

AR-1

Accountability Review Findings

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

Office Reviewed: All Final Adjudication Branch (FAB) Offices

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

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

Number of cases reviewed:	257
Rating for Element #1	97%
Rating for Element #2	94%
Rating for Element #3	96%
Rating for Element #4	95%
Acceptable rating:	90%
Overall Category 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.

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. This Element reviews the Conclusions of Law (COL) section to assess whether the 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.

The review team found one case in which the FD was not bronzed into the OWCP Imaging System (OIS). Since the FD could not be reviewed, every Element and Indicator for that case was counted as an error in this category. The review team also found another case in which the cover letter was not bronzed into OIS.

Under Element 1, the review team found several cases with incorrect address or the medical condition in the decision were noted incorrectly or not cited. Several cases awarding medical benefits did not include an attached Form EE-17A. Most significantly, the review team found only one case in which the decision was hard to understand and no reviewer found a decision that had significant typographical errors.

Under Element 2, the major trend noted was that the Statement of the Case did not provide sufficient relevant information. For instance, the review team cited several cases for not including the claimed or verified employment. The review team also found several cases in which the eligibility of survivor was not fully explaining, including a case with three children of the employee filing claims but no explanation in the Statement of the Case as to how only one claimant was the only eligible survivor.

Under Element 3, the review team found two trends. Several cases included information that should correctly be in the Conclusions of Law instead of Findings of Fact. For example, in one case, a Finding of Facts section included a statement that a chronic silicosis was as least as likely as not related to exposure but this finding had not been established. The other trend was that the Finding of Facts contained incorrect information including for example, incorrect dates of employment, incorrect filing date, and incorrect information on presumption of exposure to beryllium.

Under Element 4, the major trend noted was that the Conclusions of Law information was either insufficient or incorrect. For example, in one case, the reviewer noted that the FD did not include an explanation of the basic employment criteria needed for coverage under the Act, and why the evidence submitted was insufficient to meet the criteria. In another example, the Conclusions of Law included incorrect information on the claimed medical condition. With few exceptions, the review team found that the citations used in the FDs were correct and properly support the decision outcome. More importantly, the review team did not identify any cases in which the FAB reached a wrong decision outcome based on the evidence.

Overall, review of the sampled cases showed that each FAB office performed well in this category, with a combined overall score of 95%.

REVIEWER(s):	DATE:
Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Mathew Fowler, David Howell, 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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Standard:	Category 2: Remands Element 1: Remands
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Number of Cases Reviewed:	214
Acceptable Rating:	90%
Rating for Review:	98%

Describe Findings:

The remand category looks at a random sample of remands issued during the rating period and measures whether a remand was necessary and appropriate based on the evidence of file. Specifically, it evaluates whether the claimant's factual 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 communicates the analysis applied by the FAB in reaching the decision to remand.

The review team identified a few trends within this category throughout all FAB offices. These trends included several errors within cover letters. Specifically, incorrect addresses and claimed conditions that were addressed in the FD were omitted from the cover letter. Additionally, several cases were noted as having discrepancies in the conditions listed in cover letters, introductory paragraphs and those discussed in body of the remand. Finally, the review team identified several remands that were noted to have lacked appropriate justification to support remand or appropriate interpretive analysis used as the basis of the decision to remand a claim to the district office for further development.

Overall, review of the sampled cases showed that each FAB office performed exceedingly well in this category, with a combined overall score of 98%.

REVIEWER(s):	DATE:
Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Mathew Fowler, David Howell, 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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Review Period: May 1, 2019 – April 30, 2020

Standard:	Category 3: Reconsiderations Element 1: Reconsiderations
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Number of Cases Reviewed:	205
Acceptable Rating:	90%
Rating for Review:	99%

Describe Findings:

The reconsideration category identifies a random sampling of claims in which a claimant requested reconsideration of a final decision (FD) within the review period, and evaluates whether the FAB processed those requests in accordance with established policy and procedures.

The review team identified a few trends within this category throughout all FAB offices. These trends included the same FAB Hearing Representative (HR) who issued the FD being contested issuing the reconsideration, inconsistencies in certain factual information between the cover letter and decision (such as incorrect dates or incorrect claimed conditions) and reconsiderations that failed to address or consider all claimant objections or evidence.

Overall, a review of the sampled cases showed that each FAB office performed exceedingly well in this category, with a combined overall score of 99%.

REVIEWER(s):	DATE:
Curtis Johnson, Hang Tung, Rodney Alston, Teresa Barrington, Mathew Fowler, David Howell, 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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Accountability Review Findings

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

Office Reviewed: All Final Adjudication Branch (FAB) Offices

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

Standard:	Category 4: Response to Hearing Requests Element 1: Hearing Pre-Scheduling (NO FAB cases only) Element 2: Hearings
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Number of cases reviewed	186
Rating for Element 1	99%
Rating for Element 2	98%
Acceptable rating:	90%
Overall Category Rating:	98%

Summarize Category (or Element) Findings:
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This category reviews the accuracy of the scheduled hearing and if claimants were given accurate notice. It also reviews whether the hearing representative addressed all required topics, clearly communicated program policy and procedure, and asked logical and relevant questions. There are two elements that correspond to the hearing scheduling process and the quality and substance of the scheduled hearing.

For Element 1, Hearing Pre-Scheduling. This element reviews whether the hearing notice was mailed at least 30 days prior to the scheduled hearing and sent to the appropriate parties. It also requires that the notice gives the accurate date, time, and location of the hearing. Element 1 is rated for the National Office FAB cases only.

For Element 2, Response to Hearing Requests. This element reviews the appropriateness of the hearing, given the evidence provided. It also reviews whether the hearing representative covered all necessary topics during the hearing, accurately communicated program policy, and asked logical and relevant questions. It further reviews the post-hearing process, which includes giving the claimant/representative the proper period of time to submit comments and additional evidence.

Under Element 1, there were no trends noted. The sole error found by the reviewers consisted of a hearing notice not mailed at least 30 days prior to the scheduled hearing. In all of the cases reviewed, all hearing notices informed the claimant/representatives of the accurate date, time and location of the hearing resulting in no errors.

Under Element 2, overall, the FAB performed exceptionally well. Of the cases reviewed, 17 cases had errors. The most common trend identified by the reviewers was that the hearing representative did not advise the claimant of the 20-day deadline from the date of the mailing of the transcript to make changes to the transcript of the hearing.

In the overwhelming majority of the cases reviewed, the hearing transcript reflected that the assigned hearing representative (HR) was familiar with the recommended decision under review and that the HR addressed all required topics during the course of the hearing (opening statement, administering the oath, purpose of hearing, hearing process, discussion of objections and presentations). The assigned HR properly communicated program policy/procedure, and asked logical/relevant questions related to the issues and objections. The reviewers also found that the hearing discussions were relevant and responsive to the issues raised by the hearing participants.

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

Accountability Review Findings

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

Office Reviewed: All Final Adjudication Branch (FAB) Offices

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

Standard:	Category 5: Addressing Claimant Objections
	Element 1: Addressing Claimant Objections

Number of cases reviewed	205
Rating for Element 1	97%
Acceptable rating:	90%
Overall Category Rating:	97%

Summarize Category (or Element) Findings:
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This category assesses whether the final decision correctly summarized the objections to the recommended decision. Further, it evaluates whether the hearing representative correctly addressed the objections, explained the DEEOIC handling of the objections, correctly applied DEEOIC policies and procedures in resolving those objections, and clearly explained the analysis of the facts in context of the policy. There is only one element in this category.

In evaluating the Final Adjudication Branch's overall performance, as measured by this standard, the AR team reviewed the objections submitted, as well as all relevant documents and decisions related to claimant objections. The team did so with the goal of measuring the FAB's total overall performance in addressing claimant objections.

Overall, the all of the FAB offices performed very well in this category. The major trend identified among all the offices involved instances in which the final decision did not outline the objections or did not fully address all objections. Specifically, the review team identified 22 cases with deficiencies, which accounted for 40 errors spread across all indicators. The two most frequent "stand alone" errors involved two final decisions that did not acknowledge or address additional objection letters and four decisions that did not address the objections in the final decision.

Another trend involved not applying the guidance from the Procedure Manual (PM) Exhibit 15-4.3.b Asbestos (exposure presumption). The review team identified two cases where consulting with an IH would help to alleviate these errors.

AR TEAM REVIEWER(s):	DATE:
Carolina Harris, Sarah Friedman, Tonya Fields, Betty-Jo Fortune, Jessica Lanier, Lynda Brandal, Robert Garcia, Eric Newton, Kim Wadley, Lawrence Ricci, Jennifer Madrid, 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	258
Rating for Element 1	91%
Rating for Element 2	94%
Rating for Element 3	98%
Acceptable rating:	90%
Overall Category Rating:	97%

Summarize Category (or Element) Findings:

This category reviews the accuracy of Energy Compensation System (ECS) coding as it relates to the FAB actions – recording the claimant’s response (waiver or objection), recording hearings and reviews of the written record (RWR), and FAB determinations (FDs), which include final decisions and remands. The documents and dates seen in the electronic case file are directly compared to the ECS entries.

Element 1, Recording the Claimant’s Response, reviews the accuracy of the recording of the claimants’ response type and the filing date. Response type can be a full waiver, partial waiver, or request for hearing or RWR. The filing date of the response is determined by the earliest date of: fax receipt, postmark, date stamp, receipt through portal or the receipt by the Central Mail Room.

Element 2, ECS Coding RWR or Hearings, evaluates if the HR appropriately recorded the hearing or RWR status and status date on hearings and RWR cases and whether the hearing transcript sent date is reflected on the hearings screen when a hearing transcript is sent.

Element 3, Recording FAB Determinations, evaluates the accuracy of ECS and whether it matches the written final decision. This includes ensuring all claimants and components are appropriately entered with the correct decision type; the FAB portion of the SEC path was completed where appropriate; benefits were properly allocated, the correct release date was recorded; the correct denial reasons and remand reasons were recorded; and the proper eligibility begin dates and ICD codes were entered to properly generate medical benefits. It also assesses whether the medical eligibility date is correct per the case file and not just, what was in the written decision.

Under Element 1, the review team found 19 cases with errors resulting from an incorrect waiver/objection filing date entered into ECS. However, the reviewers noted that the response type was correct for all reviewed cases. The major trend found throughout all offices was not using the earliest available filing date, such as the postmark date on an attached envelope or overlooking the resource center date stamp. Often, the OIS submission date was used instead of the postmark date or resource center date stamp.

Under Element 2, the review team did not find any trends. Within this element, only five cases had errors. Two cases had an incorrect transcript received date, two cases did not have the transcript sent date entered, and one case did not have the RWR screen updated from “Pending” when it changed to a hearing.

Under Element 3, the major trend noted came from conditions/part types selected for inclusion in the decision in ECS not matching the written decision. One FAB Determination was a Reverse to Accept and the Reversal Checkbox was left unchecked. Four cases had incorrect denial reasons. One case did not have the SEF checkbox completed to show FAB accepted the case based on an SEC. The review team also found that several cases had incorrect medical status effective dates and one case was missing the offset amount in the decision and on the applicable medical condition. Any cases that impacted medical benefit eligibility have already been referred to management for correction. Finally, the team found one case that did not have the final decision scanned into ECS, which resulted in multiple errors. After notifying the HR, the FD is in OIS.

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