



U.S. DEPARTMENT OF LABOR

Office of Workers' Compensation Programs (OWCP)

# Department of Labor Final Adjudication Branch

Presented by:

**Rhonda Chappelle - Assistant Branch Chief**

**Michael Johnson - Assistant Branch Chief**

**Mark Stewart - Assistant Branch Chief**



# What is the Final Adjudication Branch (FAB)?

- FAB reviews **all** recommended decisions (RDs).
- FAB considers written objections filed by a claimant/Authorized Representative (AR) or conducts a hearing, if requested to do so by the claimant/AR.
- FAB then issues a final decision or sends the claim back to the District Office (DO) for additional action or consideration (a remand order).





# Work Begins with the Recommended Decision

- We do an initial review on the case.
- If we determine the RD's conclusions were appropriate, we wait for a response from the claimant or AR.
- If we determine the RD's conclusions were not correct, the FAB will take action according to DEEOIC guidelines to address the issue.



## What if FAB **agrees** with the Recommended Decision?

- The regulations provide a 60-day time period for claimants/ARs to provide written objections. The best and quickest way to send documents to FAB is through the Electronic Document Portal (EDP). FAB takes action according to the response received:
  - No response
  - Waiver
  - Objection
  - Hearing request





## What if FAB **disagrees** with the Recommended Decision?

- **Development**
  - FAB can quickly develop evidence in order to reach an appropriate conclusion—with an eye towards getting to “Yes”.
- **Remand**
- **Reversal**
  - The evidence is sufficient to support an acceptance.





## Waivers

- Indicates no plan to send objections.
- Does away with FAB's requirement to wait 60 days to allow for objections.
- Does *not* indicate agreement with RD.
- Just the waiver, please.
  - Signature and date only.
  - Any comment should be on a separate piece of paper.





## Two Options on Waiver Form

- RD often accepts one or more aspects of a claim and denies others.
- Examples
- A claimant may:
  - waive the right to object to all determinations, or
  - waive the right to object to acceptances and hold on to the right to object to the denials.
- A claimant should choose only one.





## Waiver Example:

**(Option 1)**

I, \_\_\_\_\_, being fully informed of my right to object to any of the findings of fact and/or conclusions of law contained in the Recommended Decision issued on my claim for compensation under the Energy Employees Occupational Illness Compensation Program Act, do hereby waive those rights **only** as those rights pertain to the portion of my claim recommended for acceptance. I do, however, reserve my right to object to the findings of fact and/or conclusions of law contained in the Recommended Decision that recommend denial of claimed benefits.

I understand that should I choose to file an objection, I may either attach such objection to this form or submit a separate written objection to the address listed above within 60 days of the date of issuance of the Recommended Decision.

\_\_\_\_\_  
Signature Date

**(Option 2)**

I, \_\_\_\_\_, being fully informed of my right to object to any of the findings of fact and/or conclusions of law contained in the Recommended Decision issued on my claim for compensation under the Energy Employees Occupational Illness Compensation Program Act, do hereby waive those rights.

\_\_\_\_\_  
Signature Date

**(NOTE ON WAIVER:** If you wish to file a waiver of objections, please select and sign **only one** of the above options. Select Option 1 to waive your right to object to the portion of your claim recommended for acceptance but reserve your right to object to the recommended denial of benefits. Select the Option 2 to waive your rights to object to ALL findings and conclusions.)





# Objections

- An objection must be submitted in writing within 60 days of the issuance of the RD (simply submitting new evidence will generally not be considered an objection).
- Here are some common reasons for objection:
  - The claim was missing information and you now have it.
  - You do not believe the DO properly or fully analyzed the evidence on file.
  - You do not believe the NIOSH dose reconstruction was accurate.
  - You do not believe the DO followed the Act, regulations, or procedures.



## Objection Tips

- Begin your letter by making it clear you don't agree with the RD and have specific objections. Always include the case ID.
  - Focus your objections on the reason for denial.
  - Make your objections clear and understandable.
    - Number or bullet your objections.
    - Offer evidence supporting your objections.
  - Number attachments and provide a summary.



# Objection Support

- If the claim was denied due to no medical evidence being submitted, submit the missing medical information or explain that you are in the process of obtaining it (the information must be received before the issuance of the FD).
- If a contract medical consultant (CMC) provided a medical opinion and the claim was denied, provide a medical report from your physician responding to the CMC report.
- If the claim was denied because the evidence did not support exposure to a toxic substance linked to the condition, describe the claimant's specific exposures and provide documentation.
- Be case specific:
  - Information on another person's claim is not helpful
  - General information from the internet may not be helpful; however, scientific journal articles combined with specific medical opinions carry more weight.



# Hearing Request

- Must be made in writing within 60 days of the issuance of the RD.
- Objections may be submitted prior to or during the hearing.
- Be specific as to any accommodations you may need for the hearing, i.e., dates, times, TDY, etc.
- You may request a hearing via telephone, WebEx, or in person





## During the Hearing

- You may read a prepared statement at the hearing or simply present your statement into evidence.
- You may present exhibits relevant to the claim at the hearing.
- You may discuss any issue you wish, but it is better to voice concerns specific to the claim denial.
- Ask the hearing representative (HR) to clarify issues you have questions about.
- **Evidence and testimony are presented at the hearing. A decision is not made during the hearing.**



## After the Hearing

- You will receive a copy of the hearing transcript, and you will have 20 days to review it and make comments.
- You have 30 days from the date of the hearing to present any further information concerning the claim.





## Final Decisions

- Issued after
  - Objection period ends **or**
  - Claimant submits objections or waiver **and**
  - Full review of evidence.
- Contains:
  - **Introduction:** whether the claim has been accepted or denied;
  - **Statement of the Case:** describes evidence and actions;
  - Possible **Objections section:** summary and response to objections;
  - **Finding of Facts:** outlines pertinent findings upon which the conclusions are based; and
  - **Conclusions of Law:** explanation of reasoning behind the decision, along with citations to the Act or regulations.







## Remand Orders

- Written directive instead of FD. Sends case back to the DO for further consideration or development.
- No remand if minor development can resolve issue.
- FAB uses reasonable discretion when assessing case.
  - Not necessarily sufficient grounds:
    - Mere disagreement
    - New evidence
    - Error
  - Assess impact
    - Does new evidence address all deficiencies noted in RD?
    - Did error result in inadequate development?



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## Reversal to Accept

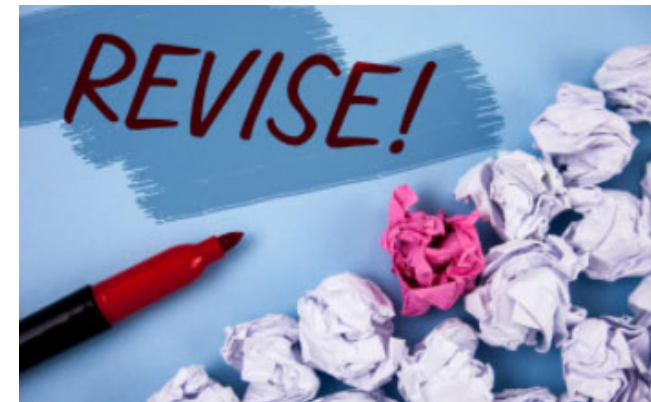
- RD denied but evidence is sufficient for an acceptance.





## Reconsideration Request Granted

- Two requirements:
  - Evidence or argument must be new
    - No diagnosis denial:
      - Submit a medical report providing a diagnosis.
    - You think the FD ignored policy:
      - Send well-supported argument.
  - Evidence or argument must be sufficient to change the outcome of the FD:
    - If the writer had this new evidence or argument, the FD would have been different.





## Reopening Request

- FAB does not issue determinations regarding reopening. These are made at the District Director or Director level.
- Written request can be made at any time.
- New evidence and/or argument must be submitted, sufficient to overcome the deficiencies noted in the FD.
- Depending on the reason for denial, this might be new medical or employment evidence, a change in policy, an update in SEM, etc.
- Make the request impossible to miss: write "Reopening" and the case ID clearly in the top right corner.



## Claimant Assistance

- **Resource Centers – 11 locations Nationwide**
- **5 Final Adjudication Branch Offices** Cleveland, Denver, Jacksonville, Seattle, and National Office
- **DEEOIC website**
  - <http://www.dol.gov/owcp/energy/>
  - General program information
  - SEM website
  - Claimant Resources (Forms, Medical Benefits Information)
  - Medical Provider Resources (Enrollment, Bill Processing)



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# Questions



Questions can also be submitted to [DEEOIC-Outreach@dol.gov](mailto:DEEOIC-Outreach@dol.gov)

Thank you very much for attending the DEEOIC Webinar