



Pension & Fiduciary Service

Inquiry Response Highlights

October 2020

TABLE OF CONTENTS

Table of Contents.....	1
Pension Management Center Related Inquiries	1
VA Caregiver Support Program Stipend.....	1
Questions About Guidance For Processing PAA During FTI Suspension.....	2
P&F Service- September 2020 Field Inquiry ResponseHighlights-Clarification Request	4
SSA Follow-Up.....	5
Automation-Related Changes	8
Fiduciary HUB Related Inquiries	10
Question and Suggestion for P&F	10
Onsite Reviews for FY21 and COVID Delays	11
P&F Service Information	12
P&F Service Contact Information	12
Disclaimer	13

PENSION MANAGEMENT CENTER RELATED INQUIRIES

VA CAREGIVER SUPPORT PROGRAM STIPEND

Target Audience: PMC Claims Processors

Background: The Milwaukee PMC had a question concerning the procedures for counting income from the VA Caregiver Support Program Stipend.

Question 1: The Milwaukee PMC has begun receiving questions regarding the VA Caregiver Support Program Stipend. It appears this is part of the Program of Comprehensive Assistance for Family Caregivers (PCAFC). When a Veteran is

receiving VA Pension and his/her spouse is the Veteran's caregiver, they may apply for a stipend to assist with the care of the Veteran. Is the stipend received by a spouse caring for a Veteran considered countable income for Pension purposes? It appears this income could be excluded under V.iii.1.I.3.f.-g. (Chore Services Payments), however, it doesn't appear that financial need factors into the eligibility for payments under PCAFC, which is part of the requirement of chore services payments to be considered excludable income.

P&F Service Response: Yes, the VA Caregiver Support Program Stipend is countable income for VA pension purposes.

The general rule set out at 38 CFR 3.271 is that all income is countable for pension purposes unless specifically excluded by 38 CFR 3.272. The VA Caregiver Support Program Stipend is not excluded under 38 CFR 3.272.

Additionally, the stipend cannot be excluded under M21-1 V.iii.1.I.3.f.-g Chore Services Payments. Income must be based on the Veteran's financial need to qualify for exclusion under the Chore Services Payment exclusion. The VA Caregiver Support Program Stipend is not based on financial need.

Result: Clarification provided.

QUESTIONS ABOUT GUIDANCE FOR PROCESSING PAA DURING FTI SUSPENSION

Target Audience: PMC Claims Processors

Background: The Milwaukee PMC had a question concerning previous guidance provided for PMC Guidance for Processing PAA During FTI Suspension.

Question 1: We have started to move forward with processing these cases and have found that some of the PAA due process letters have been returned as undeliverable mail. We cannot reissue the letter at this time because the letter cannot be appropriately protected. How should we proceed?

P&F Service Response 1: As it is unknown how long the ongoing pandemic will continue for; it is not feasible for PMCs to continue to keep this PAA end product (EP) active. For the above scenario, PMCs should

- cancel the EP,
- use 'other' for the 'reason', and
- use a 'permanent note' of: COVID-19: Undeliverable PAA Letter

Question 2: Some of the PAA due process letters were issued insufficiently and do not propose a low enough VA Pension rate based on the claimant's retirement income. We cannot issue a new letter proposing the correct VA Pension rate because the letter cannot be appropriately protected. How should we proceed?

P&F Service Response 2: As it is unknown how long the ongoing pandemic will continue for; it is not feasible for PMCs to continue to keep this PAA EP active. PMCs should for the above scenario

- cancel the EP
- use 'other' for the 'reason', and
- use a 'permanent note' of: COVID-19: Incorrect PAA Due Process Letter

Question 3: Another common scenario we are encountering is review of the PAA due process letter shows that it was issued correctly according to the worksheet, with income back to 2017. However, we pull an SSA inquiry (a.k.a. SHARE print) and notice that the claimant has been receiving Social Security back to 2015, which is prior to the date on the PAA worksheet and due process letter. Can we take final action on the PAA due process issue, clear the 154, and set up Social Security due process to control for the issue back to 2015 that was discovered based on the SSA inquiry?

P&F Service Response 3: As the PAA due process letter was correctly issued based upon the PAA worksheet and the fact that information received via the SSA inquiry feature in VBMS is not considered to be FTI, PMCs should take final action on the PAA due process per M21-1.X.4.C.3 and M21-4, Appendix B (154: EP 154 should remain pending until the final resolution of the income verification issue (FTI)).

Additionally, to control for the newly identified income issue (3rd-party via SSA inquiry) pertaining to receipt of Social Security from an earlier date as shown differing from that on the PAA worksheet, PMCs should utilize M21-1.I.2.B.1.b and M21-1.I.2.B.3.a to establish a new EP and issue due process to the claimant/beneficiary based upon the earlier date of receipt of Social Security (based upon non-FTI).

Result: Clarification provided.

P&F SERVICE- SEPTEMBER 2020 FIELD INQUIRY RESPONSE HIGHLIGHTS-CLARIFICATION REQUEST

Target Audience: PMC Claims Processors

Background: The St. Paul PMC requested clarification concerning the procedures from the P&F Service - September 2020 Field Inquiry Response Highlights-Clarification Request.

The response to the “DIC eligibility based on decision from substitution appeal” was provided before the manual update to M21-1, VIII.5.17.e-f on September 15, 2020. Since both end products (EPs) will now be worked together when there is a legacy or AMA BVA appeal pending at death unless entitlement to DIC is granted, our previous response is now outdated. A new application is not needed even for claims closed prematurely before the change.

Question 1: While DIC may not inherently be a downstream issue, would it be appropriate to establish an EP 930 in this instance to correct the prematurely closed intertwined service-connected death claim?

P&F Service Response 1: Yes, in this situation, an EP 930 should be established to correct an intertwined service-connected death claim that was closed prematurely.

Question 2: P&F Service indicated that a new application would be required after resolution of the appeal because the prior DIC issue is final. We wish to clarify: Is this only for substitution appeal grants? Does this only apply to legacy appeals with a NOD date after the standardized forms guidance went into effect?

P&F Service Response 2: M21-1, Part VIII, 5.17.e-f was updated on September 15, 2020 to indicate when the legacy or AMA BVA appeal is pending at death and it is inextricably intertwined with a claim for DIC and the cause of death, both EPs must be worked together. Therefore, a new application is not needed.

Question 3: Would DIC be considered a “downstream issue” of the surviving spouse or child appeals an administrative denial of DIC (for example, a denial based on relationship) and the relationship status was granted on appeal? Please clarify if we would require a new application in this circumstance.

P&F Service Response 3: In this situation, a new application is not required because the relationship status was granted on appeal and we have an application of record.

Question 4: Please clarify how we should handle situations where service-connected death is not on appeal, but the Board of Veterans’ Appeals adds service-connected death to the remand or BVA grant at their discretion. Should we solicit an application from the claimant or rate and grant DIC under the Board decision EP?

P&F Service Response 4: In this situation, if the claimant never applied for DIC and is not paid the benefit automatically based on evidence of record, the claims processor should solicit for an application since DIC requires a prescribed form per 38 CFR 3.152.

Result: Clarification provided.

SSA FOLLOW-UP

Target Audience: PMC Claims Processors

Background: The St. Paul PMC had a requested clarification concerning the procedures from the P&F Service SSA response listed below:

Thank you for your response to our inquiry regarding the procedure for faxing the Social Security Administration (SSA). In our recent experience at the St. Paul PMC, we have encountered issues when attempting to fax SSA using the PSC fax numbers listed in M21-1 III.iii.3.A.6.c, for two primary (and different) reasons:

1. The fax numbers for the PSCs as listed in M21-1 III.iii.3.A.6.c are either outdated or are not currently being checked due to COVID-19, and
2. We do not have the claimant's consent to obtain this information, and the PSCs will not release any information without the claimant's signed consent.

Regarding Issue #1, we have outlined the individual problems/alternate means of contact with the three PSCs that we have been able to communicate with below.

Regarding Issue #2, we spoke over the phone with a representative at the Western PSC on September 17, 2020, who confirmed that our current procedure to access non-medical information from the PSCs per M21-1 III.iii.3.A.6.c is not correct and is leading to unsuccessful development. This contact stated that under FOIA and privacy acts, SSA does not have the authority to release information to VA. They consider us a third party regardless of the fact that we are a Federal agency. We attempted citing 38 U.S.C. 5106 and 38 U.S.C. 5701(b)(3) (as instructed in M21-1 III.iii.3.A.1.a) and this contact stated these regulations do not allow them to release information without written consent from the claimant. Below is the procedure this PSC recommended for obtaining non-medical information from SSA:

1. VSR locates SSA Form 3288 here <https://www.ssa.gov/forms/ssa-3288.pdf>
2. VSR fills out the entire form except the signature, date, address of signer, daytime phone, and relationship. The name of person or organization should be the United States Department of Veterans Affairs. The address of the person or organization should be the Claims Intake Center.
3. VSR mails the pre-filled SSA Form 3288 to the SSN owner (the Veteran, spouse or child) and asks the SSN owner to do the following:
 - a. Fill out the remaining parts of the form (signature, date, address of signer, daytime phone, and relationship),

- b. Mail a copy of the completed SSA Form 3288 to the appropriate address listed on the PSC address sheet (attached to this follow-up email),
 - c. Mail a copy of the completed SSA Form 3288 back to VA, and
 - d. Wait 30 days for response.
4. Upon receipt of a properly signed SSA Form 3288, the SSA PSC office will mail the requested information directly to VA because the SSA Form 3288 has the name and address of the VA Claims Intake Center on it.

It should also be noted that the attachment for use in Step 3 of this process shows that each PSC has a paperless fax number. Each of these numbers are different than the fax numbers shown in M21-1 III.iii.3.A.6.c. It is unclear how a paperless fax process would work, but these numbers may be a better (or alternative) option than what is currently listed in the M21-1. Under the above process, we would only need to fax SSA if the SSN holder did not send a copy of SSA Form 3288 directly to SSA but did send a copy to VA in response to our development letter.

Possible Alternative: It is also possible that VA could/should forego the fax process and instead develop to the claimant to obtain SSA Form 3288 with their consent and signature, and once received, manually develop through MAPD to the applicable PSC address listed on this enclosure. This would take the burden off the claimant to mail their SSA Form 3288 to the appropriate PSC and allow VA to communicate directly with SSA.

Below is a summary of the specific issues with the fax numbers/contacts we have encountered from speaking with three of the PSCs:

Southeastern PSC (PSC 3):

- * Janice Shoemaker is listed as the follow-up point of contact for I&E staff, but recent contact with this PSC has verified that Janice has retired.
- * Her replacement informed the St. Paul PMC that the office where faxes are being sent is vacant because all employees are working remotely due to COVID-19.
- * They provided us with an "electronic fax number" to use in which requests can show up digitally on their end; however, this electronic fax number only works for this specific PSC. This fax number is 833-950-2496.

Western PSC (PSC 5):

- * All employees are currently working remotely with the exception of one or two people in office. The faxes we have sent to this facility have either not been received or sit in a backlog of faxes for several months.
- * They do not have an electronic fax number (like Southeastern PSC does) but they do have an "e-mail fax address" which we can use to send inquires. This e-mail address is sf.wnpsc.oas.efax@ssa.gov. However, upon attempting to e-mail this mailbox with a request for SSA information, the SSA contact was unwilling to release any information without a signed release from the claimant (as explained above).

* This PSC also provided a “centralized” fax number of 877-310-7807 (for Western PSC inquires only) if the e-mail fax address does not work with our encryption. This fax number is different from what is listed in M21-1 III.iii.3.A.6.c.

Mid-America PSC (PSC 6):

* The I&E manager at this PSC stated the fax number in M21-1 III.iii.3.A.6.c is accurate but that the faxes need to be sent with “Attention: Phil” on the fax cover sheet.

* There are several fax numbers listed in the manual for this PSC, but the I&E manager stated the correct fax number to use is 816-936-5322.

* She would not release an electronic fax number to the St. Paul PMC.

Please provide follow-up guidance on the proper procedure for obtaining non-medical information from SSA, as our PMC has thus far been unsuccessful using the procedures and contact information listed in M21-1 III.iii.3.A.6.c. We thank you in advance for your response and assistance.

FOR REFERENCE (Response received from Policy and Procedure mailbox on 09/08/2020):

Question 1: Is there a standard procedure for contacting the appropriate Social Security payment center and verifying the date the application may have been filed with SSA? Historically, SSA payment centers have generally refused to disclose any information to VA when contacted, and it is very difficult to get any information from them in regard to our claimants. Additionally, the guidance in M21-1 IV.iii.3.A.3.d states that SSA must verify the date of application in writing, which infers that this information cannot be obtained over the phone.

P&F Response 1: M21-1, Part III, Subpart iii, 3.A.6.c provides the specific instructions to ask questions specific to a Program Service Center by a local Social Security Administration field office.

If the PMC has not received the VA Form 21-4182, PMCs must submit a written request for verification of the SSA application date from the appropriate SSA Payment Center per M21-1, Part IV, Subpart iii, 3.A.3.c-d.

Additionally, if PMCs are having issues with a specific case and are unable to obtain a response from the SSA Payment Center, please contact the P&F Policy and Procedures Mailbox indicating the issue.

If you have any questions, please contact me.

Question 1: The fax numbers for the PSCs as listed in M21-1 III.iii.3.A.6.c are outdated or not being checked due to COVID-19.

P&F Service Response 1: P&F Service has confirmed with the Social Security Administration (SSA) that the fax numbers listed on M21-1 III.iii.3.A.6.c are correct and were recently updated in January 2020. The paperless fax numbers on the attachment provided are only for SSA case processing. Due to COVID-19, SSA has most of their employees working from home, therefore the faxes are being checked on a limited capacity and delays are expected.

Question 2: The procedures to obtain non-medical information from SSA are incorrect or missing some steps because the PMCs do not have the claimant's consent to obtain the information they need and the PSC will not release any information without the claimant's signed consent. St. Paul PMC has provided two suggestions to update the procedures.

P&F Service Response 2: P&F Service will update M21-1 IV.iii.3.A with the correct process to obtain non-medical information from SSA to include developing to the claimant to obtain SSA Form 3288, Consent for Release of Information to allow the Department of Veterans Affairs to communicate directly with SSA. We will also update M21-1 III.iii.3.A.6.c to add the program service center addresses.

If there are any additional questions, please submit them to the Pension Policy and Procedures Mailbox.

Result: Clarification provided, and P&F Service will update M21-1 IV.iii.3.A and M21-1 III.iii.3.A.6.c

AUTOMATION-RELATED CHANGES

Target Audience: PMC Claims Processors

Background: The Milwaukee PMC had a question concerning the procedures for automation-related changes.

Question 1: It appears that at least several burials are pulling every evening for automation, even when the burial is not ready to be worked. For example, a claim that was developed is being pulled nightly to try to auto-generate, then off-ramps, and ends up in a VSR's queue, only to have the suspense date updated to match the development we're waiting for (so that it will leave the VSRs queue) and go through the process all over again the next day. Is it possible to stop the claim from entering the automation cycle after it has failed automation one time? If this isn't possible, what is the process when these claims are off-ramped each day? Anytime a VSR updates the suspense date they receive transaction credit which can be pulled for quality review. Could something be added to the manual so that errors are not called on VSRs for arbitrarily updating suspense dates based on automation? Also, VSRs are clearing 160s when they don't clear in automation. Is this the appropriate action?

P&F Service Response 1: All eligible claims are run through pension automation each night. However, if there is an open tracked item, the suspense date and reason are left alone. This was addressed within the system release on September 25, 2020.

Currently, pension automation cannot award transportation. When eligibility is shown and an amount is claimed, pension automation will process the burial and plot decisions, if claimed, and continue the award at authorization for the field to process the

transportation claim. The field will clear the EP 160 with the transportation claim and send notification to the claimant. If there is no transportation issue and pension automaton failed to close the claim, a claims processor can clear the EP 160.

Question 2: Will certain types of flashes discourage automation of claims? For example, the “Attorney Fee” flash is added to claims that need an attorney fee processed before a claim is cleared. It seems necessary in this case to off-ramp a claim when the flash is entered. In this specific scenario, if the claim is automatically granted when there is an attorney fee flash, due process would need to be issued to recoup the payment necessary to issue to the attorney (I.3.C.9.a.). If claims with this flash are cleared, will there be a follow-up process such as a system-generated message for follow-up action?

P&F Service Response 2: The following flashes are excluded from pension automation:

- Blue Water Agent Orange
- Nehmer Phase II
- Nehmer AO Peripheral Neuropathy
- Non-Nehmer AO Peripheral Neuropathy

P&F Service will conduct a review to determine which additional flashes to exclude from pension automaton to include Attorney Fee.

Question 3: We have also found several automated burial awards that have paid more than the claimant is entitled to. For example, a widow marks that the veteran died in a VAMC, but we can see from our records that he did not (). Another example we’ve come across is the claimant tells us on the application that they incurred expenses for plot, but also tells us the veteran’s remains were cremated and are at home. Should the difference in the amount paid versus what we should have paid be written off as an administrative error when we have information of record at the time the decision was made that shows that we should have paid the lower amount? If so, does due process need to be sent notifying the claimant telling that we paid them in error? Because burial benefits are a one-time benefit it seems possible to make an exception to exclude due process. Instead, contemporaneous notice seems to suffice when there is no adverse action being taken due to writing off the overpayment (I.2.D.3.a.). We could still require the administrative error be part of the VBMS record so that we know the overpayment has been addressed.

P&F Service Response 3: If automation pays an incorrect amount, an administrative error may be called. However, this can only be done after due process is provided and after a thorough review of the individual circumstances of each claim. Please follow the instructions in M21-1 Part III, Subpart v, 1.I.3. On November 9th, 2020, P&F Service

updated M21-1 Part III, Subpart v, 1.I.3.c to clarify that erroneous pension automation decisions can be considered administrative decisions after full review.

Result: Clarification provided.

FIDUCIARY HUB RELATED INQUIRIES

QUESTION AND SUGGESTION FOR P&F

Target Audience: Fiduciary Hub personnel

Background: The Columbia Fiduciary Hub submitted a question regarding the CLEAR Batch Run initiated by P&F Service.

Question 1: As we process the CBC Reviews/Mitigation Requests based on the CLEAR Batch Run in late July, what credit should the FEs be entering? What credit, if any, should the Hub receive when the CBC results are mitigated? Historically, the mitigation would result in the cancellation of a 513, but the FE/Hub is dedicating work to this process. Reviewing the fiduciary situation and preparing a mitigation request is akin to a 522 examination. Should the FEs/Can the station take credit for a 522 completion when these reviews result in a mitigation? If not, what credit should the FEs enter in ASPEN for the work accomplished for the mitigation? We have been providing deductible time, but we understand this is not ideal and know this could become routine. A specific work credit in ASPEN would be ideal for instances where mitigation is occurring.

Any assistance/guidance you can provide regarding this issue would be very much appreciated.

P&F Response: No specific guidance was provided to the hubs regarding ASPEN credit when reviewing and working with the CLEAR Batch Run report. Typically, a hub would take the appropriate credit for the end work being completed. If reviewing the criminal background inquiry (CBI) turned out to be part of the field exam, the field examiner (FE) would take the appropriate field exam credit.

For cases on the CLEAR Batch Run report where the interim guidance mitigation procedure is used, we have recommended to the Office of Field Operations (OFO) that field examiners take the 'CBI' credit (0.24), plus the 'Process Review and Action' credit (0.24), totaling 0.48 credits.

The addition of the 'Process Review and Action' credit would be for the completion of the memorandum that is required. For station level credit, field examination completion credit should not be taken. We are coordinating with OFO to update the FE Performance Standard FAQ with a credit that is appropriate for this action. P&F Service is reviewing options for potential station credit for future CLEAR batch runs and will provide guidance when the next list is released.

If necessary, please reference the procedures provided along with the CLEAR Batch Run report and the August 6, 2020 Interim Guidance for clarification on the review process

If there are any additional questions, please submit them to the P&F Service Policy and Procedures Mailbox.

Result: Clarification provided.

ONSITE REVIEWS FOR FY21 AND COVID DELAYS

Target Audience: PMC Claims Processors

Background: The Lincoln Fiduciary Hub had a question concerning onsite reviews for FY21 and COVID delays.

Question: Has there been any consideration for onsite reviews and revising the process to allow for a virtual review during COVID? (FPM 6.A.3.a (step 8), FPM 6.B.2.b, and FPM 6.B.2.f).

P&F Service Response: P&F Service appreciates your proactive approach to your onsite review workload. However, a key component of onsite reviews is review of all relevant records maintained by the fiduciary, including but not limited to case files, bank statements, accountings, ledgers, check registers, receipts, and bills. Considering onsite reviews are typically for fiduciaries that serve 20 or more beneficiaries, this can be a significant amount of paperwork/records. Therefore, at this time, P&F Service cannot revise the process for onsite reviews to allow for a virtual visit.

On May 7, 2020, VA published Charting the Course: Maintaining Continuous Services to Veterans and Resuming Normal, Pre-COVID-19 Operations. The document provides a framework for VA to resume normal, pre-COVID-19, public-facing operations through a phased-in approach in accordance with National guidelines. This transitional process includes weighing the criticality of currently suspended face-to-face Veteran services before proceeding.

Regional Office (RO) Directors are authorized to determine when public-facing operations will resume in accordance with the Charting the Course guidelines, state and local guidelines, and subject to further department-level guidance from VA.

Therefore, any pending periodic onsite reviews required by law or unscheduled onsite reviews, which cannot be conducted at the fiduciary's place of business by the end of FY 2020 or throughout FY 2021, must be scheduled as soon as practical following the RO Director's determination that public-facing operations may resume. Unscheduled onsite reviews shall be prioritized. The "508- Onsite Review" task must remain pending until the onsite review is completed.

Lastly, as guidance is fluid to adapt to the ever-changing landscape of the current pandemic, please keep us abreast of this specific topic for future consideration of revising the onsite review process.

If there are any additional questions, please submit them to the Pension Policy and Procedures Mailbox.

Result: Clarification provided.

P&F SERVICE INFORMATION

P&F SERVICE CONTACT INFORMATION

Policy and Procedure questions from the PMCs or Fiduciary Hubs should be submitted to P&F Service at [VAVBAWAS/CO/P&F POL & PROC](#) by the Quality Review coach or PMC/Fiduciary HUB Division Management.

All inquiries sent to the Policy and Procedures Mailbox must include the references previously researched, key words or phrases used to search in CPKM. P&F Service is available to assist when there is confusion about a certain policy or procedure, however, PMCs and Fiduciary Hubs are required to research and attempt to resolve the issue locally before sending the question to the P&F Service Policy and Procedures Mailbox. Additionally, including all words used to search topics in CPKM will allow P&F Service to add those search words into CPKM if they were not already in the metadata for a certain manual reference.

Training and Quality questions can be directed to: [VAVBAWAS/CO/P&F TNG QUAL OVRST](#).

Systems-related questions can be directed to: [VAVBAWAS/CO/P&F BUS MGMT](#).

DISCLAIMER

Please note that all responses provided are for informational purposes only. If changes to the M21-1 Adjudication Procedures Manual or Fiduciary Program Manual (FPM) are needed, they are made in conjunction with the response. The M21-1 and FPM supersede any inquiry response.