

AR-1

Accountability Review Findings

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

Office Reviewed: Denver Final Adjudication Branch (FAB)

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

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| Standard: | Category 1: FAB Decisions 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: | 51 |
| Element #1: | 97% |
| Element #2: | 92% |
| Element #3: | 93% |
| Element #4: | 96% |
| 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. Denver FAB performed well in this category, scoring 95%.

Element 1 addresses decision correspondence, the FD introduction, and the overall written quality of the FD. No trends were identified. The errors consisted of: An incorrect claimant address on a medical benefits letter; a cover letter and introductory statement that did not delineate the covered illnesses for which impairment was being denied; a cover letter and introduction that did not distinguish between the amounts awarded under Parts B and E; a cover letter and introductory statement that did not reference a pending/deferred condition; a cover letter and FD that did not adequately distinguish between covered illnesses related to toxic substance exposure and those that were consequential to these illnesses; and an FD containing erroneous references to the claimant's impairment percentage.

Element 2 addresses whether the Statement of the Case (SOC) provides an accurate discussion of the relevant factual evidence. Most of these errors involved insufficient or confusing presentation of the procedural history or medical evidence relevant to the claim being decided. These included conclusory descriptions of the medical evidence concerning causation; failure to distinguish between illnesses claimed to be related to toxic exposure and those claimed as consequential to these conditions; failure to discuss evidence in relation to different standards for survivor benefits under Parts B and E, or evidence supporting the award of survivor benefits under Part E; absent or incorrect filing dates listed; incorrect statement regarding waiver not being submitted.

Element 3 addresses whether the Findings of Fact were limited to those facts that were needed to reach the conclusions of law and the decision rendered; and whether the factual findings were correct. Trends included findings of fact that read like conclusions of law, and the failure to include pertinent information on multiple component claims. For example, a FD granted impairment benefits and denied skin cancer but failed to include a FOF that the employee filed a skin cancer claim. Another FD did not include findings of fact to support additional wage loss compensation that FAB awarded to survivors.

Finally, Element 4 address whether the FD appropriately addressed each conclusion referenced in the RD, and whether they appropriately analyzed the case evidence, arrived at the correct decision outcome, and contained proper citations and standards. Errors included FDs failing to differentiate between covered illnesses related to toxic substance exposure and those that were consequential to these illnesses, an asthma grant that was not based on procedural guidance (occupational asthma diagnosed 66 years after covered employment), an inadvertent reference to the wrong condition, and a chronic silicosis grant that was contingent on an employee's job title.

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

| REVIEWER(s): | DATE: |
|---|---------------|
| Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Mathew Fowler, David Howell, Greg Knapp, Paula Rangoon, Kathryn McIntyre, Wendell Perez-Lugo, Charles Hseih, Jill Mortimer | July 17, 2020 |

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| Standard: | Category 2: Remands Element 1: Remands |
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| Number of Cases Reviewed: | 41 |
| Acceptable Rating: | 90% |
| Rating for Review: | 98% |

Describe Findings:

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

One case was noted by the review team in which the remand order contained an incorrect address in several places throughout the order. The additional two errors identified under this category pertained to one case. The review team found the remand order in this case lacked an accurate discussion of the relevant facts. Additionally, although the remand was based on receipt of new medical evidence establishing a diagnosis of the claimed condition, the remand order cites no legal reference of any kind about how new medical evidence, which was not previously part of the claim file, necessitated the remand.

Overall, the Denver FAB exceeded the acceptable rating in this category, with a score of 98%.

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| Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Mathew Fowler, David Howell, Greg Knapp, Paula Rangoon, Kathryn McIntyre, Wendell Perez-Lugo, Charles Hseih, Jill Mortimer | July 17, 2020 |

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| Standard: | Category 3: Reconsiderations Element 1: Reconsiderations |
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| Number of Cases Reviewed: | 39 |
| Acceptable Rating: | 90% |
| Rating for Review: | 99% |

Describe Findings:

The results of our review revealed that the Denver FAB performed extremely well in this category. Of the 39 cases reviewed, the review team identified only two total deficiencies.

The two deficiencies noted by the review team included the same FAB Hearing Representative (HR) who issued the final decision (FD) being contested issuing the reconsideration, and a decision which was noted as containing repetitive or unnecessary language, specifically, containing four separate paragraphs saying the same thing, that the reconsideration was being denied due to a lack of new evidence.

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

| REVIEWER(s): | DATE: |
|---|---------------|
| Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Mathew Fowler, David Howell, Greg Knapp, Paula Rangoon, Kathryn McIntyre, Wendell Perez-Lugo, Charles Hseih, Jill Mortimer | July 17, 2020 |

AR-2
Accountability Review Findings

Dates of Review: July 27, 2020 – July 31, 2020

Office Reviewed: Denver Final Adjudication Branch (FAD)

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

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| Standard: | Category 4: Response to Hearing Requests Element 1: Hearing Pre-Scheduling Element 2: Hearings |
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| Number of cases reviewed | 24 |
| Rating for Element 1 | N/A |
| Rating for Element 2 | 99% |
| Acceptable rating: | 90% |
| Overall Category Rating: | 99% |

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| Summarize Category (or Element) Findings: |
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Overall, the Denver FAB performed exceptionally well in this category.

Element 1 is ratable for the National Office FAB only.

For Element 2, the reviewers identified only one error in which the hearing representative did not advise the claimant that they are provided 20 days from the date of mailing of the transcript to make changes to the document.

| AR TEAM REVIEWER(s): | DATE: |
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| Lawrence Ricci, Jessica Lanier, Sarah Friedman, Tonya Fields, Betty-Jo Fortune, Lynda Brandal, Carolina Harris, Kim Wadley, Jennifer Madrid, Jennifer Pouliot, Susan Kellner, Kristina Green | July 31, 2020 |

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

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| Standard: | Category 5: Addressing Claimant Objections Element 1: Addressing Claimant Objections |
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| Number of cases reviewed | 42 |
| Rating for Element 1 | 92% |
| Acceptable rating: | 90% |
| Overall Category Rating: | 92% |

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| Summarize Category (or Element) Findings: |
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In this category, the review team considered the hearing representative’s effectiveness in addressing claimant objections in the final decision.

The reviewers identified 10 errors in this category, spread across five cases.

The reviewers found that in one case the error resulted from the misapplication of the regulations, policy and procedures in the causation analysis. The claimant objected in part to the contract medical consultant’s opinion to award greater weight over his treating physician’s opinion. In response, the hearing representative issued a final decision to reverse the recommended denial. Within the contents of the final decision, the hearing representative assigned the weight of medical evidence in favor of the treating physician’s medical opinion. Although the decision acknowledged there was a dispute in the nature and extent of the claimant’s exposures, the hearing representative determined the treating physician’s opinion regarding the claimant exposure was more probative than the industrial hygienist’s expert opinion regarding the claimant’s exposure. However, it is the Industrial Hygienist’s role to provide an expert opinion on exposures.

In another case, the reviewers found an error in discussing the weight of medical evidence and applying a well-reasoned analysis. The file contains an initial medical narrative and an updated medical narrative from the treating physician. The hearing representative only discussed the

initial medical narrative in the final decision. Further, while the decision contained a summary of both the treating physician and the contract medical consultant's opinion, the hearing representative did not provide a reasonable summation as to why the contract medical consultant's medical carried more weight.

The reviewers identified two cases where the CE/HR did not address the objections of the claimant resulting in a six errors. In the first case, the reviewer found that the claimant submitted a documents and four objections, in response to the issue of insufficient employment. Within the RWR, the HR did not summarize the objections, or explain why the documentation was insufficient. In the second case, there is no mention of objections and the CE/HR issued a final decision instead of a RWR.

In the last case multiple error case, the reviewer found that while the CE/HR acknowledged the objections regarding the claimants denied increased impairment, the RWR did not summarize or address the specific objections presented by the claimant in the claimant objection letter.

| AR TEAM REVIEWER(s): | DATE: |
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| Jennifer Madrid, Jessica Lanier, Sarah Friedman, Tonya Fields, Betty-Jo Fortune, Lynda Brandal, Carolina Harris, Kim Wadley, Lawrence Ricci, Jennifer Pouliot, Susan Kellner, Kristina Green | July 31, 2020 |

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| 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 | 95% |
| Rating for Element 3 | 99% |
| Acceptable rating: | 90% |
| Overall Category Rating: | 97% |

Summarize Category (or Element) Findings:

The results of our review revealed that the Denver FAB is doing well in ECS coding. We reviewed three elements as part of our review.

For Element 1, Recording the Claimant’s Response, five errors were found. All identified errors were regarding the waiver file date recorded in ECS. Four errors were due to not using the postmark date as the earliest date received and one error was due to not using the RC date stamp as the earliest date received.

For Element 2, Coding RWR or Hearings, the reviewers found one error. The sole error noted for this element was a result of not updating the RWR status from “not started” once the RWR request changed to a hearing request.

For Element 3, Recording FAB Determinations, the reviewers identified just three errors. One error was due to a discrepancy in a condition being deferred in the FD but not marked as deferred

in ECS decision coding, the second error noted was due to an incomplete SEF coding, and the third error identified was due to an ECS denial reason being incorrect.

| AR TEAM REVIEWER(s): | DATE: |
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| Jessica Lanier, Sarah Friedman, Tonya Fields, Betty-Jo Fortune, Lynda Brandal, Carolina Harris, Kim Wadley, Lawrence Ricci, Jennifer Madrid, Jennifer Pouliot, Susan Kellner, Kristina Green | July 31, 2020 |