AR-1

Accountability Review Findings

Dates of Review: August 1 – 5, 2016

Office Reviewed: Cleveland Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category Name **Response to Hearings Requests** Category # 1

Sample Size (total # of indicators in the category that were reviewed):	239
Number of cases reviewed:	39
Number of errors in category:	15
Acceptable rating:	90%
Rating for review:	94 %

FINDINGS: Describe Findings

The Response to Hearing Requests Category measures whether hearings were conducted according to established policy and procedure.

Out of 39 cases reviewed 15 errors were noted. The following deficiencies were noted in the hearing transcripts or processing of transcripts after received:

Oaths were not issued during 2 hearings.

Claimants were not advised that a transcript would be sent or that they had 20 days to submit comments or corrections of the transcript during 2 hearings.

No evidence that 5 hearing transcripts were mailed to the claimants – one transcript was received after the remand order was issued.

Three (3) transcripts were mailed to the claimants more than 7 days after receipt of transcript.

Three (3) transcripts indicated the hearing representative was not totally familiar with the case or asked logical and relevant questions relating to the issue under contention:

1. Claimant stated his doctor submitted a causation report. The HR stated he would look for it.
2. The claim was recommended to be denied due to lack of medical evidence to establish the diagnosis of the claimed medical condition. The HR's questions were regarding toxic substance exposure.
3. The HR stated that the DO had accepted asthma as a covered illness, but that was not true.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:
OTHER SIGNIFICANT FINDINGS:

REVIEWER(s):	**DATE:**
Karoline Anders, Anna Navarro, Angela Eaddy, Curtis Johnson	September 6, 2016

AR-1

Accountability Review Findings

Dates of Review: August 1 – 5, 2016

Office Reviewed: Cleveland Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category Name _ **Addressing Claimant Objections** Category # ___2_____

Sample Size (total # of indicators in the category that were reviewed):	120
Number of cases reviewed:	39
Number of errors in category:	6
Acceptable rating:	90%
Rating for review:	95%

FINDINGS: Describe Findings

The Addressing Claimant Objections Category measures whether every objection is identified and provided a response. It also measures if the response is correct pursuant to EEOICPA regulations, policies and procedures, as well as clearly explained.

39 cases were reviewed and there were 6 errors noted in 4 cases.

The response to objections for 2 cases consisted of citation of the statutes rather than an explanation in plain language.

In 1 case, it should have been reversed to accept rather than remand order.

In 1 case, the response to objections did not provide an adequate explanation to the objection.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:

OTHER SIGNIFICANT FINDINGS:

REVIEWER(s):	DATE:
Karoline Anders, Anna Navarro, Angela Eaddy, Curtis Johnson	September 6, 2016

AR-1

Accountability Review Findings

Dates of Review: August 1 – 5, 2016

Office Reviewed: Cleveland Final Adjudication Branch

Reviewing Office: Policy, Regulations and Procedures Unit

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category Name **FAB Decisions**	Category # 3

Sample Size (total # of indicators in the category that were reviewed):	867
Number of cases reviewed:	51
Number of errors in category:	60
Acceptable rating:	90%
Rating for review:	93%

FINDINGS: Describe Findings.

This FAB Decisions category measures whether final decisions (FD), and medical/monetary benefits issued by the FAB, are written in the proper format with correct content supported by the evidence of record. The FD must be a fair and independent assessment of the claim, and must correctly apply program policies and procedures to ensure a final outcome that is appropriate.

The elements for this category include: (1) Decision Correspondence, FD Introduction, Written Quality & Formatting; (2) Statement of the Case; (3) Findings of Fact; and (4) Conclusions of Law.

The rating for this category is 93%. The following trends were noted in each Element of the FAB Decision Category:

Element 1: Decision Correspondence, FD Introduction; Written Quality & Formatting:

56 cases were reviewed in Category 3 Element 1 with 5 deficiencies noted. Two of these deficiencies relate to a final decision and letter in which there was no reference to the wife AR. One deficiency results from an incorrect docket number and the other two relate to the confusing wording. In one of these later cases the cover letter "accepts your claim for compensation," which sounds like the claimant will be receiving money, when in fact the only thing being accepted are additional skin cancers for medical causation. Another instance of unclear wording resulting in a deficiency is an FD which states, "your claim for survivor compensation under Part E of the Act based on COPD is accepted," when what is really happening in this case is that widow's claim for survivorship is being accepted based upon a finding that the employee's death was related to the previously accepted condition of COPD.

Element 2: Statement of the Case:

56 cases were reviewed in Category 3, Element 2 with 25 deficiencies noted.

Eight of these deficiencies were obvious, sloppy mistakes. For example, the employee's name was Edgar, but is referred as Joseph multiple times in the case; the employee worked at Mound, but the SOC repeatedly referred to Paducah, and in another Mound case the SOC referred to Portsmouth. Another employee worked at two facilities, but the employment characterizes it all as occurring at the first of these. Another example of sloppy mistakes was stating the employment twice (but with different years) in the SOC. One SOC contained a reference to a Part B acceptance that never happened.

Eight other deficiencies are the result of the SOC not explaining important development actions that were taken in the case or instances in which the SOC explained something wrong. Five of these deficiencies resulted from SOC in lacking a discussion of how an exposure assessment was made, including the IH referral and/or lacking a discussion of how the causation determination was made. Two Hearing Loss cases did not mention the Hearing Loss standard and one case didn't mention that the district office had asked the employee for medical information substantiating a cancer diagnosis.

Four of these deficiencies relate to employment that is wrong. Examples include basing a Part E decision on Linde Ceramics AWE employment instead of narrowing to the DOE covered period of Linde. In another case, the SOC neglects to explain that the employment occurred outside the covered period. While this was only two cases, it resulted in four deficiencies because a mistake in employment can affect multiple indicators in the category

One SOC cited Policy teleconference notes (regarding acceptance of additional skin cancers.)

Four of these deficiencies relate to confusing and/or irrelevant statements in SOC. One SOC contained two one-sentence paragraphs referencing pathology reports and betwixt these is another one-sentence paragraph about a form EE-1. Two other confusing SOC involve a discussion stating that employee's COPD was related to Portsmouth employment, when that

determination was made many years ago and another SOC in which it was impossible to understand the survivorship discussion without going to the actual death certificate and learning that the death certificate contained the widow's maiden name.

Element 3: Findings of Fact:

56 cases were reviewed in Category 3, Element 2 with 17 deficiencies noted.

Five of these deficiencies involve missing FOF. Included in findings that should have been included in FOF but were not are: employment, prior acceptance of COPD, exposure, lack of an impairment evaluation, causation.

Three deficiencies result from FOF that make statements that are not supported by the case evidence. One of these was a case in which the FOF state "the evidence does not show you have any toxic substance exposure" and another makes a finding that the employee has covered employment at the Linde Ceramics Plant for the entire time that the employee worked there which was wrong because the period of time that Linde was a DOE contractor was the only time that could be utilized for a Part E determination. Another identified the period that the employee worked at GE which is not really what matters, what matters is the period during which the employee worked at GE that is both verified and occurring during a covered time period.

Two deficiencies were the result of mischaracterizations. One of these had a FOF that "you were employed at Hanford between 1958 and 1984" when it should have said "you were employed for 26 months at Hanford during the period 1958 through 1984." Another mischaracterization was a case in which the FOF discussed both employment and medical, but the FD denied based on lack of covered illness only.

Two deficiencies resulted from things that were simply wrong. Wrong dates of employment in one and another which stated, "SEM was unable to establish a link," and it was written in such a way that it read like SEM was being used to deny the case.

Two additional deficiencies can be attributed to sloppiness. One such case referenced General Electric in a Brookhaven case and the other referenced Paducah in a Mound case.

Three deficiencies result from confusing FOF that were not in a logical, clear, easily understood manner. One such confusing case was a denial of increased impairment, but the FOF in that case referenced prior acceptances for skin cancer and impairment, then goes on to referencing the employee being a contractor employee at Portsmouth and a discussion of their potential exposures before finally getting to the denial of increased impairment. Another acceptance of a widow's COPD survivor benefit reads like a first time acceptance of COPD for causation, and another that included details for a first time acceptance of skin cancer when this acceptance was a subsequent skin cancer.

Element 4: Conclusions of Law:

56 cases were reviewed in Category 3, Element 4 with 13 deficiencies noted.

There was one case in which the reviewer found that the COL denied the case on the wrong grounds resulting in three of the 13 errors. The COL stated the denial is based upon not having a covered illness, when in actuality he didn't work at a covered facility during a covered time period.

Three other errors were based upon legal citations, including mixed up citations for colon, bone and lung cancer and one that uses the wrong cite to deny a CBD claim based upon AWE employment.

Two deficiencies result from statements that are wrong or stating things that should not have been stated. One COL cited policy teleconference notes and another stated that there had been no objections when, in fact, there were.

Five deficiencies can be attributed to sloppiness – COL that read like the decision was making a causation finding, though that was done years ago; another had a very long COL that replicates multiple paragraphs from the SOC, referencing the wrong facility, duplicating FOF, and not correctly stating the employment.

IMPROVEMENTS SINCE LAST ACCOUNTABILITY REVIEW:
OTHER SIGNIFICANT FINDINGS:

REVIEWER(s):	**DATE:**
Karoline Anders, Anna Navarro, Angela Eaddy, Curtis Johnson	September 6, 2016

AR-1

Accountability Review Findings

Dates of Review: August 15, 2016 – August 19, 2016

Office Reviewed: Cleveland FAB

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category # 4: Remand Orders

Sample Size (total # of indicators in the element that were reviewed):	205
Number of cases reviewed:	41
Number of errors in element:	10
Acceptable rating:	90%
Rating for review:	95%

Describe Findings:

Review of the remand measures whether a remand was necessary and appropriate based on the evidence in the file. It also measures if the basis of the remand and further action to be taken are accurate and clearly described. The Cleveland Final Adjudication Branch (FAC) exceeded the acceptable rating for this Category with a rating of 95%.

Ten errors were identified within this category. In two claims, (last four) 7021 and 7021, the remands involved offsets and the cases were returned to the district office (DO) due to calculation errors of less than $200 and were unnecessary. In both cases the amount of the error was $65. Two additional claims, 8942 and 7476, were found to contain deficiencies based on the remand orders in question listing the wrong medical condition. Three remand orders in claims 7476, 0981 and 6210 failed to include the appropriate legal citations. Finally, in claims 8613, 7476 and 8269, the cover letters were found to be in error as they failed to identify the DO or cited to the wrong DO office to which the case was being returned.

REVIEWER(s):	DATE:
Anna DePasquale	August 18, 2016

AR-1

Accountability Review Findings

Dates of Review: August 15, 2016 – August 19, 2016

Office Reviewed: Cleveland FAB

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category # 5: Reconsideration Requests

Sample Size (total # of indicators in the element that were reviewed):	164
Number of cases reviewed:	41
Number of errors in element:	6
Acceptable rating:	90%
Rating for review:	95%

Describe Findings:

The Cleveland FAB office performed exceptionally well in this category with a 95% rating. Six errors were identified within this category. Specifically, in claim (last four) 1688, the claimant made technical objections to the dose reconstruction as part of the request for reconsideration. However, FAB did not send those technical objections to a DEEOIC Health Physicist prior to denial. In claim 2073, the FAB quoted the reasons the claimant cited for requesting reconsideration, but did not appropriately address the claimants concerns.

In claim 0427, the claimant filed a claim for impairment benefits and originally chose a contract medical consultant (CMC) to assess impairment benefits. The recommended decision (RD) denied the claim because claimant didn't submit sufficient medical for the CMC to assess impairment benefits. While the case was at FAB, the claimant then requested Dr. Meals assess the impairment rating, but FAB still denied the claim for lack of medical for CMC to assess. As part of reconsideration, the claimant repeated the desire to have Dr. Meals assess impairment rating, but FAB proceeded to deny the request because the claimant didn't submit sufficient medical for CMC to assess impairment benefits. The final decision (FD) should not have denied the claim and the request for reconsideration should not have been denied, as the claim should have been remanded to district office (DO) when the claimant timely requested Dr. Meals assess the impairment.

AR-1

Accountability Review Findings

Dates of Review: August 15, 2016 – August 19, 2016

Office Reviewed: Cleveland FAB

Review Period: June 1, 2015 – May 31, 2016

Standard:	Category #6 : ECS Coding

Sample Size (total # of indicators in the element that were reviewed):	255
Number of cases reviewed:	51
Number of errors in element:	6
Acceptable rating:	90%
Rating for review:	95%

Describe Findings:

This category reviews the accuracy of the coding in the Energy Compensation System (ECS) as it related to Final Adjudication Branch (FAB) determinations, final decisions (FD) and remands. The indicators (elements) reviewed include the following: did the decision coding recorded in ECS match the written FD; is the correct denial reason recorded in ECS; is the most accurate remand reason recorded in ECS; are the conditions approved for medical benefits correctly coded in ECS; and are the ICD codes and Eligibility Begin Dates accurately recorded in ECS based on the FD and FD cover letter.

Claim number (last four) 6864 included duplicate entries for lung cancer under Parts B and E, with two marked accepted and two marked not included. Under claim 5554, the FD accepted two conditions, but ECS only accepted one condition. For claim 5961, the FAB wage-loss box was not completed. In Claim 8609, the FD cover letter denied a condition that was not claimed or listed in ECS. Finally, claims 6518 and 7788 did not contain the SEF coding in ECS.

REVIEWER(s):	DATE:
Pamela Burr	August 18, 2016