begin date (which resulted in a year's worth of potential medical benefits being denied).
- One case had conflicting medical status effective dates between what was on the medical screen and what was in the decision.

**Improvements Since Last Accountability Review:**

**Other Significant Findings:**

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

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## Accountability Review Findings

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

Office Reviewed: National Office Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

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

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Standard:	Category # 4 Category Name: Remands
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Sample Size (total # of indicators in the element that were reviewed):	230
Number of cases reviewed:	42
Number of errors in element:	2
Acceptable rating:	90%
Rating for review:	99%

### **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.

One Remand Order was identified that indicated that the employee claim was a survivor claim. The Remand Order also did not provide analysis of why the treating physician's causation opinion submitted with the objection was valid and warranted a remand. Further, it remanded a withdrawn condition and two other claimed conditions that had no toxic link that could have been denied at the time of the Remand Order.

Another Remand Order contained a Cover Letter which indicated that the case was being returned to the Cleveland District Office when the case was being returned to the Jacksonville District Office.

**Improvements Since Last Accountability Review:**

N/A

**Other Significant Findings:**

N/A

<b>REVIEWER(s):</b>	<b>DATE:</b>
Tracy Smart, Hearing Representative	August 25, 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):	152
Number of cases reviewed:	39
Number of errors in element:	4
Acceptable rating:	90%
Rating for review:	97%

### **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.

In one case, no acknowledgement letter was found in OIS. In another case, the Reconsideration request was untimely and the Denial of Reconsideration addressed the claimant's arguments, but does not mention that it was untimely. In a third case, the claimant submitted a new argument that referenced a medical journal citation concerning the alleged relationship between the claimed conditions and toxic exposure. However, the Reconsideration denial doesn't adequately explain why this wasn't sufficient to warrant reconsideration. Finally, in the last case, the Reconsideration denial does not discuss the three handwritten pages or five pages of medical evidence submitted with the request; and fails to explain the basis of denial.

**Improvements Since Last Accountability Review:**

N/A

**Other Significant Findings:**

N/A

<b>REVIEWER(s):</b>	<b>DATE:</b>
Alison M. Supanich	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:	14
Rating for element #1	94%
Number of errors in element #2:	5
Rating for element #2	98%
Number of errors in element #3	0
Rating for element #3	100%
Number of errors in element #4	1
Rating for element #4	99%
Acceptable rating:	90%
Rating for review:	98%

### **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. The reviewers noted errors in fourteen (14) cases under this element. In three (3) cases, the authorized representative (AR) was not listed on the certificate of service or cover letters, and it did not appear that the AR received a copy of the final decision. Three (3) cases had typographical errors in the claimant's address. (These decisions appeared to have reached their destination, however, since they were not returned by USPS). Five (5) cases had other typographical/proofreading errors (e.g., wrong condition, wrong district office, claimant gender, etc.). Finally, three (3) cases had errors or omissions concerning the accepted conditions in the cover letter or medical benefits letter.

Element 2 pertained specifically to the Statement of the Case portion of the FD. The reviewers noted errors in five (5) cases under this element. Four (4) cases were identified to have had typographical/proofreading errors or omissions (i.e., incorrect dates of employment, incorrect recommended decision date, condition omitted from the introductory paragraph, acronym not defined); and one (1) case had insufficient discussion of the causation development that was undertaken (why case was referred to IH, CMC).

Element 3 assessed the Findings of Fact portion of the FD, and no errors were noted for this element.

Element 4 pertained to the Conclusions of Law portion of the FD. One (1) error was noted under this element in which the claim for COPD was being denied on causation, the conclusions of law did not adequately address all of the potential exposures related to COPD that were evaluated in this case. The decision addressed only the issue of causation in relation to asbestos, but not the other documented exposures.

**Improvements Since Last Accountability Review:**

N/A

**Other Significant Findings:**

N/A

<b>REVIEWER(s):</b>	<b>DATE:</b>
Greg Knapp	August 25, 2017