

## AR-1

### Accountability Review Findings

Dates of Review: July 13, 2020 – July 17, 2020

Office Reviewed: Cleveland Final Adjudication Branch (FAB)

Review Period: May 1, 2019 – April 30, 2020

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Standard:	<b>Category 1: FAB Decisions</b>  Element 1: Decision Correspondence; Final Decision Introduction; Written Quality Element 2: Final Decision – Statement of the Case Element 3: Final Decision – Findings of Fact Element 4: Final Decision – Conclusions of Law
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Number of Cases Reviewed:	52
Element #1:	98%
Element #2:	95%
Element #3:	95%
Element #4:	92%
Acceptable Rating:	90%
Rating for Review:	95%

#### **Describe 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 and the decision in general. The Cleveland FAB performed well in this category, scoring 95%.

For Element 1, which assesses decision correspondence, the FD introduction, and the overall written quality of the FD, the review team identified two trends. Most deficiencies identified under this Element related to inaccurate and/or incomplete identification of the claimed medical conditions and incorrect ICD-10 codes. Another trend identified cover letters containing incorrect addresses; in two these instances the FD was mailed to the wrong authorized representative.

With regard to Element 2, assessing the Statement of the Case (SOC), trends consisted of over summarizing evidence, stating Conclusions of Law (COL) in the SOC, referring to incorrect medical conditions, and not explaining deficiencies in medical evidence. One additional FD was

noted for failing to explain how an offset was calculated, and as a result, the amount of offset outlined in the decision was incorrect.

In Element 3, regarding Findings of Fact (FOF), the trend of using conclusory statements instead of simple factual statement continued in this Element. The review team also noted to FDs that contained factual errors in the dates claims were filed.

Finally, in regard to Element 4, reviewing COL, most errors identified in this Category were found under this Element. The review revealed three cases lacking sufficient analysis of causation. Other notable errors included performing a causation analysis in cases where the claim was denied due to lack of medical evidence, not identifying the claimed medical condition being adjudicated, and the use of inaccurate or incorrect legal citations.

Overall, the majority of the FDs issued by the Cleveland FAB were well written and came to the appropriate conclusion.

<b>REVIEWER(s):</b>	<b>DATE:</b>
Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Mathew Fowler, David Howell, Michon Owens, Sandra Vicens-Pecenka, Kathryn McIntyre, Wendell Perez-Lugo, Charles Hseih, Jill Mortimer	July 17, 2020

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<b>Standard:</b>	<b>Category 2: Remands</b> Element 1: Remands
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<b>Number of Cases Reviewed:</b>	42
<b>Acceptable Rating:</b>	90%
<b>Rating for Review:</b>	97%

**Describe Findings:**

The results of our review revealed that the Cleveland FAB performed extremely well in this category. Of the 42 cases reviewed, the review team identified four errors within three cases reviewed under this category, for a rating of 97%.

The review team identified one case that contained two deficiencies. First, the team found that the remand order in question discussed claim history regarding a condition unrelated to those being addressed in the remand order. Second, the remand was found to have lacked appropriate interpretive analysis in reaching the decision to return the case to the district office for additional development.

With regard to the two remaining deficiencies, one pertained to a remand in which three conditions were returned to the district office based on new medical evidence, however, the new medical evidence only pertained to two of the three claimed conditions. The other involved a claim that was remanded due to lack of medical evidence to establish the claimant had been diagnosed with the claimed condition, however, the review team noted that the case file included sufficient medical evidence, including the death certificate that listed the claimed condition as the cause of death.

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<b>Standard:</b>	<b>Category 3: Reconsiderations</b> Element 1: Reconsiderations
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<b>Number of Cases Reviewed:</b>	41
<b>Acceptable Rating:</b>	90%
<b>Rating for Review:</b>	99%

**Describe Findings:**

The results of our review revealed that the Cleveland FAB performed extremely well in this category. Of the 41 cases reviewed, the review team identified three total deficiencies.

The review team noted one case in which the same FAB Hearing Representative (HR) who issued the final decision (FD) being contested issuing the reconsideration. In another case, the decision states that the Medical Director was consulted, however, there was no evidence in the case file to support that the claim was ever referred to the Medical Director. Finally, a cover letter was found to have incorrectly stated that a denial of an impairment claim was granted reconsideration; however, the actual denial that was being reconsidered was not for an impairment claim.

Overall, the Cleveland FAB exceeded the acceptable rating in this category, with a score of 99%.

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<b>Standard:</b>	<b>Category 4: Response to Hearing Requests</b>  Element 1: Hearing Pre-Scheduling Element 2: Hearings
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Number of cases reviewed	41
Rating for Element 1	N/A
Rating for Element 2	99%
Acceptable rating:	90%
Overall Category Rating:	99%

<b>Summarize Category (or Element) Findings:</b>
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Overall, the Cleveland FAB performed exceptionally well in this category.

Element 1 is ratable for National Office FAB cases only.

For Element 2, the reviewers identified two hearings with deficiencies.

In the first case, the non-attorney authorized representative provided testimony regarding employment dates and exposures; however, the transcript does not reflect that the authorized representative was sworn in.

In the second case, the authorized representative submitted a letter of objection to the recommended decision which contained eight specific objections. However, the hearing representative did not discuss the specific objections in the opening statement.

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Jennifer Madrid, Robert Garcia, Sarah Friedman, Tonya Fields, Betty-Jo Fortune, Eric Newton, Carolina Harris, Kim Wadley, Lawrence Ricci, Jennifer Pouliot, Susan Kellner, Kristina Green	July 31, 2020

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<b>Standard:</b>	<b>Category 5: Addressing Claimant Objections</b>  Element 1: Addressing Claimant Objections
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Number of cases reviewed	40
Element 1:	100%
Acceptable rating:	90%
Overall Category Rating:	100%

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

In this category, the review team considered the hearing representative’s effectiveness in addressing claimant objections in the final decision.

The results of our review revealed that the Cleveland FAB performed exceedingly well in this category. Of the 40 cases reviewed, the review team identified no errors, resulting in a overall category rating of 100%.

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Kristina Green, Sarah Friedman, Tonya Fields, Betty-Jo Fortune, Eric Newton, Carolina Harris, Kim Wadley, Lawrence Ricci, Jennifer Madrid, Jennifer Pouliot, Susan Kellner, Robert Garcia	July 31, 2020

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<b>Standard:</b>	<b>Category 6: ECS Coding</b>  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	91%
Rating for Element 2	88%
Rating for Element 3	97%
Acceptable rating:	90%
Overall Category Rating:	95%

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

Overall, the Cleveland FAB did well with ECS coding. We reviewed three elements as part of our review.

Under Element 1, Recording the Claimant’s Response, four errors were identified. All errors identified were because the waiver was dated in ECS for the date received in OIS, not the date the document was post-marked or faxed.

Under Element 2, Coding RWR or Hearings, the reviewers identified two errors. In the first, the date a hearing transcript was received was recorded incorrectly. In the second, the HR did not record the mailing date of the hearing transcript on the hearings screen in ECS.

Under Element 3, Recording FAB Determinations, four FDs had a total of six errors. One FD was not bronzed into OIS, and because of this, carried three of the errors; the decision coding, the FD / ECS date match and the denial reasons could not be evaluated. The second FD denied all skin cancers under Part B and remanded all of the cancers under Part E; but in ECS, some of

the skin cancers under Part B were remanded and some of the skin cancers under Part E were denied. The third written FD referred to asthma as the accepted condition, but the condition accepted in the RD and in ECS is for asbestosis. The fourth written FD states medical benefits for pancreatic cancer are effective 09/28/19, but in ECS the medical benefits effective date is listed as 10/16/19, the actual filing date of the pancreatic cancer, which is correct. However, it doesn't match the written FD which used the filing date for a different condition (pancreatitis).

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Robert Garcia, Sarah Friedman, Tonya Fields, Betty-Jo Fortune, Eric Newton, Carolina Harris, Kim Wadley, Lawrence Ricci, Jennifer Madrid, Jennifer Pouliot, Susan Kellner, Kristina Green	July 31, 2020