

Pension and Fiduciary Service (P&F)

Fiduciary Quality Call Amended

Date: April 25, 2024
TMS: # VA 4657873

AGENDA TOPICS

- [ITEM 1: FIDUCIARY STAR QUARTERLY ANALYSIS](#)
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AGENDA ITEMS

Agenda item: FIDUCIARY STAR QUARTERLY ANALYSIS **Presenter:** Travis Jones, Analyst

Target Audience: Quality Review Team (QRT) Program Specialists and Coaches/Assistant Coaches

Discussion:

QUARTERLY ANALYSIS

This review included the national accuracy results of January 2024, February 2024 and March 2024 from transactions completed in December 2023, January 2024, and February 2024.

National fiduciary accuracy remains above the Outstanding target of 94.0 percent.

	January 2024 Rolling Accuracy	February 2024 Rolling Accuracy	March 2024 Rolling Accuracy
National Fiduciary Accuracy	95.44	95.56	95.58

FIELD EXAMINATION

There were 12 field examination errors cited on nine unique cases with three cases having critical errors:

- Recurring income was not addressed in the field examination.
- The non-liquid assets were not addressed in the field examination.
- The liquid assets were not addressed in the field examination.

The leading administrative errors were:

- The beneficiary and fiduciary profiles were not updated to reflect the most current information.
- All documentation was not complete and uploaded to the eFolder.

Overall, field examination accuracy continued to demonstrate fiduciary hub proficiency with completing field examinations during this review period.

The field examination errors cited during the review period were as follows:

Error Title	Error Description	Instances
NFFEQR6c	The resumption of benefits was not implemented or implemented incorrectly.	1
NFFEQR8a	Minor beneficiary information was not addressed during the field examination.	1
NFFEQR10a (Critical)	The liquid assets were not addressed in the field examination.	1
NFFEQR10b (Critical)	The non-liquid assets were not addressed in the field examination.	1
NFFEQR11a (Critical)	Recurring income was not addressed in the field examination.	1
NFFEQR17a	The beneficiary and fiduciary profiles were not updated to reflect the most current information.	1
NFFEQR17b	The Hub did not establish an appropriate task for future control actions, such as receipt for a properly titled account or surety bond.	4
NFFEQR17e	All documentation was not complete and uploaded to the eFolder.	2

ACCOUNTING and FUND USAGE REVIEWS

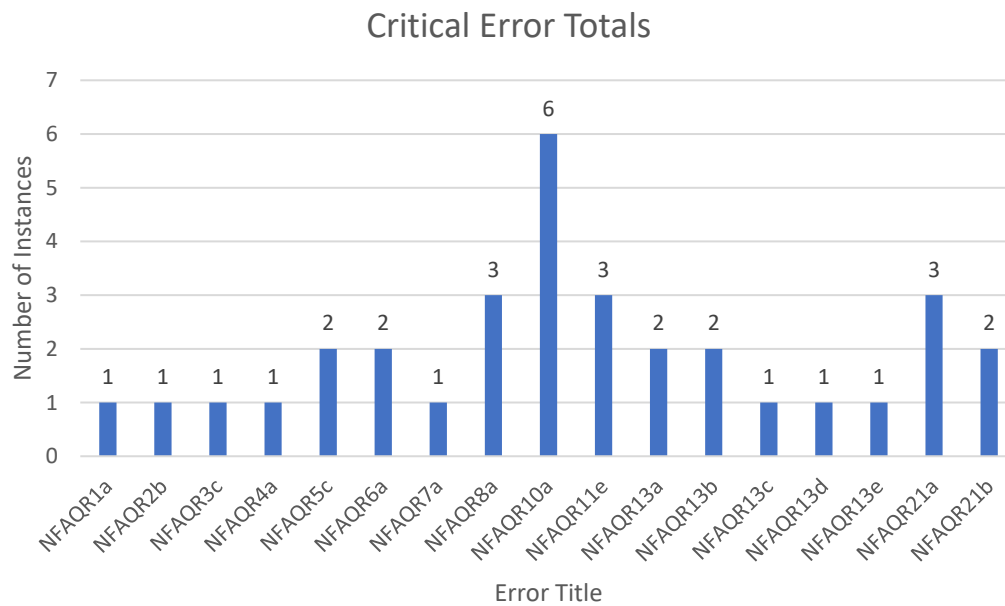
There were a combined 101 accounting and FUR errors for the review period with 33 being critical errors. The most cited non-critical error types were NFAQR22c, NFAQR22d, and NFAQR22e and the most cited critical error types were NFAQR8a, NFAQR10a, NFAQR11e, and NFAQR21a.

The critical Accounting and FUR errors resulted from:

- Missing required accounting forms, financial statements, and credit reports
- Failure to complete required follow-up actions, and

- Failure to request required additional or corrected information.

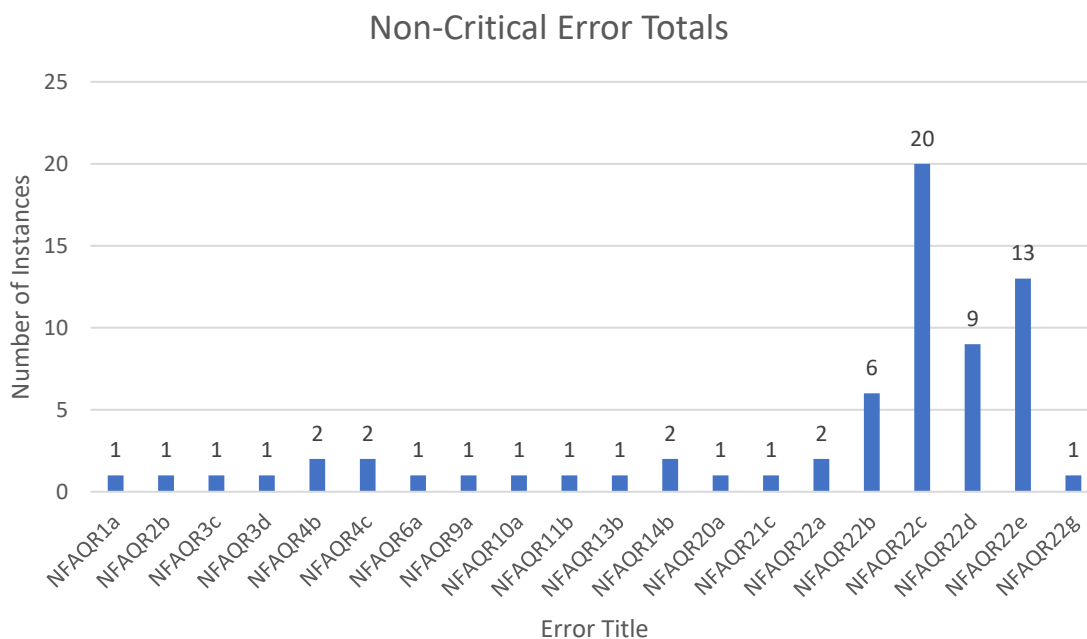
The following chart illustrates the number of each of the critical errors cited:



The most common non-critical errors were cited because:

- The notification letter was not sent and/or did not include all notification letter requirements.
- Failure to update the beneficiary and/or fiduciary profile.
- The accounting/fund usage review diary dates were not properly updated in and/or removed from the beneficiary profile.

The following chart illustrated the number of each of the non-critical errors cited:



Conclusion:

Field examination quality remains consistent with few critical errors found in national reviews.

Accounting and Fund Usage Reviews continues to be the primary area for critical errors but did not create any additional concerns as no new error trends were identified.

References/Contacts

[M21-4 Chapter 8. Fiduciary Hub \(Hub\) National Quality Reviews](#)

[FPM I.2. Field Examinations](#)

[FPM I.3. Accounting](#)

[FPM I.6. Fund Usage Oversight](#)

[Quality Management System](#)

Agenda item: MISUSE TRAINING

Presenter: David Gunnell,
Analyst

Target Audience: Quality Review Team (QRT) Program Specialists and Coaches/Assistant Coaches

Discussion:

P&F provided an overview of the Misuse Special Focused Review (SFR), recommended methodologies for determining an allegation’s merit, and determining misuse. The slides are attached.

References/Contacts

✓ [FPM, II.3](#)

Agenda item: DO NOT APPOINT FLAG

Presenter: Jason Cuiksa,
Analyst

Target Audience: Quality Review Team (QRT) Program Specialists and Coaches/Assistant Coaches

Discussion:

When a fiduciary is barred from service under [38 CFR 13.130](#), Fiduciary hub personnel must select the “DO NOT APPOINT” flag on the fiduciary profile in VBMS. This included if the individual or entity:

- Misused or misappropriated a beneficiary's VA benefits while serving as the beneficiary's fiduciary.
- Refused or neglected to provide the authorization for VA disclosure of information.
- Was unable or been adjudicated by a court with jurisdiction as being unable to manage their own financial affairs.
- Is currently incarcerated in a Federal, State, local, other penal institution or correctional facility, under home confinement, released to halfway house, or on house arrest.
- Has felony charges pending.
- Had been removed as legal guardian by a state court for misconduct.
- Is under the age of majority.
- Been convicted of a felony offense within the preceding 10 years and involved any financial crime. For example:
 - ✓ Fraud
 - ✓ Theft
 - ✓ Bribery
 - ✓ Embezzlement
 - ✓ Identity Theft
 - ✓ Money Laundering
 - ✓ Forgery
- Knowingly violated or refused to comply with VA policies.

▼ Fiduciary Information

Flags

- Spanish Speaking
- Consider as Professional Fiduciary
- VHA Caregiver
- Do Not Appoint

NOTE: If multiple records exist for the same subject fiduciary, ensure the "Do Not Appoint" flag is checked for all.

References/Contacts

- ✓ [FPM II.2.C.1.b.](#), Reasons for Removal
- ✓ [FPM I.2.C.5.b.](#), Bars to Serving as a Fiduciary

Agenda item: INTERACTIVE DISCUSSION - ACCOUNTING/FAST SYSTEM

Presenter: Glenda Russell, Analyst

Target Audience: Quality Review Team (QRT) Program Specialists and Coaches/Assistant Coaches

Discussion:

P&F opened a short discussion with the field to identify best practices in dealing with Fiduciaries and the FAST System. QRT personnel felt that the fiduciaries are using the FAST System and that it is working very well, and this reduced the number of emails received from the fiduciaries.

Field Examiners have become more familiar with the system making it easier to help the fiduciaries when they encounter issues.

Q&A

Question 1: How is the hub to develop and document the preponderance of evidence to establish a previously identified expense is no longer being paid on behalf of the beneficiary when the fiduciary is not providing evidence or communicating with the fid hub and the beneficiary is not able to comment on their situation? After Action Memos from P&F have required fid hubs to automatically provide credit for previously identified expenses to reduce or eliminate misuse amounts.

P&F Response: The steps on how to perform a forensic review of the eFolder to determine the amount of misuse is laid out in [FPM, Part II, 3.A.3.k](#). A forensic review of the file will determine when the hub knew or reasonably should have known when the expense was no longer being paid and to not be used in the calculation of misuse. If the fiduciary is not cooperating, then a reasonably discernible amount should be determined following the execution of due diligence in conducting investigatory actions, and proper credit is given for expenses. P&F further notes that following documented due diligence attempts, the hub may use the fiduciary notification letter as a tool to assist in calculating the misuse amount and any creditable expenses.

Question 2: How do Hubs determine an allowable amount of VA transfer when there were no accountings?

P&F Response: Follow the guidance in [FPM, Part II, 2.C.3.d](#) which provides the materials that should be reviewed in the eFolder to make the best determination of whether the FUM amount transferred is sufficient. An exact amount may not be possible in this case; however, sound and defensible credit should be given if appropriate.

See [FPM, Part II, 2.C.3.d](#) which provides the guidance being requested. The hub must review all evidence of record, to include VA systems, previous financial oversight, and field examinations to determine whether the amount transferred is acceptable. The hub must consider the beneficiary's VA and other income, expenses, and the most recent documented FUM which are of record in any capacity and make a reasonable determination based on that information.

Question 3: Have there been updates with how the transaction codes are labeled and if some of those are going to be cleaned up? Are we going more towards the workflow field exam validation and moving away from telephone development and bank record development?

P&F Response: This has been referred to the Office of Field Operations (OFO) for their consideration.

Question 4: What about those notification letters that disappeared out of records, but they're showing in package manager that they were sent? Do the LIEs and FARs need to re-produce those letters and put them back in the eFolder, even though they are showing that they were sent, just to make the record complete? Or do we verify that the letter went out and it's good?

P&F Response: The Office of Inspector General is doing a review of this now. The field will get instructions from P&F when available.

Question 5: With the funds under management for a fiduciary, when we are doing accountings, are we reviewing all accounts that the fiduciary manages or just the VA accounts? We are also inputting all of that information into the accounting audit tool, is that correct?

P&F Response: Yes, we are reviewing all accounts that the fiduciary manages on behalf of the beneficiary. We need to request financial statements for that account, put it in the accounting audit tool, and properly allocate what is VA funds and what is Other funds. When the funds summary is populated, it populates with the correct information for the total fund for VA and this total fund for other. This information will populate the FUM in the beneficiary profile. Remember that if the accounting audit tool is incorrect, the beneficiary profile information is incorrect.

Question 6: We sometimes see accounts that the fiduciary says they manage, but it's only in the beneficiary's name. What do you consider managed?

Amended P&F Response: Managed funds are VA monies or monies from other sources of income the fiduciary is authorized/certified (fiduciary, payee, representative payee, conservator) to receive and expend/manage on behalf of the beneficiary.

Question 7: Has there been any more discussion on changing some of those rules on Annual Written Contact (AWC)?

P&F Response: P&F is currently reviewing AWC.

Question 8: Do we have an obligation to point out marshalling of funds when the fiduciary has funds that they are NOT the payee for in a custodial account?

Amended P&F Response: Fiduciary Program Manual (FPM) I.1.B.4.a states, fiduciaries owe VA and beneficiaries the duties of good faith and candor and must administer a beneficiary's funds under management (FUM) in accordance with 38 CFR 13.140(b). Per 38 CFR 13.140(b)(9), the fiduciary's primary financial responsibilities include, but are not limited to: protecting the beneficiary's funds from the claims of creditors as described in § 13.270. More specifically, 38 CFR 13.270 states, under 38 U.S.C. 5301(a)(1), VA benefit payments are exempt, both before and after receipt by the beneficiary, from the claims of creditors and taxation. The fiduciary should invoke this defense in applicable circumstances. If the fiduciary does not do so, the Hub Manager may refer the matter to the District Counsel for evaluation and appropriate legal action.

Per FPM I.3.C.2.g, a financial account containing multiple source funds (e.g., VA and Social Security Administration (SSA)) for the same beneficiary is not considered a commingled financial account and is acceptable. When multiple source funds for the same beneficiary are in the same beneficiary-fiduciary account, the fiduciary shall provide an accounting report that addresses all source funds. Important: The fiduciary must submit sufficient financial documentation such that the LIE is able to identify the income and expenditures for the specified beneficiary. This may be satisfied through the use of a ledger containing all transactions for the beneficiary.

Given this information, VA must ensure that the fiduciary protects the beneficiary's VA derived funds under management from the claims of creditors. As long as we can identify that the marshalled funds are not from VA derived funds, through review of financial statements, ledgers, etc., we do not have an obligation to address the marshalling of funds from other sources of the beneficiary.

Closing Comments

P&F Quality Mailbox:

We will solicit for agenda topic(s) for each future Quality Call. If you have a specific topic suggestion, please feel free to email it to the Pension and Fiduciary (P&F) Quality mailbox at PFTNGQUALOVRST.VBACO@va.gov

For specific policy and procedures related topics, please send inquiries through the [P&F Service Field Inquiry Tool \(FIT\)](#).

TMS Courses and Quality Call Bulletins:

Available content from the Quality Call (bulletin, recording, etc.) will be available in TMS. The TMS # for the April 2024 Fiduciary Quality Call is VA 4657873.

The next Quality Call will be presented in June 2024