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# EP 600 Claim Labels

**Target Audience:** AAFCs, AAFC Management, Authorization Quality Review Specialists (AQRS), and Quality Review Team Management

**Presenter:** Suzanne Ribish, Management and Program Analyst, OAR

When VA has failed to perform financial transactions to make funds available for direct payment of fees and it was asserted or discovered *after* a claimant has already received a retroactive payment of past-due benefits, due process must be afforded to the claimant to establish a debt to rectify this issue, and this is controlled with an EP 600.

OAR identified a routing issue due to the use of a singular claim label. To correct this routing issue, OAR and National Work Queue (NWQ) have established five new EP 600 claim labels to control this issue and to ensure proper routing of workload in NWQ.

Five new EP 600 claim labels are slated to go live with the July 9, 2023, VBMS release. M21-5 and M21-4 will be updated soon in conjunction with these EPs.

The AAFC should select the appropriate EP 600 based on the claim type for which the failure to process agent/attorney fees was based upon:

* **EP 600 – Attorney Fee Predetermination Notice – Rating**: non-DROC related compensation rating workload
* **EP 600 - Attorney Fee Predetermination Notice – NR**: non-DROC related compensation non-rating workload
* **EP 600 - DROC - Attorney Fee Predetermination Notice**: all DROC related workload
* **EP 600 -PMC - Atty Fee Predetermination Notice – Rating**: non-DROC related pension rating workload
* **EP 600 -PMC - Attorney Fee Predetermination Notice – NR**: non-DROC related pension non-rating workload

# Question and Answer – EP 600 Claim Labels

**1. Does “pension” in the descriptor for the PMC claim labels cover all work completed by PMCs, or is it limited to pension benefit claims?**

The two PMC claim labels are inclusive of all work conducted by PMCs in which there was a failure to process agent and attorney fees – Veterans Pension, Survivors Pension, Dependency and Indemnity Compensation, Month of Death, and Burial Benefits.

**2. Will the NWQ auto direct the EP 600s to the original VSR for processing once the suspense has expired?**

The EP 600s are designed to route back to the station that established the claim. It is up to the discretion of local management to assign claims to individual claims processors.

# Agent/Attorney Fee Eligibility Decision Reminders

**Target Audience:** AAFCs, AAFC Management, Authorization Quality Review Specialists (AQRS), and Quality Review Team Management

**Presenter:** Lisa Troen, Management and Program Analyst, OAR

**References:**

* [M21-5, Chapter 8, Section B, Topic 3](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000205497/M21-5-Chapter-8-Section-B-Processing-a-Case-Seeking-Direct-Payment-of-Fees#3)

**Selecting the correct fee eligibility letter type is a key responsibility of the AAFC. The appropriate use for each letter type is detailed below:**

* Letter Name: All requirement met, fees paid

When to use: Non-Rosinski cases

Source: Letter Creator

* Letter Name: All requirements met, calculation with offset

When to use: Partial and Complete Rosinski Cases

Source: Letter Creator

* Letter Name: All requirements met, fees not withheld

When to use: Failure to withhold

Source: Letter Creator

* Letter Name: No NoD/Review, direct payment denied (Non-Original Claim)

When to use: Non-original claims that do not meet the requirements

Source: Letter Creator

* Letter Name: NoD/Review filed when another law in effect

When to use: NoDs on or before June 19, 2007

Source: Letter Creator

* Letter Name: No direct pay fee agreement was filed

When to use: Fee agreement not timely associated with the file due to missing file number/SSN

Source: Letter Creator

* Letter Name: No NOD/Review, direct payment denied (Original Claim)

When to use: Not to be used

Source: Letter Creator

* Letter Name: More than one agent/attorney

When to use: More than one valid fee agreement is of record

Source: [M21-5.8.B.7.a](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000205497/M21-5%2C-Chapter-8%2C-Section-B---Processing-a-Case-Seeking-Direct-Payment-of-Fees)

* Letter Name: No change in combined evaluation

When to use: a grant in benefits, but the benefit granted did not result in a change to the overall combined rating percentage

Source: [M21-5.8.B.8.a](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000205497/M21-5-Chapter-8-Section-B-Processing-a-Case-Seeking-Direct-Payment-of-Fees#7)

Re-Issuance of the Summary of the Case (SOC) was an issue brought to the attention of OAR leadership by the National Organization of Veterans' Advocates.

Appropriate reasons for re-issuance include: incorrect amounts, incorrect eligibility decision, missing appeal/future recoupment information, etc. Grammatical errors are not a reason to re-issue an SOC; there needs to be a substantive cause to restart the 65-day appeal period through re-issuance.

**Characteristics of proper re-issuance of an SOC include:**

* a corrected summary of the case letter should be sent to both parties,
* the original incorrect letter should remain in the file for data integrity/to preserve the electronic record (the new correct letter should never replace the original),
* the corrected summary of the case letter should be dated (both on the letter and date of receipt in VBMS) with the current date, and
* specific reasoning for the re-issuance should be provided on the corrected letter.

#

# Question and Answer – Agent/Attorney Fee Eligibility Decision Reminders

**1. What fee letter type would I choose if separation pay was at issue on the award?**

The "All requirements met, calculation with offset" would be the correct letter type. When the prompt box asks you whether or not the offset is based on withholding of military retired pay, the answer would be no.

**2. Are the attorney fee letters going to be soon transferred to the VBMS Letters UI?**

Yes, OAR is currently working with the Office of Production Optimization to transfer all of the agent/attorney fee letters currently housed in Letter Creator into either VBMS-A or VBMS Letters UI. There is no projected delivery date; however, we have already started the process of designing user friendly options within these applications.

**3. In respect to Poll Question #1, why would we issue a decision if no money is going out?**

This specific poll question directed issuing a "no change in combined evaluation" summary of the case when a rating decision granted a benefit (compensable or not); however, the overall combined percentage for the Veteran did not change. We issue a decision in these cases because a benefit was granted on a qualifying review.

**4. Is a fee decision required on an EP020?**

The easiest way to think of when a fee decision is required is to think of when it is not required. There are two specific categories of rating decisions in which a fee decision is not required. They are in non-original decisions where all issues are either denied or confirmed and continued – this is because eligibility is contingent on a claim being resolved favorably to the claimant, meaning any or all of the relief sought is granted. The second category is original claims, which are naturally ineligible as fees can only be charged on a claim after the notice of an initial decision. If, during a review of the rating decision during authorization, either of these two scenarios is at play, you will know that a fee decision is not required. If you have a valid fee agreement and your claim does not fit into one of these two scenarios, then a Summary of the Case Fee decision is required.

**5. Who makes the fee entitlement/eligibility decision?**

Per M21-5, 8.B.3.b, The AAFC at the station that processes the represented claimant’s award of past-due benefits is responsible for determining eligibility to direct payment of fees and generating and sending the fee decision notice. Specifically, the authorizing AAFC is responsible for determining whether or not fees are payable and creating the fee decision notice.

**6.** **With regards to the SOC in letter creator, it was discussed that the "No direct pay fee agreement was filed" letter type should be used when the fee agreement does not state the SSN or file number. Last AAFC call stated that the SSN/file number is a regulatory requirement and to accept the agreement as valid as long as the fee agreement was associated with the file before authorization.**

Correct, if the absence of a file number or SSN prevented a fee agreement from being timely uploaded to the correct file, then the AAFC would issue a decision denying fees for that previous rating decision based on that fact. The AAFC is not however, invalidating the fee agreement due to that absence. That is where the difference lies. A subsequent decision granting entitlement to dependency based on that qualifying review would pay fees so long as the fee agreement is of record at that time.

# Clear and Unmistakable Errors (CUE)

**Target Audience:** AAFCs, AAFC Management, Authorization Quality Review Specialists (AQRS), and Quality Review Team Management

**Presenter:** Lisa Troen, Management and Program Analyst, OAR

**References:**

* [M21-5, Chapter 8, Section A.1.j.](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000205495/M21-5-Chapter-8-Section-A-Introduction-to-Fees#1j)

A fee can be earned for representation provided on:

* a claimant’s request to revise a prior decision on the basis of CUE as long as notice of the decision being challenged based on CUE was issued on or after February 19, 2019, or
* a claimant's request to revise a prior decision on the basis of CUE where notice of the decision being challenged based on CUE was issued before February 19, 2019, as long as a legacy NOD was filed with respect to the challenged decision on or after June 20, 2007.

If VA identifies and corrects an error by calling a CUE that was not initiated by the claimant or representative, but was found rather while conducting a separate review, *and is not currently under final adjudication*, fees are not payable regarding the CUE issue and a decision to deny fees is required.​

# Updates and Reminders

**Target Audience:** AAFCs, AAFC Management, Authorization Quality Review Specialists (AQRS), and Quality Review Team Management

**Presenter:** Ambria Davis, Management and Program Analyst, OAR

**References:**

* [M21-5 Chapter 8, Section B.6.e](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000205497/M21-5-Chapter-8-Section-B-Processing-a-Case-Seeking-Direct-Payment-of-Fees#6)
* April 2023 National Agent and Attorney Fee Call [Presentation](https://vbaw.vba.va.gov/OAR/docs/april-23-national-aafc-call-slides.pdf) and [Bulletin](https://vbaw.vba.va.gov/OAR/docs/april-23-national-aafc-bulletin.pdf)

**VBMS-A Updates**

VBMS-A version 30.4 released on June 18, 2023, included an update to the eDoc. The eDoc will now include a field within the Attorney Fee Withholding table to identify when the VBMS-A Automated Fee Calculator was overridden. If a user overrode the system-generated amount, the eDoc will indicate “True” in the Calculator Override field. If a user did not override the system generated amount, the eDoc will indicate “False”.



**Fee Release Memorandum Reminders**

It is imperative for the AAFC to include the current firm/agency and address as shown on the [Office of General Counsel (OGC) Accreditation website](https://www.va.gov/ogc/apps/accreditation/index.asp) on the fee release memorandum. The current firm/agency and address must be included on the fee release memorandum in order for finance to ensure payment is issued correctly.

Finance personnel must verify the agent/attorney payment information on the Attorney Fee Vendor SharePoint site.

**Audit Error Worksheet (AEW) Reminders**

Refer to the April 2023 National Agent and Attorney Fee Call [Presentation](https://vbaw.vba.va.gov/OAR/docs/april-23-national-aafc-call-slides.pdf) and [Bulletin](https://vbaw.vba.va.gov/OAR/docs/april-23-national-aafc-bulletin.pdf) for the most recent processing instructions. The AAFC processing the original award requiring retired pay withholdings will pay fees using the 06A transaction when all or a portion of the fees cannot be covered by the award net effect. This transaction will be used regardless of the AEW being processed before or after the payment of fees.

However, if the AEW award was processed prior to the payment of fees, then the AAFC must ensure the 04E transaction was appropriately processed by the BEST AAFC. If the 04E was not processed, then the AAFC will follow failure to make funds available procedures (06B transaction) and the 06A will not be processed.

The BEST AAFC must process the 04E for all fee related AEWs. The 04E amount will match the amount of the 06A that has paid fees (AEW is processed after 65 days) or will be used to pay fees (AEW is processed prior to the 65 days).

The [Interim Procedures for AEWs on Agent/Attorney Fee Cases](https://vbaw.vba.va.gov/OAR/attorney-fees.asp) document explains the scenario in which the AEW is processed after fees have been released. The M21-5 and April 2023 National Agent and Attorney Fee Call expanded the use of the 04E to AEW awards being processed *prior* to the payment of fees. The sample memorandum to establish the 04E provided within the Interim Procedures for AEWs on Agent/Attorney Fee Cases document references the payment of the fees using an 06A. This memorandum is locally generated and must be updated to match the facts of the AEW being processed. Therefore, in some instances the sample language provided would need to clarify the 06A will be paid in the future.

Note: The upload of the manual Agent/Attorney Fee Calculator is mandatory.

Note: The 04E transactions sends funds directly to the fund the 06A is generated from. The 06A is a one-time payment. The 06B is the transaction that simultaneously issues a one-time payment and creates a debt.

# Question and Answer – Updates and Reminders

**VBMS-A Updates**

**1. Is there an update in the future where the checking of the override box would auto generate notification to AFC?**

All users must upload the manual Agent/Attorney Fee Calculator which will confirm the use of the override functionality. There are no plans make an in-system notification when the override functionality is used.

**Fee Release Reminders**

**2. If the 21-22a or any communication such as a 27-0820 differs from the OGC address or agency/firm, then which address should be included on the fee release memorandum? Should we use the updated communication and then email OGC to update their system?**

Per M21-1, I.i.2.C.3.c, claims processors that identify a discrepancy between the private agent/attorney mailing address applied by a VA system (or simply identifies a discrepancy based on correspondence) and the representative’s mailing address found on the OGC Accreditation Search must report the discrepancy to the Office of Administrative Review by e-mailing the VAVBAWAS/CO/AFC corporate mailbox to report the discrepancy. Please follow the OGC address for outgoing communication and the fee release memorandum unless the agent/attorney has been formally contacted (with an uploaded VA Form 27-0820, Report of General Information) verifying the change. The AAFC should clearly indicate the address found on the OGC website and the representative verified the alternate address.

**3. What if the agency/firm has changed its name but did not notify OGC or Support Services Division (SSD)?**

The AAFC must utilize the information found on the OGC Accreditation search unless the firm was contacted and the VA Form 27-0820, Report of General Information is uploaded. The AAFC will also follow the steps outlined in M21-1, I.i.2.C.3.c. SSD is responsible communicating the necessary steps to update bank/vendor information to the agent/attorney.

**AEW Reminders**

**4. Where can we locate the April 2023 National AAFC Call Presentation to review?**

The April 2023 OAR National Agent and Attorney Fee Coordinator Call can be found in TMS (VA 4636332) and on the [OAR resource page](https://vbaw.vba.va.gov/OAR/attorney-fees.asp).

**5. When we receive an AEW and review the claim and find that the attorney fee was missed by rating, can we withhold the fee from the AEW or contact the SOJ that missed the fee and hold off on the AEW?**

The jurisdiction for corrective action will be discussed at a later date. However, the BEST AAFC must ensure that funds for the fee are not released to the claimant when processing the AEW award.

**6. The award that processed the rating decision both released retroactive benefits and withheld funds for receipt of military retired pay. However, the portion that was released on the award net effect completely covered the fee. Therefore, the fees were sent to the eMPWR accountable balance. BEST employees have been instructed to send an 04E to finance for every AEW award. Can we confirm it is necessary to send a request for finance to complete a 04E transaction for $0?**

No, it is not necessary to send a request for finance to complete a 04E transaction for zero dollars. BEST employees must send the 04E request to finance when releasing funds from an AEW and fees were paid or will be paid using an 06A. This will occur when the rating (or non-rating) decision award can be classified as a Partial *Rosinski* or Complete *Rosinski* case (M21-5 8.B.2.h). If it was a Non-*Rosinski* case (offset not at issue or it is at issue, but the retroactive payment covers the offset withholding and the entire fee), then no 04E is necessary. The fee will be paid using the 06J1 and 06J3 transactions. Therefore, the 06A nor the corresponding 04E will not be necessary.

**7. Was there ever a cause identified for the VBMS-A Automated Fee Calculator errors? Were the attorneys paid more than they were due?**

The May 2023 OAR National Call [Bulletin](https://vbaw.vba.va.gov/OAR/docs/may-2023-national-aafc-call-bulletin-updated.pdf) explained the root cause for the VBMS-A Automated Fee Calculator errors and the fix that was deployed. All AAFCs must continue to complete the manual Agent/Agent Fee Calculator for every case (M21-5 8.B.1.a M21-5 8.B.2.e). If a discrepancy exists, the AAFC must utilize the override functionality to correct the fee withholding. Therefore, agents/attorneys fee payment and calculation should not have been erroneous.

**8. Has the calculator been fixed for the penny difference, or do we still need to upload a manual calculator?**

The resolution for the rounding discrepancy continues to be developed. All AAFCs must continue to complete the manual Agent/Agent Fee Calculator for every case (M21-5 8.B.1.a M21-5 8.B.2.e).