

AR-1

Accountability Review Findings

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

Office Reviewed: National 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	91%
Rating for Element #2	93%
Rating for Element #3	93%
Rating for Element #4	94%
Acceptable rating:	90%
Overall Category Rating for review:	92%

Summarize Category (or Element) Findings:

This Category assesses whether 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 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.

For Element 1, the errors include FDs without copies sent to the Authorized Representative; FDs with typographical errors (including incomplete docket number and incorrect street address); an FD where the medical benefits letter referred to the Employment Standards Administration; and a case where the FD to accept and pay was never issued (this case was coded as an acceptance in the Energy Compensation System, but the FD to accept and pay was not done at the time of the review).

For Element 2, the errors include using legal citations in the Statement of the Case; incorrect employment dates; and citation of multiple skin cancers without diagnosis dates or how many cancers were diagnosed.

For Element 3, the errors include no finding of insufficient medical evidence; incorrect employment dates; finding regarding State Workers' Compensation/tort where benefits are not being offset; and an incorrect medical condition.

For Element 4, the errors in this Element include citing an Industrial Hygienist (IH) and Contract Medical Consultant when evidence was from IH and the treating physician; citing Part B regulations for cancer in a claim for silicosis; no legal citation, and no citation on a reversal.

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	June 12, 2019

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Accountability Review Findings

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

Office Reviewed: National Final Adjudication Branch

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

Standard:	Category #2: Remands
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Number of cases reviewed	42
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 cover letter stated that the Remand Order was being returned to the Jacksonville Office but provided the Cleveland Office contact information. The Remand Order stated that the case was being returned to the Seattle Office.

In one case, the Certificates of Service state that a copy of the Notice of Final Decision and Remand Order were sent; however, there was only a Remand Order produced.

In two cases, the Authorized Representative (AR) was not listed on the Certificate of Service or cover letter.

In one case, the AR's full street address nor Post Office Box were in the cover letter or Certificate of Service.

One error was found in a case where resume development was a factor. The Recommended Decision (RD) of October 22, 2018 should not have been issued and the Remand Order should

have addressed this error and remanded the RD that was also issued on May 2, 2018 which was an original denial that was interrupted by a claim withdrawal.

In one case, the Interactive Radio (e)Epidemiological Program shows ten cancers were considered; however, the Remand Order says there are twelve cancers and the National Institute for Occupational Safety and Health used eleven.

In one case, the Remand Order incorrectly identified employment at the Sandia National Laboratory when the claimant actually worked at the Savannah River Site.

In one case, the RD denied the claim due to a low Probability of Causation for sinus cancer. While the case was at the Final Adjudication Branch (FAB), the claimant submitted a new EE-1 form for skin cancer without providing any medical evidence of skin cancer. FAB did not perform any minimal development to determine whether the claimant had medical evidence for skin cancer before issuing a Remand Order advising the district office to request medical evidence for skin cancer. At the time of the review, the case file still had no medical evidence for skin cancer.

Other Significant Findings:

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

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Accountability Review Findings

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

Office Reviewed: National Office 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:	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 assesses whether the FAB clearly and correctly explained program regulations, policies and procedures.

Specifically, this Category reviews whether the National FAB sent acknowledgement letters in response to reconsideration requests; 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 evaluation of the timeliness of acknowledgement letters and the assignment of reconsiderations were only considered for this office, since they are handled by FAB OPS. There were no errors.

For the most part, the reconsideration decisions were correct. However, there were four errors under the remaining criteria.

One reconsideration denial addressed the reconsideration request as being timely. However, the request was untimely (and was recorded in the ECS as untimely).

One reconsideration denial addressed a reconsideration request for an FD issued on December 31, 2018. The request was postmarked February 5, 2019, which was untimely, and received in OIS on February 8, 2019. However, the denial referenced the later date (February 8, 2019) as the reason the reconsideration was denied as untimely.

One reconsideration denial described the reconsideration challenge as the employee had “much more” covered employment. However, the claimant stated she had no objection to the period of verified employment, she did object to the diagnosis date – which was not addressed in the reconsideration denial.

One Authorized Representative raised multiple challenges to the FD. The reconsideration denial lists the challenges, but then dismissed them with a general statement that they were not sufficient to grant “an appeal” without addressing the reasons why they were not sufficient.

Other Significant Findings:

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

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Accountability Review Findings

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

Office Reviewed: Final Adjudication Branch (National Office)

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	41
Rating for Element #1	98%
Rating for Element #2	99%
Acceptable rating:	90%
Overall Category Rating:	99%

Summarize Category (or Element) Findings:

Overall, FAB National Office did excellent work in this category.

Element 1: There were two claims in which FAB sent written hearing notices to the claimants a day or more late, thus they did not provide those claimants with the full 30 day notice of the hearing. Also, there was no indication that those claimants had waived the 30 day notice requirement.

Element 2: There was one claim where the hearing transcript did not show that the hearing representative advised the claimant that he/she had 20 days to submit corrections or amendments to the transcript.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Karoline Anders, Marek Brustad, William Elsenbrock, Sarah Friedman, Robert Garcia, 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 (National Office)

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	90%
Acceptable rating:	90%
Overall Category Rating:	90%

Summarize Category (or Element) Findings:

A total of twelve errors were identified in this category. Ten out of the twelve errors were identified among four multiple error cases. Two major trends in this category involved improper responses to claimant's objections (6 errors) and unclear written communication in justifying the decision outcome (4 errors).

One of the four multiple error cases involved a claim for COPD and an unspecified "respiratory condition requiring oxygen." The language within the claimant's objection letter states that the "respiratory condition requiring oxygen" was COPD, which was approved by FAB in a separate decision. However, the claim for "respiratory condition requiring oxygen" was denied. Given that the employee's entitlement to medical benefits for oxygen would fall under the accepted condition of COPD, this should have been explained in the final decision and the claim for "respiratory condition requiring oxygen" should have been addressed in the same decision which accepted COPD.

A second multiple error case involved a decision which did not specifically address the claimant's objection regarding an IH analysis for the dates of covered employment (IH report states 9 years of employment versus actual 19 years). The FD should have acknowledged the error within the IH analysis and explain that the error had no bearing on the final decision

rendered because weight of medical evidence lies with the opinion rendered by the CMC, which identified the appropriate period of covered employment.

One other multiple error case involved an improper toxic substance exposure analysis where the decision writer based its negative causation rationale solely on a limited SEM search.

The fourth multiple error case will require a reopening (already alerted the Jacksonville District Office). The employee objected to his denial based upon a finding of no covered employment at Paducah. However, he was a remediation subcontractor (not a USEC subcontractor), so he does have covered employment at Paducah.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Karoline Anders, Marek Brustad, William Elsenbrock, Sarah Friedman, Robert Garcia, 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 (National Office)

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	51
Rating for Element #1	89%
Rating for Element #2	100%
Rating for Element #3	95%
Acceptable rating:	90%
Overall Category Rating:	94%

Summarize Category (or Element) Findings:

For Element 1, six errors were found related to recording the claimant's response. In three of these cases, the claimant's response was recorded in ECS but the date of the response was not recorded accurately in ECS. These three errors were related to the postmark date not being used as the file date for recording the claimant's response. In two other cases, the claimant's waivers were not recorded in ECS.

For Element 2, no errors were found.

For Element 3, a total of fourteen errors were found. Four errors related to missing SEF coding were noted. Two errors related to the benefits allocations screen, one error related to an incorrect denial reason being recorded in ECS, one error where the FAB did not record the correct reason

for issuing a remand, and three errors related to medical benefits information being incorrect or incomplete.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Aaron Warren, Anthony Zona, Jeana LaRock, Mark Stewart, William Elsenbrock, Robert Garcia, Marek Brustad, Debra Teitenberg, Sarah Friedman, Curtis Johnson	July 31, 2019