

AR-1

Accountability Review Findings

Dates of Review: June 3, 2019 – June 7, 2019

Office Reviewed: Denver Final Adjudication Branch

Review Period: May 1, 2018 – April 30, 2019

Standard:	Category # 1 - FAB Decisions Element #1: Decision Correspondence; FD Introduction; Written Quality Element #2: FD – Statement of the Case Element #3: FD – Findings of Fact Element #4: FD – Conclusions of Law
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Number of cases reviewed:	51
Rating for Element #1	97%
Rating for Element #2	98%
Rating for Element #3	100%
Rating for Element #4	96%
Acceptable rating:	90%
Overall Category Rating for review:	97%

Summarize Category (or Element) Findings:

This Category assesses whether the Final Decisions (FDs) were clearly written with correct content supported by the evidence of record. This Category is separated into four Elements that correspond to different sections of the FD.

Element 1 reviews the accuracy of the factual information contained in the cover letter and FD introduction. It assesses whether the attachments included in the FD were appropriate and properly completed. It also reviews the FD to evaluate the overall readability of the decision and determine if it is free of substantial grammatical or typographical errors.

Element 2 reviews the Statement of the Case (SOTC) section of the FD to determine if it contained an accurate and descriptive discussion of the relevant facts. This Element also evaluates whether the SOTC communicates a case history that is relevant to the FD being issued.

Element 3 covers the Findings of Fact (FOF) section of the FD to evaluate if this section is limited to the facts needed to reach the conclusions of law. It assesses whether the FOF were correct given the evidence of file and application of legal, regulatory or procedural standards.

Element 4 reviews if the FD addressed each of the conclusions reached in the Recommended Decision (RD). This Element reviews the Conclusions of Law (COL) section to assess whether the Final Adjudication Branch (FAB) communicated appropriate analysis of case evidence based on applicable standards to arrive at a correct decision. It also evaluates citations to determine if they support the FD.

The Denver FAB performed well in this Category. The reviewers did not find any FD that was incorrectly decided. The reviewers noted that most of the errors were non-substantive and did not follow any trend or consistent pattern. In one case, the docket number was off by one digit; another did not specify the medical benefits effective date in the FD itself, although it was provided in the cover letter. A third FD does not appear to have been sent to the Authorized Representative.

Two FDs contained citation errors. In these cases, the FDs referenced and applied the appropriate exposure/causation presumption standard, but the Procedure Manual citation was slightly off (correct chapter, wrong sub-section).

In two instances, combined FD/Remand Orders incorrectly delineated the Parts of the Act under which conditions were being denied and/or remanded. In one case, the cover letter stated that Part E skin cancer was being remanded, when it was actually being accepted. In a separate case, the FD/Remand Order did not delineate between Parts B and E in the introductory paragraph and COL.

Only one FD had deficiencies in the overall narrative and analysis that made it somewhat confusing. In that case, the reviewer found the SOTC hard to follow because most of the relevant procedural history was explained in small-print footnotes; one of the footnotes referenced nothing. Additionally, this FD lacked any reference to the RD that was being affirmed.

Other Significant Findings:

AR TEAM REVIEWER(S):	DATE:
Greg Knapp; Tracy Smart; Anthony Zona; Carolina Harris; Wendell Perez; Sidne Valdivieso; Alison Supanich; Keiran Gorny; Kristina Green; Angela Eaddy; Hang Tung; Curtis Johnson; Cyril Pratt	June 12, 2019

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Accountability Review Findings

Dates of Review: June 3, 2019 – June 7, 2019

Office Reviewed: Denver Final Adjudication Branch

Review Period: May 1, 2018 – April 30, 2019

Standard:	Category #2: Remands
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Number of cases reviewed	45
Acceptable rating:	90%
Overall Category Rating:	95%

Summarize Category (or Element) Findings:

This Category measures whether a remand was necessary and appropriate based on the evidence in the file. Specifically, it evaluates whether the claimant's information was correct; whether there was appropriate justification to support the remand; whether the remand contained an accurate and descriptive discussion of the relevant facts and whether the remand clearly communicated the analysis applied by the FAB in reaching the remand decision.

In one case, the Remand Order was not bronzed in OWCP Imaging System. This error spanned four Indicators. In two cases, the Remand Orders contained incorrect information – 1) The Authorized Representative's first name was misspelled on the cover letter, Remand Order, and Certificate of Service; and 2) The incorrect city was used. In one case, the Remand Order was based on a claim for kidney disease, but the Remand Order concluded the issue was based on an increased impairment claim. An error was found in one case where the Remand Order was due to the receipt of a new EE-1 form for additional cancer while the case was at the Final Adjudication Branch. However, the reviewer stated the Remand Order did not discuss the relevant history of the previous cancer that went to National Institute for Occupational Safety and Health and where the Probability of Causation was less than 50%.

Other Significant Findings:

AR TEAM REVIEWER(s):	DATE:
Carolina Harris; Greg Knapp; Tracy Smart; Anthony Zona; Wendell Perez; Sidne Valdivieso; Alison Supanich; Keiran Gorny; Kristina Green; Angela Eaddy; Hang Tung; Sarah Friedman; Cyril Pratt	June 12, 2019

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Accountability Review Findings

Dates of Review: June 3, 2019 – June 7, 2019

Office Reviewed: Denver Final Adjudication Branch

Review Period: May 1, 2018 – April 30, 2019

Standard:	Category #3: Reconsiderations
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Number of cases reviewed	41
Acceptable rating:	90%
Overall Category Rating:	96%

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 assesses whether the FAB clearly and correctly explained program regulations, policies and procedures.

Specifically, this Category reviews whether the National FAB sent an acknowledgement letter in response to a reconsideration request; whether a FAB Claims Examiner (CE) or Hearing Representative (HR) not affiliated with the Final Decision (FD) under review considered the request; and whether the factual information was correct in the decision. It also evaluates the reconsideration to determine if it was written in a manner understandable to the reader and free of grammatical or typographical errors. Finally, it evaluates whether the response to a request for reconsideration was correct given the evidence of record.

The errors in this Category include a typographical error in the Authorized Representative's (AR) name in the cover letter; not sending a copy of the reconsideration to the AR; reference to an incorrect medical condition; not addressing all the employment issues raised in the reconsideration request; and not addressing medical records submitted with the reconsideration request.

Other Significant Findings:

AR TEAM REVIEWER(s):	DATE:
Keiran Gorny; Greg Knapp; Tracy Smart; Anthony Zona; Carolina Harris; Wendell Perez; Sidne Valdivieso; Alison Supanich; Kristina Green; Angela Eaddy; Hang Tung; Sarah Friedman; Cyril Pratt	June 12, 2019

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Accountability Review Findings

Dates of Review: July 22, 2019 – July 26, 2019

Office Reviewed: Final Adjudication Branch (Denver)

Review Period: May 1, 2018 – April 30, 2019

Standard:	Category #4: Response to Hearing Requests Element #1: Hearing Pre-Scheduling Element #2: Hearings
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Number of cases reviewed	43
Rating for Element #1	N/A
Rating for Element #2	98%
Acceptable rating:	90%
Overall Category Rating:	98%

Summarize Category (or Element) Findings:

Element 1 is ratable for FAB National Office cases only.

For Element 2, three decisions were determined to contain errors.

In two cases, the hearing introduction did not include a mention of important information submitted by the claimant. The first case involved a secondary set of objections which were not included in the hearing transcript. The other case involved no discussion of a new medical opinion which later served as the basis for remanding the claim.

In the third case, the HR misstated the requirement for considering the pre-1993 criteria for CBD as the date in which the employee was initially tested for, diagnosed with, and/or initially treated for a chronic respiratory disorder. Instead, the requirement should have explained that evidence must establish at least three out of the five criteria for CBD prior to 1993.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Karoline Anders, Sarah Friedman, Matthew Fowler, Curtis Johnson, Jeana LaRock, Mark Stewart, Aaron Warren, Anthony Zona	July 31, 2019

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Accountability Review Findings

Dates of Review: July 22, 2019 – July 26, 2019

Office Reviewed: Final Adjudication Branch (Denver)

Review Period: May 1, 2018 – April 30, 2019

Standard:	Category #5: Addressing Claimant Objections Element #1: Addressing Claimant Objections
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Number of cases reviewed	41
Rating for Element #1	92%
Acceptable rating:	90%
Overall Category Rating:	92%

Summarize Category (or Element) Findings:

The team identified nine errors in six cases. Two of the six errors involved objections based on impairment rating deficiencies which should have been considered rectified by the receipt of a new impairment report.

Two other cases involved objections to the NIOSH dose reconstruction report. These final decisions treated these as general objections to NIOSH with a lack of specificity. One objection stated the employee believed his work during covered employment was not addressed by NIOSH, and submitted a newspaper article describing work performed at the facility in question. The final decision made no reference to the employee's statement or the newspaper article submitted with the objection.

One case had errors in all three indicators within the element because the final decision (FD) did not address an objection made by the authorized representative (AR). The AR questioned the validity of an impairment evaluation without the benefit of consultation and/or physical examination of the employee. The FD did not respond to this statement and the lack of a physical examination was not addressed or noted in the FD.

One case had a typographical error that created confusion in the written decision. Although typographical errors generally don't result in errors on accountability reviews, in this instance,

the final decision said the claimant did not provide a new impairment report, when it should have said the claimant did provide a new report. Due to its significance in altering the meaning, this was counted as an error.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Karoline Anders, Sarah Friedman, Matthew Fowler, Curtis Johnson, Jeana LaRock, Mark Stewart, Debra Teitenberg, Aaron Warren, Anthony Zona	July 31, 2019

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Accountability Review Findings

Dates of Review: July 22, 2019 – July 26, 2019

Office Reviewed: Final Adjudication Branch (Denver)

Review Period: May 1, 2018 – April 30, 2019

Standard:	Category #6: 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	98%
Rating for Element #2	92%
Rating for Element #3	97%
Acceptable rating:	90%
Overall Category Rating:	97%

Summarize Category (or Element) Findings:

For Element 1, only one error was found due to a hearing request noted being coded in ECS for one of the multiple claimants. Although this is an ECS coding error, the claimant's hearing request was handled properly and the claimant was afforded the opportunity for a hearing since it was scheduled based on the hearing request made by another claimant in the same case.

For Element 2, only two errors were found. One error was found because the hearing screen did not record the hearing requests made by all claimants who had requested a hearing. Another error was found due to a discrepancy between the date a hearing transcript was received and the date it was recorded as received in ECS.

For Element 3, five errors were found. Four errors were noted due to incomplete SEF coding and one error was found due to a medical benefits effective date being incorrect.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Aaron Warren, Anthony Zona, Jeana LaRock, Mark Stewart, Debra Teitenberg, Matthew Fowler, Curtis Johnson, Sarah Friedman	July 31, 2019