



Pension & Fiduciary Service

Inquiry Response Highlights

March 2021

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PENSION MANAGEMENT CENTER RELATED INQUIRIES

MFH CLAIMS AND DECOMMISSIONED FAXES

Target Audience: PMC Claims Processors

Background: The St. Paul PMC had provided an inquiry concerning Medical Foster Homes (MFH) claims and decommissioned faxes.

Question: We request clarification on the best method for VAMC Social Workers to submit Medical Foster Home (MFH) claims to the Regional Office of Jurisdiction (ROJ)

following the anticipated fax decommissioning. M21-1 III.v.6.A.3.d states MFH claims should be submitted via fax to the ROJ. While the updates to M21-1 in January mentioned VHA personnel may use Direct Upload to submit documents to VBA, we recently learned that Social Workers within our jurisdiction do not have access to this program nor do they have training to use it.

P&F Service Response: The fax procedure mentioned in [M21-1 III.v.6.A.3.d](#), which states that MFH claims should be submitted via fax to the ROJ, is correct.

There are no plans to decommission the fax numbers associated with MFH coordinators.

Result: Clarification provided.

SUBSTITUTE CLAIMANT TIMELINESS CALCULATIONS

Target Audience: PMC Claims Processors

Background: The Milwaukee PMC had provided an inquiry concerning substitute claimant timeliness calculations.

Question: It has been brought to our attention that the attached job aid, as well as M21-1 [VIII.2.3](#), will need to be reviewed for an update on calculating the time remaining to appeal (or request a review of a prior decision under AMA terms) a decision that has not expired.

The [Time and Date Calculator website](#) counts the date of the prior decision letter as a day in its calculation when it should not. Per [38 CFR 3.110 \(a\)](#), “in computing the time limit for any action required of a claimant or beneficiary, including the filing of claims or evidence requested by VA, the first day of the specified period will be excluded and the last day included.” When we calculate days elapsed between the date of the prior decision and the date of death, the first day **after** the decision notice should be the first day counted in terms of the calculation. Ultimately, an error in the calculation would short the substitute claimant one day in the time limit calculation for their eligibility to file an appeal/review of the prior decision. See below for an explanation using the example provided in M21-1 VIII.2.3.I. We would also recommend noting both in the job and in the manual, that where the time limit would expire on a Saturday, Sunday, or holiday, the next succeeding workday will be included in the computation of the time limit. In addition, we recommend changing the language “365 days” to reflect one year, as in the CFRs, to account for when the calculation includes a leap year.

In the example used [M21-1 VIII.2.3.I](#), the correct time limit result to appeal should be **3/19/2020**, not 3/18/2020. Here is why:

- On **02/15/2019** the VA sent the Veteran notification of an award decision with appeal rights. This is when the appeal period begins, but for the purposes of computing the time limit, we should be using **2/16/19**.
- On **05/29/2019**, the Veteran passed away. We count the date of death, which the [time and date calculator](#) will factor in (by selecting the box “Include end date in calculation”)
- Calculating the days between the date of the letter and the date of death results in **103** days, not 104. 103 represents the amount of the appeal period which had elapsed as of the Veteran’s death.
- Once the letter granting substitution eligibility is released, the clock starts up again as of the date of that letter (See [38 CFR 3.1010 \(f\)\(3\)](#): “The time remaining to take such action will start to run on the date of the mailing of the decision granting the substitution request”). In the example, on **07/01/2019** the claimant is notified of an approved substitution.
- Below is a full breakdown of the math in this example:
 - Date of decision (02/16/2019) through 02/28/2019 = 13 days
 - 03/01/2019 – 03/31/2019 = 31 days
 - 04/01/2019 – 04/30/2019 = 30 days
 - 05/01/2019 – 05/29/2019 (Date of Death) = 29 days
 - 13 + 31 + 30 + 29 = Total of **103 days**.
 - 365 minus 103 days elapsed = **262**. An additional 262 days remain to file an appeal (or request a review of a prior decision under AMA terms) once a proper substitute claimant is decided.
 - We then add this difference (262) to the date we would send the approval for substitution. In the example, 07/01/2019 is the date of notification of substitution eligibility. 07/01/2019 + 262 days = **03/19/2020**. The substitute claimant has until March 19, 2020 to appeal the decision on the proper form.

P&F Service Response: P&F Service concurs that per [38 CFR 3.110\(a\)](#) when computing the time limit for any action required of a claimant or a beneficiary, the first day of the specified period will be excluded. Therefore, the calculation for total days elapsed between the date of the prior decision and the date of death begins the day after the VA sent the claimant notification of an award decision with appeal rights.

On March 11, 2021, P&F Service updated [M21-1, Part VIII, 2.3](#) to address the issue identified within this inquiry. Updates to the job aid were also published.

Result: Clarification provided.

PHILADELPHIA PMC: REQUESTING CLARIFICATION REGARDING MEDICAL EXPENSE VERIFICATION

Target Audience: PMC Claims Processors

Background: The Philadelphia PMC had provided an inquiry seeking guidance on handling changes to recurring medical expenses as captured in the situations provided.

P&F Service Comments: The decision on whether or not to request re-certification of medical expenses and income depends on the evidence received and should be decided on a case by case basis. In your examples, you noted that due process was issued and EVRs were requested for all four examples. While VA can ask for EVRs in these situations, it is not required. See our responses to each of your examples below.

PMC Example 1: Veteran is in receipt of maximum VA Pension benefits since 2016 based on care facility fees. In December 2020, the Veteran submits a statement indicating he is a patient in a new care facility as of March 2020. Evidence submitted suggests the Veteran was not residing in the same care facility from when he was first awarded benefits. The Veteran had no contact with VA since his original claim was approved in 2016, so there is no information regarding his 2017 through 2019 expenses. However, there is no clear indication of fraud, or affirmative evidence that his expenses were less than projected. Result: Issue due process and request 8416/EVR for 2020/2021 only. Do not request certification of prior year expenses.

P&F Service Response 1:

If VA has evidence that the Veteran left the previous facility in 2017, then there is a basis for due process and recertification of medical expenses for the years 2017 to the present. Requesting recertification of income (EVRs) is neither required, or prohibited and should be decided on a case by case basis.

If VA received only 2020 medical expenses, the PMC should process those expenses without regard to previous years. Due process and EVRs would not be necessary in many of these situations.

PMC Example 2: Veteran is in receipt of maximum VA Pension benefits since 2014 based on in-home care fees. In December 2020, the Veteran submits a statement indicating he is a patient in a nursing home as of November 2020, having been transferred from a different care facility. The Veteran had no contact with VA since his original claim was approved in 2015, so there is no information regarding his 2015 through 2019 expenses. However, there is no clear indication of fraud, or affirmative evidence that his expenses were less than projected. Result: Issue due process and request 8416/EVR for 2020/2021 only.

P&F Service Response 2: VA received 2020 medical expense information only. The PMC should process the expenses without regard to previous years. Due process and EVRs would not be necessary in all situations and should be decided on a case by case basis. See [M21-1, Part V, Subpart iii, 3.4.g](#) for more information about the actions to take in the situation described in this example.

PMC Example 3: Veteran is in receipt of maximum VA Pension benefits since 2014 based on in-home care fees. In January 2021, field examiner submits a statement suggesting in home care fees may be less than VA is considering but provides no information regarding the date of the change. The Veteran had no contact with VA since his original claim was approved in 2015, so there is no information regarding his 2015 through 2019 expenses. However, there is no clear indication of fraud, or affirmative evidence that his expenses were less than projected from 2015-2019. Result: Issue due process and request 8416/EVR for 2020/2021 only.

P&F Service Response 3:

Contact the Field Examiner and determine if there is a valid basis for sending due process to the Veteran. Field Examiners are required to submit thorough and complete information. Due process and EVRs would not be necessary in all situations. PMCs should decide on a case by case basis whether or not they are required.

PMC Example 4: Veteran is in receipt of maximum VA Pension benefits since 2014 based on care facility fees. In January 2021, field examiner submits a statement stating the Veteran left the facility in 2016 and is presently residing at home by himself. The Veteran has had no contact with VA since his original claim was approved in 2015, so there is no information regarding his 2015 through 2019 expenses. Though there is no evidence of fraud, there is affirmative evidence that his expenses were less than projected since 2016. Result: Issue due process and request 8416/EVR from 2016 to present.

P&F Service Response 4:

VA has evidence that medical expenses were based on incorrect information for the years 2016 to the present. The PMC should issue due process and request medical expense information for 2016 to the present. Recertification of income (EVRs) would not be necessary in all situations and should be decided on a case by case basis.

P&F Service will update [M21-1, Part V, Subpart iii, 1.G](#) to add examples and make it clearer.

Result: Clarification provided.

FIDUCIARY HUB RELATED INQUIRIES

SYSTEMATIC ANALYSES OF OPERATIONS (SAO) FOR STREAMLINED FIELD EXAMINATIONS

Target Audience: Fiduciary Hub personnel

Background: The Milwaukee Fiduciary Hub submitted a question regarding the requirement to complete a Systematic Analyses of Operations (SAO) over streamlined field examinations as outlined in M21-4, Chapter 5.

Question: Could we please have an update to the SAO manual. Streamlines are no longer processed but it would be beneficial if the reference to them was removed from the manual moving forward. It is also noted that since we do not have BFFS access we are unable to run the data points needed to analyze the successfulness of streamlined exams. Also, if there is any new analysis that should be completed now that we have transitioned please let me know.

P&F Service Response: P&F Service is actively analyzing the Fiduciary Hub (hub) Systematic Analyses of Operations (SAOs) to ensure content is up to date with the latest hub processes.

Please note that this analysis may take some time. In the interim, hubs **do not need** to include an analysis of streamlined field examinations within their field examination SAO. [M21-4, Chapter 5](#) will be updated to reflect this.

Result: Clarification provided.

SURETY BOND BENEFICIARY NOTIFICATION

Target Audience: Fiduciary Hub personnel

Background: The Milwaukee Fiduciary Hub submitted a question regarding the requirement to notify the beneficiary when a decrease in a surety bond is required.

Question: In situations involving a decrease of an existing surety bond, we would like to confirm that a *beneficiary* notification letter is not required.

P&F Service Response: A corporate surety bond protects the beneficiary's VA benefit FUM against mismanagement or abuse by the fiduciary. If a corporate surety bond is required for protection of the beneficiary's VA FUM, the expense may be deducted from the beneficiary's account.

As outlined in [38 CFR 13.230\(g\)](#), the Hub Manager will provide the beneficiary written notice regarding any bond furnished at the beneficiary's expense as well as any bond that is adjusted. Since a decrease in the surety bond amount is an adjustment to the bond, the regulations require written notice to the beneficiary.

On March 30, 2021, P&F Service [updated FPM, Part I, Chapter 2, Section E](#) was updated to clarify this issue.

Result: Clarification provided.

DUPLICATE MISUSE RECORDS

Target Audience: Fiduciary Hub personnel

Background: P&F Service has identified an issue where multiple Misuse Records are being created within VBMS-Fiduciary for the same fiduciary and period of misuse.

Question: The field is noticing that VBMS-Fiduciary is creating new Misuse Records in situations where a misuse EP was previously erroneously closed or cancelled and subsequently re-established. What would P&F Service recommend the field do with these duplicative Misuse Records?

P&F Service Response: VBMS-Fiduciary automatically establishes a new Misuse Record at the time of misuse EP establishment. A singular Misuse Record is sufficient for the processing of the entire misuse process for a single misuse period for a single fiduciary. If an error requires a second misuse EP to be established for the same misuse period for the same fiduciary, the hub employee must

- consolidate any data from the duplicate Misuse Record(s) that are created when a subsequent EP 290 *FID-Misuse* is established for processing purposes, and
- delete the duplicate Misuse Record(s) that is/are no longer needed.

For more information on error corrections in VBMS-Fiduciary, see Inquiry 58 of the FPM Rewrite and Post-VBMS Procedural Inquiry Responses.

Result: Clarification provided.

P&F SERVICE INFORMATION

CONTACT INFORMATION AND MAILBOX GUIDELINES

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 station's Quality Review coach or PMC/Fiduciary HUB Division Management.

P&F Service is committed to assist when there is confusion about a certain policy or procedure. To ensure our efforts are focused on field stations' most important issues, 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.

When submitting an inquiry, please:

- clearly identify exact question(s) being raised
- provide specific manual reference(s) you identified that are relevant to the inquiry,
- include your station's suggested response to the question(s) if a possible solution has been identified to the issue, and
- submit a completed VA form *21-0965 Manual Change Request*, if, as part of the inquiry, your office is recommending a change to the M21-1 or Fiduciary Program Manual (FPM).

Questions about updates to VA forms, administrative decisions, case-specific inquiries or questions related to quality reviews should be directed to P&F Service's Quality and Training mailbox: [VAVBAWAS/CO/P&F TNG QUAL OVRST](#).

Systems-related and letter-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.