

## AR-1

### Accountability Review Findings

Dates of Review: June 4 - 8, 2018

Office Reviewed: Jacksonville Final Adjudication Branch

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

<b>Standard:</b>	Category 1: Response to Hearing Requests  Element 1: Hearing Pre-Scheduling Element 2: Hearings
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Number of cases reviewed	39
Rating for Element #1	N/A
Rating for Element #2	97%
Acceptable rating:	90%
Overall Category Rating:	97%

#### **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 four errors were identified in this category. While there was no single identifiable trend, there were instances where the hearing representative either failed to communicate the program policies clearly or did not provide a sufficient summary of the case, as reflected in the case transcripts, to indicate that the hearing representative had sufficient familiarity with the case, or, at least in one case, both.

**Other Significant Findings:**

**AR TEAM REVIEWER(S):**

Charles Bogino, Anna DePasquale, Curtis Johnson, Greg Knapp,  
Aaron Warren, Anthony Zona

**DATE:**

06/08/18

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<b>Standard:</b>	Category 2: Addressing Claimant Objections
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Number of cases reviewed	44
Acceptable rating:	90%
Overall Category Rating:	95%

#### **Summarize Category (or Element) Findings:**

This category reviews whether the final decision appropriately address 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.

There were just three findings of significance:

In one case, the final decision had not been bronzed into OIS.

The other two cases contained the following substantive errors:

One case resulted in a remand under Part E for claims based on neuropathy and two melanomas. The basis for the remand for neuropathy, a SEM link and new medical evidence submitted following the hearing, was appropriate. However, the remand for the melanomas was not, as it was based on "new medical evidence," a physician's statement containing very general language that "some solvents may increase the risk of melanoma," while the SEM search results for the facility do not establish any known link to melanoma and a toxic exposure to the employee in the employee's labor category.

In the other case, the authorized representative argued at the hearing that the medical evidence supported a diagnosis of pulmonary fibrosis, according to language contained in the Procedure Manual. The Jacksonville FAB response to the objection, however, was confusing to the point of being unsupportive of the denial of the condition, as it stated, "The Procedure Manual does not say that a formal diagnosis of pulmonary fibrosis is not needed; rather, it states that a diagnosis is supported by the evidence, not that the evidence itself may be sufficient for a determination that a diagnosis has been made." The claim should have been remanded for further medical review.

**Other Significant Findings:**

<b>AR TEAM REVIEWER(S):</b>	<b>DATE:</b>
Charles Bogino, Anna DePasquale, Curtis Johnson, Greg Knapp, Katherine Matau, Melvin Teal, Hang Tung, Aaron Warren, Anthony Zona	June 8, 2018

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### Accountability Review Findings

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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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Number of cases reviewed	52
Rating for Element #1	95%
Rating for Element #2	93%
Rating for Element #3	98%
Acceptable rating:	90%
Overall Category Rating:	97%

#### **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.

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. Of the cases reviewed where the claimants had filed a response, two cases were found to have errors. The primary issue was that the received date for when the document was received into OIS was used for the filing date instead of the earliest discernible filing date.

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 of the RWR. Of the RWR and hearing cases reviewed, two cases were found to have errors. One issue was that the RWR date does not match the date of the FD; and the other issue was an incorrect date recorded in ECS for the transcript received.

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. The main trend observed was that the "SEF" coding was not completed on the SEC causation path cases. There were four cases missing this coding. There were also two cases where conditions that were listed in the FD were not included in the decision in ECS.

**Other Significant Findings:**

<b>AR TEAM REVIEWER(S):</b>	<b>DATE:</b>
Anna DePasquale, Charles Bogino, Curtis Johnson, Greg Knapp, Aaron Warren, Victoria Lewis, Sarah Friedman, Hang Tung, Mel Teal, Kathy Matau, Tony Zona	06/08/18

## AR-1

### Accountability Review Findings

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

Office Reviewed: Jacksonville Final Adjudication Branch

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

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<b>Standard:</b>	Category 4: Remands
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Number of cases reviewed	44
Acceptable rating:	90%
Overall Category Rating:	99%

#### **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.

There were two cases found to have errors in this category. Of these cases, one case could have been remanded prior to holding a hearing, because new medical evidence was received prior to the hearing. The other error related to the recommended denial of multiple lung conditions (asthma, COPD and pulmonary lung disease). A footnote in the remand order implies that the claimed conditions were all types of pulmonary lung diseases and that the claimant may want to withdraw the specific condition of "pulmonary lung disease" as it is a non-specific diagnosis, and then file a new claim with a specific illness. However, in the closing paragraph of the remand order, it notes that the file contains a diagnosis of "pulmonary lung disease".

Other Significant Findings:

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Kathy Matau, Helen O'Neill, Chris Patterson, Paula Rangoon, Marek Brustad, Lawrence Ricci, Jill Mortimer, Mark Langowski, Kristina Green, Curtis Johnson, Hang Tung, Angela Eaddy.	July 20, 2018

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<b>Standard:</b>	Category 5: Reconsiderations
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Number of cases reviewed	41
Acceptable rating:	90%
Overall Category Rating:	100%

#### **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 no errors in the Reconsideration category.

#### **Other Significant Findings:**

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Kathy Matau, Helen O'Neill, Chris Patterson, Paula Rangoon, Marek Brustad, Lawrence Ricci, Jill Mortimer, Mark Langowski, Kristina Green, Curtis Johnson, Hang Tung, Angela Eaddy.	July 20, 2018

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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:	52
Rating for Element #1	97%
Rating for Element #2	96%
Rating for Element #3	93%
Rating for Element #4	96%
Acceptable rating:	90%
Overall Category Rating for review:	95%

#### **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.

The majority of the errors identified for this element were essentially typos: incorrect state in address on the cover letter, incorrect docket number on FD, and failure to include description of appeal rights on the cover letter. These errors totaled 5 of the 9 errors noted.

The remaining errors identified in this element were:

- Cover letter and FD did not list either accepted or deferred condition addressed by the decision.
- Cover letter and FD deferred a condition that was not before FAB (condition claimed while file was at FAB).
- Two separate medical benefits letter errors - one did not include the ICD code for the accepted condition, the other grants benefits effective 1/30/2017, but the condition was claimed on 11/3/2017.

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

Minor errors for this element include: incomplete scans into the OWCP Imaging System (OIS), use of incorrect pronouns (in one FD, female referred to as male; in another FD, one survivor referred to as they), and a typo listing employment start date as 1/3/76 instead of 11/30/76 (correct employment dates are used in NIOSH development).

The remaining errors for this element were:

- Employment used by FAB different than identified in Recommended Decision (RD) but no explanation given for discrepancy.
- Wage loss (WL) FD states employee was medically disabled due to accepted condition, but provides no discussion of WL causation letter from the employee's physician or date of disability.
- Excessive information provided regarding reasoning behind acceptance of condition that is the basis for an Impairment (IMP) acceptance.

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

Some of the typos rolled over to this element: incomplete OIS scan (one case but impacting three indicators of this element), references to female EM with male pronouns, stating work location as K25 rather than Y12, and filing date for one condition listed as 1/30/2017 instead of the correct date of 11/3/2017.

Other errors were related to failure to include either an exposure or a causation statement in the FOF:

- In four FDs where CMC/physician opinion was the basis of the Part E decision, these CMC/physician causation opinions were not mentioned in FOF.
- In one of the four cases that did not include the CMC determination to support the no causation determination under Part E, there was also no reference to the Probability of Causation (PoC) to support a low PoC denial under Part B
- In one case, there was no finding regarding toxic exposure in the FOF for the FD accepting Chronic Obstructive Pulmonary Disease (COPD).

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

Again, the incomplete OIS scan impacted this element as the COL was missing from OIS. A FD included the typo error of a header listing a condition that was not discussed in the COL.

The other errors in this element were:

- A condition denied under Part E in the RD and listed as denied in the introduction to the FD, was not addressed in the COL.
- In a separate FD, cancer denied under B/E in RD, denied under B/E in the intro to FD, and discussed (low PoC) in the SOC, but was not addressed in COL under Part B at all. (No Part B info appears in COL). Should have been denied for low PoC under B.
- Stated that COPD was accepted under Part E, but the FD was accepting bronchitis and denying COPD.

<b>Other Significant Findings:</b>
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<b>AR TEAM REVIEWER(S):</b>	<b>DATE:</b>
Kathy Matau, Helen O'Neill, Chris Patterson, Paula Rangoon, Marek Brustad, Lawrence Ricci, Jill Mortimer, Mark Langowski, Kristina Green, Curtis Johnson, Hang Tung, Angela Eaddy.	July 20, 2018