

## AR-1

### Accountability Review Findings

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

Office Reviewed: National Office 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:	95%
Element #2:	94%
Element #3:	98%
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. The National 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, several trends were identified. These missing medical benefits letters cover letter containing incorrect address, incorrect case IDs, incorrect ICD-10 codes, and missing elements/paragraphs (i.e., alternative filing for survivors.) One case was noted as missing a cover letter altogether. With regard to the content of the cover letters and introductory paragraphs, the review team noted several instances where the information presented was not clear, specifically regarding what was claimed and being addressed in the FD, acceptance vs. denial, and/or under which Part of the Act.

For Element 2, which assesses a decision’s case history, its accuracy, and a descriptive discussion of the relevant factual evidence and case history, several issues were identified. Reviewers noted five deficiencies contained within the Statement of the Case (SOC) portion of the FDs reviewed. These included a lack of discussion of claimed and verified employment; omission of key developmental actions taken to determine a survivor’s eligibility; and a FD that failed to discuss the 250 work-day requirement for chronic silicosis claims under Part B.

For Element 3, regarding the Findings of Fact (FOF), only two errors were identified. One FD was found to be deficient, as it included no findings as to whether a claimant for a Part B RECA claim was a child or spouse; and another which contained an incorrect finding of an employee’s covered dates of employment.

Finally, in Element 4, which assesses Conclusions of Law (COL), errors noted by the review team included FDs citing outdated Procedure Manual (PM) versions; FDs citing improper Regulations; and FDs missing certain regulations/criteria necessary to support a conclusion (i.e., covered employment, definition of a covered employee under Part B, and especially, a lack in the reasoning supported by regulations of how FAB determines who is a qualified survivor when there are spouses and “trigger” children identified in a claim). The reviewers also noted a case with faulty logic and conclusions regarding toxic exposures not assessed by an IH/CMC that should have been remanded.

Overall, the majority of the FDs issued by the National 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, Greg Knapp, Paula Rangoon, 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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Number of Cases Reviewed:	42
Acceptable Rating:	90%
Rating for Review:	99%

**Describe Findings:**

The results of our review revealed that the National Office FAB performed extremely well in this category. Of the 42 cases reviewed, the review team identified only one error under this category, for a score of 99%.

The lone deficiency identified by the review team pertained to a remand cover letter that referenced a “notice of Final Decision” and also instructed the claimant to submit correspondence directly to the district office instead of the central mail room.

<b>REVIEWER(s):</b> Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Greg Knapp, Paula Rangoon, Michon Owens, Sandra Vicens-Pecenka, Kathryn McIntyre, Wendell Perez-Lugo, Charles Hseih, Jill Mortimer	<b>DATE:</b> July 17, 2020
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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>	43
<b>Acceptable Rating:</b>	90%
<b>Rating for Review:</b>	99%

**Describe Findings:**

The results of our review revealed that the National Office FAB performed extremely well in this category. Of the 43 cases reviewed, the review team only identified two total deficiencies, for a score of 99%.

In all cases reviewed, the National Office FAB was found to have properly acknowledged in writing all reconsideration requests filed within 30 days of the issuance of a FD. With regard to the two deficiencies identified by the review team, one case was noted in which the same FAB Hearing Representative (HR) who issued the FD being contested issuing the reconsideration, and another case in which a reconsideration denial did not address all the employee’s specific objections within the request for reconsideration.

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Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Greg Knapp, Paula Rangoon, 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 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	99%
Rating for Element 2	95%
Acceptable rating:	90%
Overall Category Rating:	96%

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

For Element 1, the reviewers identified one case in which the HR did not provide the claimant with the full 30 day notice of the hearing there is no indication that the claimant waived the 30 day notice requirement. The HR mailed the hearing notice 7/24/19 but the hearing was scheduled for 8/21/2019.

For Element 2, the reviewers identified ten cases with errors. In three of the reviewed cases, the claimant submitted new evidence prior to the scheduled hearing, and based on this evidence a hearing was not necessary. However, the HR held the hearings rather than issuing a remand order prior to the hearings. In seven cases, the reviewers found that the hearing transcripts did not show that the HR explained to the claimant/representative(s) that they have twenty (20) days from the date of mailing of the transcript to provide changes to the hearing transcripts. One out of the seven also did not mention that the claimant has 30 days to submit additional evidence.

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Lynda Brandal, Sarah Friedman, Jessica Lanier, Robert Garcia, Eric Newton, Carolina Harris, Kim Wadley, Lawrence Ricci, Jennifer Madrid, 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	41
Rating for Element 1	98%
Acceptable rating:	90%
Overall Category Rating:	98%

<b>Summarize Category (or Element) Findings:</b>
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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 results of the review revealed that the National Office FAB performed extremely well in this category. Of the 41 cases reviewed, the review team identified three total deficiencies. In two cases with deficiencies, the claimants filed objections after the recommended decision. However, the claimant later submitted supplemental objections that the HR did not address in the final decision. In the third case with an error, the reviewer found that the DEEOIC presumed that the claimant experienced some degree of asbestos exposure during covered employment, and the claimant provided evidence linking asbestos exposure to the claimed condition. The final decision stated that the evidence was either not relevant or did not suggest a causal link. The statement appeared inconsistent with the evidence, and the hearing representative did not provide further explanation.

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Lawrence Ricci, Sarah Friedman, Kristina Green, Jessica Lanier, Lynda Brandal, Robert Garcia, Jennifer Madrid, Jennifer Pouliot, Kim Wadley, Susan Kellner, Eric Newton, Carolina Harris	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	84%
Rating for Element 2	100%
Rating for Element 3	97%
Acceptable rating:	90%
Overall Category Rating:	95%

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

The results of our review revealed that the National Office FAB is performing at an acceptable level in ECS coding. We reviewed three elements as part of our review.

For Element 1, Recording the Claimant's Response, six errors were found related to the filing date of the claimant's response. In three of these cases, the postmark was available in OIS, but was not used as the filing date of the claimant's response to the decision. Other cases failed to use the earliest available fax date, portal received date, and RC received date stamp. The response type was accurately coded in all cases reviewed.

For Element 2, Coding RWR or Hearings, no errors were found. Simply stated, the FAB National Office was exceptional in this category.

For Element 3, Recording FAB Determinations, six errors were noted. Three errors were related to the incorrect condition or determination listed in ECS; one with an incorrect part type accepted/denied, one with an additional condition coded that had already been adjudicated, and

one that shows a deferral in ECS, but denial in the written FD. One case placed the award amount in the impairment field for compensation, instead of the Part E field. Another case listed an incorrect denial reason and one case had an incorrect medical eligibility begin date. That case has already been send to management/FAB Ops for correction.

<b>AR TEAM REVIEWER(s):</b>	<b>DATE:</b>
Susan Kellner, Sarah Friedman, Jessica Lanier, Lynda Brandal, Robert Garcia, Eric Newton, Carolina Harris, Kim Wadley, Lawrence Ricci, Jennifer Madrid, Jennifer Pouliot, Kristina Green	July 31, 2020