

AR-1

Accountability Review Findings

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

Office Reviewed: Seattle 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	96%
Rating for Element #2	98%
Rating for Element #3	98%
Rating for Element #4	96%
Acceptable rating:	90%
Overall Category Rating for review:	96%

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 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.

Overall review of the Seattle FAB FDs shows correct application of established program policies and procedures, and clear, well-written decisions. The Seattle FAB did not bronze one FD in OIS; therefore, for this case, every Element and Indicator under Category 1 is an error. (The RD was issued on November 21, 2018 denying the survivor claim under Part B and Part E. The claimant's number of record was called on June 6, 2019. The claimant's son-in-law answered and advised that the claimant passed away December 11, 2018; however, they received the FD denying the claim.)

Under Category 1, Element 1, there are three case errors. In one case, the Seattle FAB did not mail a copy of the decision to the designated Authorized Representative (AR). Another case notes that it is a Remand Order on the cover letter to the AR, however, the decision was an FD accepting the claim for medical benefits. The third case shows the month of issuance as May, when it should be March.

Category 1, Element 4 shows two case errors. In one case, the Seattle FAB did not award medical benefits to the surviving spouse, even though the employee had claims pending when he passed away for the same conditions to support the \$150,000 award of survivorship compensation under Part B of the Act. The second case found erroneous was due to the verbiage, "5-year latency period," not mentioned regarding colon cancer as a specified cancer. The decision included the regulatory citation specific to the 5-year latency period, but the reviewer felt the COL should have the verbiage included.

Other Significant Findings:

AR TEAM REVIEWER(S):	DATE:
Tracy Smart; Greg Knapp; Anthony Zona; Carolina Harris; Wendell Perez; Sidne Valdivieso; Cyril Pratt; 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: Seattle Final Adjudication Branch

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

Standard:	Category #2: Remands
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Number of cases reviewed	43
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. 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 claimant provided a new address in the objection letter; however, the Remand Order was sent to the old address. In another case, the cover letter for the Authorized Representative contains the incorrect employee's name in the introductory paragraph. The same cover letter mentions that the Remand Order was issued for chronic obstructive pulmonary disease (COPD) claim. However, the Remand Order specified that it was not only for COPD but also for pneumoconiosis and consequential sleep apnea.

Other Significant Findings:

AR TEAM REVIEWER(s):	DATE:
Wendell Perez; Greg Knapp; Tracy Smart; Anthony Zona; Carolina Harris; Sidne Valdivieso; Cyril Pratt; Kristina Green; Angela Eaddy; 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: Seattle 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:	98%

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 CE or HR not affiliated with the final decision 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 Seattle FAB performed very well in this category. The reviewers noted deficiencies in only two (2) cases.

In one case, the order denying the reconsideration listed the incorrect city (but correct ZIP code) for the Authorized Representative (AR). (There was no returned mail, so it appears that the AR received it).

In the second case, the reviewer found that FAB should have granted reconsideration based on a medical opinion from the treating physician opinion on causal relationship. The District Office had not sent the treating physician a copy of the Industrial Hygienist's (IH) report. Therefore, it

was inappropriate to assign weight of evidence to the Contract Medical Consultant's opinion without further development.

Other Significant Findings:

AR TEAM REVIEWER(s):	DATE:
Greg Knapp; Tracy Smart; Anthony Zona; Carolina Harris; Wendell Perez; Sidne Valdivieso; Cyril Pratt; 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 (Seattle)

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	36
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.

Element 2 - Two hearings reviewed were determined to contain errors.

In the first case, although the authorized representative (AR) submitted five specific objections in the hearing request letter, the HR did not summarize these objections in the opening statement.

In the second case, the hearing representative incorrectly stated that the district office erred in relying on prior opinions rendered by the Industrial Hygienist (IH) report and Contract Medical Consultant (CMC) report concerning exposure and toxic causation for skin cancer. A review of the case file revealed no change in the case file information subsequent to the IH and CMC reports which would warrant modification of the prior opinions.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Karoline Anders, William Elsenbrock, Sarah Friedman, Matthew Fowler, Robert Garcia, Curtis Johnson, Jeana LaRock, Mark Stewart, 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 (Seattle)

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	95%
Acceptable rating:	90%
Overall Category Rating:	95%

Summarize Category (or Element) Findings:

There were four errors found in three cases. In each case, FAB did not correctly respond to the claimant's objections.

In one case, the claimant argued that the period he claimed he worked at the DOE facility (Amchitka 1991-1993) should be a covered period. FAB's response to that objection was that the covered period was determined by NIOSH and FAB could not change that period. FAB's response to that objection was incorrect because while NIOSH determines the period of residual radiation at Atomic Weapons Employer facilities, the covered period for DOE facilities is determined by DOL.

In another claim, FAB did not correctly respond to the claimant's objection regarding the sufficiency of the evidence. The claimant submitted causation reports from two different doctors linking a claimed illness to toxic exposure during covered DOE employment. FAB based its decision to deny the claim based a negative SEM search results. However, FAB did not explain in its decision why the newly submitted evidence did not overcome the deficiencies in the claim. FAB also did not reference an affidavit submitted from the employee's supervisor explaining how the employee's work duties were actually within another labor category and that the employee was exposed to the claimed substances. The claim was subsequently remanded based on a request for reconsideration.

In another claim, FAB did not correctly respond to the claimant's objection. The claimant submitted a causation report from a treating doctor, which included reference to several scientific studies purporting to show a causal link between the employee's exposure to specific toxic substances and the employee's multiple myeloma. The DEEOIC Toxicologist provided a report which concluded that the consensus of scientific studies does not show a causal link. FAB erroneously indicated in its decision that the employee's doctor's report was not well rationalized because it was not based on scientific studies. FAB should have explained that the scientific studies relied upon by the doctor are not consistent with the consensus of recognized experts.

All of the errors from the sample in this category seem unique to the circumstances of each individual claim and do not seem to show a trend.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Karoline Anders, William Elsenbrock, Sarah Friedman, Matthew Fowler, Robert Garcia, Curtis Johnson, Jeana LaRock, Mark Stewart, Debra Teitenberg, 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 (Seattle)

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	86%
Rating for Element #2	91%
Rating for Element #3	98%
Acceptable rating:	90%
Overall Category Rating:	95%

Summarize Category (or Element) Findings:

Of the 52 cases reviewed in this category, 11 cases were found to have errors (one case had two errors).

Under Element 1, there were four cases where signature dates or various OIS dates, e.g. capture date, submission date, or received date, were being used instead of the postmark dates on the attached envelopes or the fax dates. In three cases, waivers were submitted, but not entered into ECS.

Under Element 2, there were two cases where the RWR completion date was recorded as the date the RWR objection was received instead of the date the final decision was issued.

Under Element 3, there was one case, where the SEF coding was not completed in ECS. In another case, the coding shows an incorrect eligibility begin date, allowing two extra days of

eligibility. In another case, the FD awarded medical benefits for multiple skin cancers, but ECS shows that medical benefits for the FAB decision are not eligible for medical payment.

Other Significant Findings:

N/A

AR TEAM REVIEWER(s):	DATE:
Jeana LaRock, Anthony Zona, Mark Stewart, William Elsenbrock, Robert Garcia, Debra Teitenberg, Matthew Fowler, Curtis Johnson, Angela Eaddy, Sarah Friedman	July 31, 2019