

Fiduciary October 2024 Quality Call

Primary Topics

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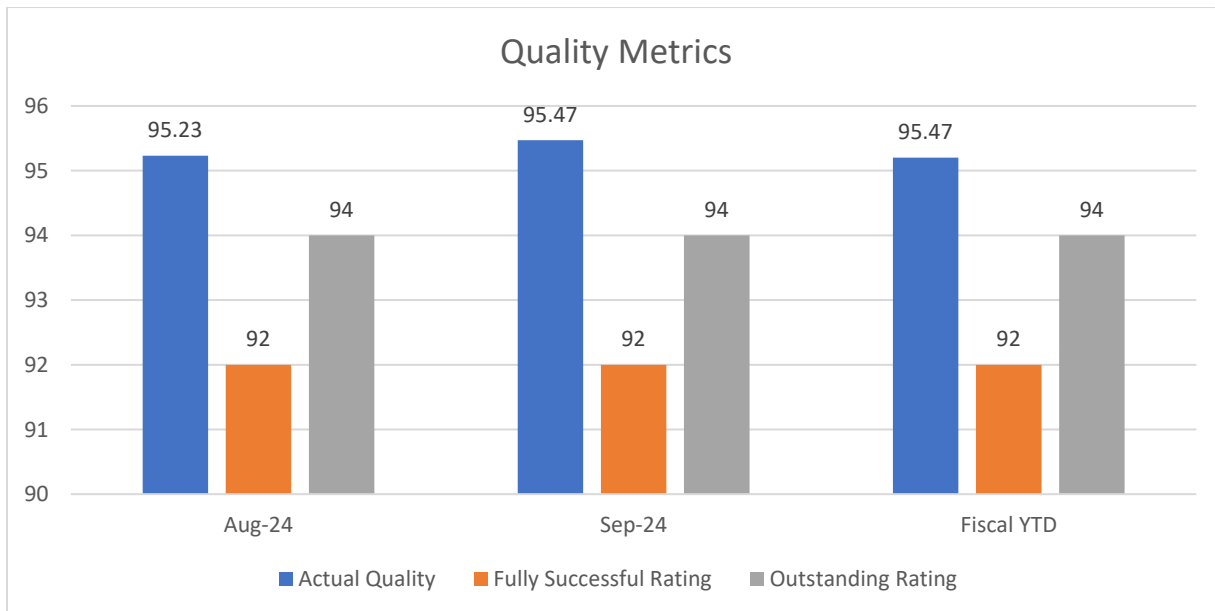
Topic Fiduciary STAR Bi-Monthly Analysis

Presenter Travis Jones, Analyst

This review encompasses the national accuracy reporting results of August 2024 and September 2024 from transactions completed in July 2024 and August 2024.

National fiduciary accuracy remains at the “Outstanding” target of 95.47 percent.

National Fiduciary Accuracy (Quality)	
August 2024	September 2024
95.23%	95.47%



Field Examination Reviews

There were four field examination errors in total. None were critical errors. All four field examination errors were administrative and non-critical:

- NFFEQR1b with one instance of failure to follow procedures to schedule and/or reschedule a field examination for a beneficiary.
- NFFEQR1c with one instance of failure to follow procedures to schedule and/or reschedule a field examination for a fiduciary.
- NFFEQR17c with one instance of the Hub not establishing all appropriate diary dates.
- NFFEQR17e with one instance of not completing all documentation properly and uploading to the eFolder.

Field Examination Error Key Takeaways

- When conducting a minor child examination, the minor beneficiary must be interviewed unless the exception applies per FPM I.2.C.1.b and d. Also, the Field Examiner (FE) must document when a face-to-face interview is not conducted with the beneficiary within the field examination.
- Familiarizing oneself with data gathering requirements regarding contact with the Fiduciary per FPM I.2.C.1.e. Also, when a Face-to-Face interview with a Fiduciary will not be conducted per FPM I.2.C.1.g. Both references provide helpful hints for appropriate actions during these scenarios.
- When conducting an accounting review, please assess the diary information to ensure the Fund Usage Review Date field is blank. Per FPM I.6.A.1.c., hubs will not establish a date in the Fund Usage Review Date field for exempted fiduciaries.
- When generating notification letters, ensure all mailed correspondence matches the intended recipient per FPM I.2.E.3.e..

Accounting and Fund Usage Reviews

There were a combined 55 accounting and FUR errors for the review period with a breakdown of 14 critical errors and 41 non-critical errors. The top two critical errors are listed below:

- NFAQR22c with three instances of failure to follow guidance to request additional or corrected FUR information.
- NFAQR6a with two instances of income reported by the fiduciary not properly verified.

Accounting and Fund Usage Error Key Takeaways

- Within VBMS-Fiduciary, remember to update the diary date information in the Beneficiary profile, especially after completion of an accounting audit (Per FPM I.3.D.1.h).
- Within the Beneficiary Profile, if a Beneficiary resides in a nursing home, remember to uncheck the box that indicates the physical and mailing address as the same. Ensure accuracy by documenting the nursing home as the physical address and the Fiduciary's address as the mailing address.

- While reviewing the Fiduciary profile, if you discover the existence of another fiduciary with the same social security number or EIN, the hub must take action to merge the Fiduciary records in accordance with FPM II.1.D.4.a..
- Ensure all fields of the Fiduciary Profile are complete, ensuring information such as name, social security number, and date of birth all match within the Fiduciary profile as reflected on VA Form 21-4703, Criminal Background Inquiry Report (CBI) and Credit Report (CR) within VBMS. Capture the correct dates within the Fiduciary profile that either the CBI or CR were generated. Please document any discrepancies within the field examination displaying due diligence per FPM I.1.B.6.d.
- Review VA Form 24-0296 direct deposit for proof of properly titled account noting the existence of a Fiduciary relationship as required by FPM II.1.B.2.a. (historical FPM 3.D.5.b.).

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

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

[FPM I.3. Accounting](#)

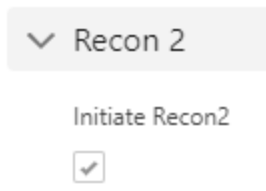
[FPM I.6. Fund Usage Oversight](#)

Topic Upcoming Changes to HLR Procedures

Presenter Sandy Lundquist, Analyst

Per M21-4, Chapter 8.7.d, hubs and the Fiduciary Contact Center (FCC) have the right to seek additional reconsideration from P&F on upheld substantive errors if they make the request to P&F by submitting a memo to VAVBAWAS/CO/P&F TNG QUAL OVRST and the request is submitted within five business days of when the hub or FCC received notification of an upheld error.

Hubs should start using the “Recon 2” button (see below) in QMS when requesting a higher-level review (HLR) instead of sending an email. Updates to M21-4 are pending to reflect this change.



References

[M21-4 Chapter 8.7.d., Additional Reconsideration Request](#)

Reissuance to Next of Kin with Misuse

Presenter Michelle L. Betseraï, Analyst

Pursuant to PL116-315, mandatory reissuance is required, regardless of a finding of negligence upon the VA. Office of General Counsel (OGC) has rendered an opinion based on the scenario in which a beneficiary predeceases the reissuance, and the reissuance goes to the beneficiary's next of kin, including the misusing fiduciary. The opinion is that the monies must be paid pursuant to PL 116-315. The individual fiduciary hubs do not determine who is entitled to mandatory reissuance based on their agreement with the law's drafting. Nor are they allowed to be emotional regarding same when it is incumbent upon them to perform a function in their professional capacity, no matter how distasteful. There is only one direction under the current law. The hub must pay the next of kin in a decedent case.

****If reissuance by negligence determination is made to the estate of the beneficiary, and the misusing fiduciary is a potential heir of the beneficiary's estate, what VA business line is responsible for supervision of the estate to protect the assets which may be reclaimed by the government to repay the fiduciary misuse debt?**

If P&F finds VA negligence and VBA reissues benefits to the beneficiary's estate, then VA has no responsibility to supervise the estate to protect such funds. More specifically, if the fiduciary who misused benefits is an heir of the beneficiary's estate and receives some or all the reissued benefits, VA has no responsibility in preventing that from occurring. If the beneficiary had not died, VA would have reissued benefits to the beneficiary, and the reissued benefits may have been disbursed to the same fiduciary who misused benefits. VA, however, could separately pursue recoupment of the misused funds from the misusing fiduciary to satisfy the fiduciary's misuse debt.

While this opinion was rendered prior to mandatory re-issuance, the underlying premise is the same. VBA is to pay the beneficiary and/or estate according to the applicable laws of the jurisdiction.

Subtopic

[H.R. 4190](#) will ameliorate this. It provides that the Secretary may not make a payment to a fiduciary who misused the benefits of the beneficiary. This matter is not law, nor do we know when it will become law. But the resolution has passed the house and the senate.

References

[H. R. 4190](#)
[38 U.S.C. 6107](#)
[OGC Opinion](#)

Requirement Prior to Mailing Out the Fund Usage Past Due Letter
Fund Usage Oversight

Presented by Michelle L. Betseraï, Analyst

FPM, I.6.B.1 (b)(d) Requirement Prior to Mailing Out the Fund Usage Past Due Letter after completion of the first telephone contact and providing the fiduciary more than 14 days to respond.

FPM, I.6.B.1.d. requires at least one follow up phone call on a separate day if the initial attempt is unsuccessful. FPM, I.6.B.1.b. step 4 requires that required telephone contact per FPM, I.6.B.1.d. be completed prior to sending the Fund Usage Past Due Letter.

We need clarification whether one or two phone calls **must** transpire prior to the Fund Usage Past Due letter being mailed to the fiduciary.

FPM, Part I, 6.B.1.d requires one phone call prior to the mailing of past due letter. The past due letter gives the fiduciary 14 days from the date of the past due to submit the Fund Usage Review (FUR). Since the requirement is that phone calls transpire on two separate days, if there was a requirement for two phone calls before the mailing of the letter, there would be a delay in the fiduciary's receipt of the letter. This would not, however, extend the time the fiduciary has to submit the past due FUR. There is no requirement contained in the references cited that require two phone calls to take place prior to mailing the Fund Usage Past Due letter.

P&P is currently reviewing language in the FPM, Part I, 6.B to determine if edits may be necessary to add clarification to the guidance.

References

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

Do Not Appoint Flag and TPR Results

Presenter Jason Cuiksa, Analyst

Please refer to the TPR attachment to review the results.

References

[38 CFR 13.130 Bars to serving as a fiduciary.](#)

[FPM, Part I, 2. C.5.b. Bars to Serving as a Fiduciary](#)

[FPM, Part II, 1. D.4. d. Managing the DO NOT APPOINT Flag on the Fiduciary Profile](#)

[FPM, Part II, 3. A. Overview of Misuse Issues, Negligence, and Reissuance of Benefit Payments](#)

Reminders

As a follow-up to the information relayed on a previous quality call, only letters within the Fiduciary Repository are authorized for release. Please discontinue the use of locally created letters.

Case Study Review

Presenter Kelly Hardy, Analyst

Please refer to TMS #4667010 to view the full case study.

TMS Courses and Quality Call Bulletins

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 Service (P&F) Quality and Oversight mailbox at PFTNGQUALOVRST.VBACO@va.gov. For specific policy and procedures related topics, please send inquiries through the P&F [Field Inquiry Tool \(FIT\)](#).

Quality Call Bulletins can be found in TMS along with call recordings.

The next Quality Call is scheduled for December 17, 2024. Fiduciary Quality Calls are held bi-monthly on the third Tuesday of the scheduled month. Please put these on your calendars.

Helpful Tools

[QMS Reporting Tool](#)

[Field Inquiry Tool \(FIT\)](#)

[Fiduciary Quality Accuracy Reporting Tool](#)