

AR-1

Accountability Review Findings

Dates of Review: June 4 - 8, 2018

Office Reviewed: Cleveland Final Adjudication Branch

Review Period: May 1, 2017 – April 30, 2018

Standard:	Category 1: Response to Hearing Requests Element 1: Hearing Pre-Scheduling Element 2: Hearings
------------------	--

Number of cases reviewed	42
Rating for Element #1	N/A
Rating for Element #2	95%
Acceptable rating:	90%
Overall Category Rating:	95%

Summarize Category (or Element) Findings:

The Response to Hearing Requests category reviews whether hearings were scheduled and conducted according to established policy and procedure. Element 1 only applies to National Office FAB and measures the timeliness in preparing and scheduling a hearing.

Element 2 evaluates whether the HR was familiar with the case and if the hearing was appropriate and conducted in a manner that would be responsive to the claimant(s) issues and their objections.

A total of fourteen errors were identified in this category, with three noticeable trends. Eight errors were the result of the hearing representative's failure to mail the hearing transcript within 7 calendar days. An additional three errors were the result of the hearing being scheduled when the case file evidence deemed a hearing was not necessary. The remaining three errors were the result of the HR failing to direct the hearing in a manner responsive and relevant to the outstanding issues (e.g. recommended denial was based on insufficient medical, yet hearing transcript consisted of a detailed discussion regarding/explaining the toxic causation standard).

Overall, a review of the transcripts demonstrate that the HR addressed all required topics during the course of the hearing (e.g. opening statement, oath administration, purpose of hearing, etc.) and that the HR had a working knowledge of the case file evidence prior to the hearing.

Other Significant Findings:

AR TEAM REVIEWER(S):	DATE:
Curtis Johnson, Charles Bogino, Anna DePasquale, Mark Stewart, Aaron Warren	06/08/18

AR-1

Accountability Review Findings

Dates of Review: June 4 – 8, 2018

Office Reviewed: Cleveland Final Adjudication Branch

Review Period: May 1, 2017 – April 30, 2018

Standard:	Category 2: Addressing Claimant Objections
------------------	--

Number of cases reviewed	41
Acceptable rating:	90%
Overall Category Rating:	91%

Summarize Category (or Element) Findings:

This category reviews whether the final decision appropriately addresses the objections raised by the claimant either in writing or presented during an oral hearing. For each objection raised, we reviewed the response in the final decision to determine if it was clearly communicated and correctly adjudicated given the evidence of record and application of program policy and procedure. We also reviewed the decision to determine if it provided sufficient descriptive content to explain the interpretive analysis applied to justify the outcome.

Of 42 cases reviewed where the claimants filed an objection, eleven errors were found. These eleven errors were found among eight cases. The nature of the errors is varied. However, errors related to insufficient responses to objections were most common.

There were seven errors where the objections were not addressed with any specificity. Some cases listed the objections separately but did not respond to each objection.

There were three errors where the responses to the objections were not clearly written and/or did not sufficiently explain why the objections did not alter the decision.

In one case found to have an error, the reviewer determined that the FAB erred in not exercising its authority to issue a reversal to accept.

Other Significant Findings:

Although the above mentioned errors were found during the Accountability Review (AR), the overwhelming majority of cases sampled demonstrated a high level of program expertise. It bears noting that although our review revealed errors related to a lack of specificity in answering objections, the FAB Office ultimately reached the correct final determination in all of these cases.

AR TEAM REVIEWER(S):	DATE:
Anna DePasquale, Charles Bogino, Curtis Johnson, Deborah Rinella, Mark Stewart, Melvin Teal, Hang Tung, Aaron Warren	June 8, 2018

AR-1

Accountability Review Findings

Dates of Review: June 4 - 8, 2018

Office Reviewed: Cleveland Final Adjudication Branch

Review Period: May 1, 2017 – April 30, 2018

Standard:	Category 3: ECS Coding Element 1: Recording the Claimant's Response Element 2: Coding RWR or Hearings Element 3: Recording FAB Determinations
------------------	--

Number of cases reviewed	51
Rating for Element #1	80%
Rating for Element #2	82%
Rating for Element #3	96%
Acceptable rating:	90%
Overall Category Rating:	93%

Summarize Category (or Element) 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.

The Cleveland Final Adjudication Branch (FAC) exceeded the acceptable rating for this Category with a rating of 93%. There were 51 cases reviewed and 15 were identified that had errors.

For Element 1, Recording the Claimant's Response, we reviewed whether the correct response type and the file date was entered, whether the waiver coding was correct and whether the filing date was correct. Seven cases reviewed were found to have errors. A pattern was demonstrated as six cases used the captured date in OIS instead of the postmark date of the envelopes or fax. In one instance, the waiver was missed.

For Element 2, ECS Coding RWR or Hearings, if there was a hearing or RWR, we reviewed the hearing or RWR status and status date. A trend was demonstrated as all four cases found to be in error did not have the "transcript sent" entered in the hearing tab.

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, the FAB portion of the SEC path was completed where appropriate, 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. A pattern was demonstrated in that six cases were in error for not entering the "SEF" coding on the causation tab when the FD was accepting the cancer claim based on SEC. One case coded the deferred conditions as "not included", instead of "deferred". Two cases had a different decision date on the document in OIS than that date in ECS.

Other Significant Findings:

AR TEAM REVIEWER(S):	DATE:
Anna DePasquale, Mark Stewart, Charles Bogino, Curtis Johnson, Aaron Warren, Victoria Lewis, Sarah Friedman, Hang Tung, Mel Teal, Kathy Matau	06/08/18

AR-1

Accountability Review Findings

Dates of Review: July 16, 2018 – July 20, 2018

Office Reviewed: Cleveland Final Adjudication Branch

Review Period: May 1, 2017 – April 30, 2018

Standard:	Category 4: Remands
------------------	---------------------

Number of cases reviewed	42
Acceptable rating:	90%
Overall Category Rating:	93%

Summarize Category (or Element) 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 case was returned to a specific district or co-located FAB office.

Of the 42 cases reviewed, 14 were found to have errors. In three cases, the remand order was not correct – a) 1% impairment claim was remanded due to newly accepted conditions and a new claim for impairment which should have been paid (this error covered two indicators); b) a physician's opinion on causation was not well-rationalized to warrant a remand; and c) new evidence received in the FAB provided a basis for FAB to reverse to accept instead of a remand (this error covered two indicators).

Three cases were found to be deficient due to the background content not communicating relevant historical information relating to the remand order topic; i.e., no discussion of specific employment evidence previously sent that district office found to be insufficient/FAB only quoted part of the RD that stated the general reason for denying the claim; the remand doesn't describe the development that occurred prior to the RD; and the remand did not list the prior FD dated 11/2/2012.

In three cases the remand order did not identify the appropriate statute, regulation, or program resource which served as the basis for the determination.

In two cases, the remand order did not contain written language that clearly communicates the interpretive analysis applied in reaching the decision. In the first case, only a one sentence paragraph regarding new employment evidence (no discussion of what was received and why the evidence was sufficient to warrant a remand), and in the second case the remand contained minimal interpretive analysis and only contained a list of evidence, description of testimony presented on appeal and synopsis of the CMC's conclusions.

One case was found deficient because it did not list in the cover letter or the remand order that the remand should be returned to the Cleveland office.

Other Significant Findings:

AR TEAM REVIEWER(s):	DATE:
Kathy Matau, Helen O'Neill, Yolanda Greer, Marek Brustad, Lawrence Ricci, Jill Mortimer, Mark Langowski, Kristina Green, Curtis Johnson, Hang Tung, Angela Eaddy.	July 20, 2018

AR-1

Accountability Review Findings

Dates of Review: July 16, 2018 – July 20, 2018

Office Reviewed: Cleveland Final Adjudication Branch

Review Period: May 1, 2017 – April 30, 2018

Standard:	Category 5: Reconsiderations
------------------	------------------------------

Number of cases reviewed	41
Acceptable rating:	90%
Overall Category Rating:	97%

Summarize Category (or Element) 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 an acknowledgement letter was sent in response to the reconsideration request, or new evidence was 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 the reconsideration constituting a new FD.

There were four cases found to have errors in this category. In one case, the Reconsideration was signed by the same person who wrote the final decision. In two of the cases, an outdated version of the Procedure Manual was cited. The final error related to the narrative in the Order Granting the Reconsideration and Remand did not specify what new medical evidence was received nor did it state why it is sufficient to support the remand.

Other Significant Findings:

AR TEAM REVIEWER(s):	DATE:
Kathy Matau, Helen O'Neill, Yolanda Greer, Marek Brustad, Lawrence Ricci, Jill Mortimer, Mark Langowski, Kristina Green, Curtis Johnson, Hang Tung, Angela Eaddy.	July 20, 2018

AR-1

Accountability Review Findings

Dates of Review: July 16, 2018 – July 20, 2018

Office Reviewed: Cleveland Final Adjudication Branch

Review Period: May 1, 2017 – April 30, 2018

Standard:	Category 6: FAB Decisions
	Element #1: Decision Correspondence; FD Introduction; Written Quality & Formatting
	Element #2: FD – Statement of the Case
	Element #3: FD – Findings of Fact
	Element #4: FD – Conclusions of Law

Number of cases reviewed:	51
Rating for Element #1	93%
Rating for Element #2	92%
Rating for Element #3	94%
Rating for Element #4	94%
Acceptable rating:	90%
Overall Category Rating for review:	93%

Summarize Category (or Element) Findings:

The category measures whether the Final Decisions (FD) 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 reviews the accuracy of the information contained in the cover letter, FD introduction, and accuracy of attachments to the FD.

In this element, the review team found one (1) error with the first indicator, determining that the examiner did not bronze the decision into OIS, making review impossible.

The team also identified a total of three (3) errors within the second indicator, determining that the case identification number was incorrect for one decision, again determining that a decision dated had not been bronzed for review and that a signature page for a cover letter was missing.

In addition, the team noted a total of ten (10) errors within the third indicator. In four (4) instances, the cover letter did not reference the accepted conditions, and in another neither the cover letter nor introductory paragraph to the decision did so. Further, in one case (1) a cover letter referred to a deferral not discussed in the decision, and in one (1) case a deferred condition discussed in the decision was not identified in the cover letter. In an additional case, the cover letter and decision did not refer to medical benefits acceptance. There was also a case in which the cover letter did not discuss the denied components of the claim. Finally, the team noted that a decision had not been bronzed, making a review of the indicator impossible.

The team identified two (2) errors for the fourth indicator. In one (1) instance, the cover letter did not clearly state the part or parts of the Act under which the conditions were being accepted. The indicator could not be reviewed for an additional case in which the decision was not bronzed in OIS.

The fifth and final indicator could not be reviewed for one (1) case, as the relevant documents were missing from OIS.

Element 2 reviews the accuracy of Personally Identifiable Information (PII) in the Statement of the Case and that it contains an accurate description of the development actions taken that led to the decision being made.

In this element, the review team found one error within the first indicator. In a single instance, a case could not be reviewed because the decision was not bronzed into OIS.

The team found seven (7) errors for the second indicator. In two (2) instances, there were conditions referenced in the decision that were not claimed on an EE-1. In a single instance, there was no discussion of survivorship evidence, and the recommended decision was incompletely summarized. In an additional instance, the decision misstated the waiver receipt date. In another, the decision did not list a facility or employment dates. There was also a decision that identified a prior final decision for which there is no record. Finally, there was a decision that was not bronzed and could not be reviewed.

For the third indicator, the team identified four (4) errors. In three separate decisions, the case examiner did not verify the probability of causation results, include all denied conditions in the recommended decision summary or verify employment independently from the recommended decision. Finally, in one case, the decision was not bronzed into OIS and could not be reviewed.

For the fourth indicator, the team noted two (2) errors. In one case, the examiner inappropriately discussed the Part E causation standard in the Statement of the Case, and an additional case could not be reviewed because the decision was not bronzed into OIS.

Element 3 covers the factual information contained in the Findings of Fact and that the facts of the case are clearly identified and listed in a logical order.

The first indicator had one (1) error for a missing decision that was not bronzed into OIS.

Five (5) errors were noted in the second indicator. In one case, the claimed conditions were not listed. Another decision did not properly refer to the dose reconstruction results forming the basis of the decision. In a third case, there was insufficient information regarding which skin cancers were being accepted and which were being denied. There was also a decision that did not indicate that the claimed condition caused the employee's death. An additional final decision could not be reviewed, as it was missing from OIS.

Only two (2) errors were found in the third indicator. In one instance, a decision included a causation finding in an SEC acceptance, and in another the review could not be completed because the decision was missing from OIS.

Finally, a total of three (3) errors were noted in the fourth indicator. In one instance, the findings did not list the claimed conditions, and in another did not state that the employee died as a result of a claimed condition. A third decision was missing from OIS and could not be reviewed.

Element 4 reviews the Conclusions of Law for accuracy in the decision being made, citations referenced, and a clear narrative description for the decision being made.

In the final element, the team found three (3) errors within the first indicator. In one case, the incorrect recommended decision was referenced. In another, the decision misrepresented the basis for a Part E denial, which was correctly stated in the recommended decision. A third decision could not be reviewed, as it was not available in OIS.

The second indicator had one (1) error for the missing decision in OIS.

The team identified four (4) errors under the third indicator. In one instance, the decision based a Part E denial on payment of maximum total benefits of \$250,000 rather than maximum payable benefits to the survivor. In another, the correct language was not included for the Part E causation standard. In a third instance, the decision included language appropriate to deny an employee rather than a survivor claim. A final decision was unavailable for review in OIS.

In the final indicator, the team found seven (7) errors. In one case, the examiner included a Part E citation in a Part B decision. In another, the appropriate Part E citation was omitted from a survivor acceptance. In a third decision, a SEC citation was included in a non-SEC determination. A

fourth decision did not include a Part B citation for a claim under the SEC. In two (2) additional decisions, the examiner did not include the regulatory citation when referring to a specified cancer. A final decision was not bronzed to OIS and could not be reviewed.

Other Significant Findings:

AR TEAM REVIEWER(S):	DATE:
Kathy Matau, Helen O'Neill, Yolanda Greer, Marek Brustad, Lawrence Ricci, Jill Mortimer, Mark Langowski, Kristina Green, Curtis Johnson, Hang Tung, Angela Eaddy.	July 20, 2018