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# Targeted Program Review Report

## *Pension and Fiduciary Service*

### *Do Not Appoint Flag Fiduciary Profile*

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#### STATEMENT OF PURPOSE

- Pension and Fiduciary Service (P&F) reviewed cases in which a Negligence Determination was required, to ensure that the DO NOT APPOINT flag within the fiduciary profile was completed when appropriate. A fiduciary may be removed if further service is barred under [38 CFR 13.130](#). When a fiduciary is removed due to being barred from service, fiduciary hub (hub) personnel must select the DO NOT APPOINT flag on the fiduciary profile in Veterans Benefits Management System (VBMS).
- Per [FPM, Part I, 2.C.5.b.](#), when the fiduciary is barred from service, select the DO NOT APPOINT flag on the fiduciary profile. An individual or entity may not serve as a fiduciary for a VA beneficiary if the individual or entity misused or misappropriated a beneficiary's VA benefits while serving as a fiduciary, refuses or neglects to provide the authorization for VA disclosure of information, is unable to manage their own Federal or State benefits and is in a Federal or State agency's fiduciary, representative payment, or similar program, has been adjudicated by a court with jurisdiction as being unable to manage their own financial affairs, is incarcerated in a Federal, State, local, or other penal institution or correctional facility, sentenced to home confinement, released from incarceration to a half-way house, or on house arrest or in custody in any facility awaiting trial on pending criminal charges, has felony charges pending, has been removed as legal guardian by a state court for misconduct, is under the age of majority, or, knowingly violates or refuses to comply with VA policies.
- The desired outcome of this review is to provide oversight and confirmation that the required updates were completed.

#### METHODOLOGY

- P&F conducted this targeted program review (TPR) of misuse determinations by all six hubs during fiscal year 2024.
- A sample of claims was reviewed to assess the hubs compliance in selecting the DO NOT APPOINT Flag within the fiduciary profile when the fiduciary met the criteria under [FPM, Part I, 2.C.5.b.](#)
- The cases reviewed were received by P&F for Negligence Determinations during the months of June, July, and August 2024.
- P&F conducted the TPR from June 1, 2024, thru August 30, 2024.
- One analyst from the P&F Quality and Oversight (Q&O) team conducted the case reviews.

- Appendix A is a copy of the TPR review checklist created specifically to analyze this sample of claims.

SUMMARY OF FINDINGS

A review of the sample cases found the following:

Hub	Profiles Reviewed	Profiles Updated Correctly*	Accuracy Rate
Columbia Fiduciary Hub	1	0	0%
Indianapolis Fiduciary Hub	11	6	54.5%
Louisville Fiduciary Hub	6	4	66.6%
Milwaukee Fiduciary Hub	10	6	60%
Lincoln Fiduciary Hub	12	3	25%
Salt Lake City Fiduciary Hub	2	1	50%
<b>Total</b>	<b>42</b>	<b>20</b>	<b>47.6%</b>

\* The DO NOT APPOINT Flag was selected\*

**Root Cause Analysis**

There is a compliance issue in regard to the fiduciary profile and the annotation of the DO NOT APPOINT flag when the fiduciary meets one of the criteria under [FPM, Part I, 2.C.5.b.](#) Hubs are taking the necessary action to remove a fiduciary when there is an allegation of misuse in accordance with [FPM, Part II, 3.D.3.c.](#), but they are not updating the fiduciary profile accordingly to protect beneficiaries in the future. Once the subject fiduciary has been removed, there is typically no need for the hub employee to review or edit that subject fiduciary’s profile. Additionally, within [FPM, Part II, 3.A.](#), there is no annotation, link or reference to either [FPM, Part I, 2.C.5.b.](#), or [FPM, Part II, 1.D.4.d.](#), to remind the hub employee of the bars to serving as a VA Fiduciary and appropriate fiduciary profile record maintenance while completing the Misuse Protocol.

As all cases reviewed had been submitted for a Negligence Determination, each fiduciary profile should have been updated with the DO NOT APPOINT flag selected by the hub or by the P&F analyst reviewing the case. The 22 cases which were not updated appropriately should have been returned to the hubs for an Additional Action Memorandum (AAM) by P&F. P&F analysts did not review the subject fiduciary profiles as stated earlier. This is a compliance issue that has been addressed with the analysts.

RECOMMENDATIONS

1. Share the TPR findings with the hubs. Target completion date is November 30, 2024.
2. Return the cases needing correction to the field. Target completion date is November 30, 2024.
3. Discuss TPR findings on a quality call. Target completion date is December 30, 2024.

4. Conduct a follow-up TPR to review progress with compliance. Target completion date is July 1, 2025.
5. Update to [FPM, Part II, 3.A.](#), to instruct hubs to update the DO NOT APPOINT flag upon the completion of the Misuse Determination where misuse was found.

### ACTIONS TAKEN

1. Created a TPR review checklist (Appendix A) specifically to analyze the claim sample on August 15, 2024
2. Discussed the importance and references regarding the DO NOT APPOINT flag on the April 2024 quality call.
3. Reminded the P&F analysts on Q&O on September 5, 2024 to ensure the DO NOT APPOINT flag is being checked when completing a Negligence Determination. If the DO NOT APPOINT flag is not checked an AAM needs to be sent to the hub.
4. Reminded the P&F analysts on Q&O during a team meeting on September 11, 2024, to ensure the DO NOT APPOINT flag is checked when required.

### Appendix A. TPR Review Checklist



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