**TABLE OF CONTENTS**

[Failure to Withhold Clarification 1](#_Toc160095166)

[Question and Answer – Failure to Withhold Clarification 2](#_Toc160095167)

[Non-rating Higher Level Review Dates 2](#_Toc160095168)

[Question and Answer - Non-rating Higher Level Review Dates 3](#_Toc160095169)

[Non-AMA Fee Denial Procedures 3](#_Toc160095170)

[Question and Answer – Non-AMA Fee Denial Procedures 4](#_Toc160095171)

[VBMS-A System Errors Reporting and Apportionment 4](#_Toc160095172)

[Question and Answer – VBMS-A System Errors Reporting and Apportionment 6](#_Toc160095173)

[One-Cent Difference Overrides 6](#_Toc160095174)

[Question and Answer – One-Cent Difference Overrides 6](#_Toc160095175)

[Attorney Fee Vendor Information SharePoint 7](#_Toc160095176)

[Question and Answer – Attorney Fee Vendor Information SharePoint 7](#_Toc160095177)

[Verifying Correct Attorney: Appointments and Correspondence 7](#_Toc160095178)

[Question and Answer – Verifying Correct Attorney: Appointments and Correspondence 9](#_Toc160095179)

[Reasonable Review Reminders 10](#_Toc160095180)

[Question and Answer – Reasonable Review Reminders 11](#_Toc160095181)

[General Knowledge Review 11](#_Toc160095182)

[Question and Answer – General Knowledge Review 13](#_Toc160095183)

# Failure to Withhold Clarification

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

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

**References:**

* [M21-5, Chapter 8, Section B, Topic 6 – Corrective Action for Failure to Make Funds Available for Payment of Fees and Recouping Fee Payments](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#9)

In cases where the claims processor correctly performed the necessary finance transactions to make funds available, but due to system failure only part of the fee was correctly deducted, procedures found in the manual topic referenced above should only be performed for the *amount that did not properly withhold.*

A review of the initial fee decision and audit should be completed, and if accurate and uncontested by either party, the amount that *did properly deduct*, should be released following the initial 65 day appeal period.

The Office of Administrative Review, alongside Production Optimization, has made a few updates to the Debt to the Veteran for Failure to Withhold letter that will help facilitate these partial failure cases. These updates are anticipated to be available in the Letters UI in VBMS Core the second week in March. Please note there are a few modifications that will be necessary on the All Requirements Met - Fees not Withheld summary of the case fee decision letter as well in order to ensure accuracy and applicability.

# Question and Answer – Failure to Withhold Clarification

**2. Question - Regarding failure to w/h fees that is discovered by a BEST AAFC while processing an AEW, M21-5.B.A.2.a says the AOJ that processes the award is reasonable for adjudicating whether an agent/attorney is eligible for the direct payment of fees. This would indicate if the prior award was a rating decision, that VSC at that AOJ is required to make the decision on fees and send SOCs. Additionally, M21-5.8.B.6.c has an initial and secondary AAFC reviewers. The manual seems to indicate BEST would send a 600 to the VSC at the AOJ to address the failure to withhold fees and BEST would pend the 298 for the AEW until that AOJ has issued SOCs. Could we get confirmation/clarification on this?**

Answer - While the procedural manual for processing fees indicates the party ideally responsible for processing fees, all adjudicators are expected to take the most full and complete action possible on a claim every time – including development, rating, and promulgation actions – to move a claim forward to accurate completion in the claims process (M21-1 VI.i.A.2.c.). Every effort should be made to move the claim to the next processing cycle each time it is handled. The Veterans Benefits Administration’s mission is to serve Veterans and their eligible dependents and survivors in the most timely and accurate manner possible (M21-1 VI.i.A.2.c.). Since the BEST AAFC has determined that fees are due, they may override the VBMS-A calculator to enter the fee deduction and send the fee decision notice. Control of the release of the fee is accomplished with the EP 400. An EP 600 would not be necessary as the funds are available for the payment of fees.

The VBMS-A fee calculator compares changes in gross rates only; therefore, the override functionality would need to be used in order to enter the fee deduction while working the AEW. The 04E would not be used in this scenario because that transaction sends the funds directly to appropriations, not to the eMPWR accountable balance. Overriding the VBMS-A calculator and entering the fee will allow funds from the AEW award net effect to be sent to the eMPWR accountable balance for the payment of fees. Please ensure the assessment fee is included in the "Agent/Attorney Fee" field. The “Agent/Attorney Fee” field is the only field communicated to eMPWR. Failing to include the assessment fee will result in a failure to make funds available processing error.

# Non-rating Higher Level Review Dates

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

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

**References:**

* [38 CFR §14.636, Payment of fees for representation by agents and attorneys in proceedings before Agencies of Original Jurisdiction and before the Board of Veterans’ Appeals](https://www.ecfr.gov/current/title-38/chapter-I/part-14/subject-group-ECFRe2d861683c66a39/section-14.636)
* [M21-5 8.B.2.d Period to Use for Calculating Past-Due Benefits](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#2b)

The Non-Rating Higher Level Review (NR HLR) functionality was designed to auto-date the HLR decision document with the date the award is authorized.

However, for fee audit purposes, the correct decision date is the date the HLR NR award and decision are *generated*.

Please do not use the finalized HLR NR Decision date on your fee audit, if it is not the date the award was generated. The end date on a fee audit should always be the date of award generation for NR decisions.

OAR is pursuing updates to the functionality that will change the auto-date of the upload from the date of authorization to the date of award generation. For the interim, please remain aware of this difference not only when working cases but also when reviewing for quality.

# Question and Answer - Non-rating Higher Level Review Dates

**1. Question** – **Will the date be a day after for dependency also?**

Answer – For fee audit purposes, the correct decision date is the date the HLR NR award is generated. This is also true for dependency cases as they are classified as non-rating. The decision date is the date of award generation. Please refer to the instructions tab within the manual Excel Agent and Attorney Fee Calculator. The final date on the effective date column should be the day following the decision date. For example, non-rating award was generated on February 15, 2024, the last date entered in the effective date column is February 16, 2024.

The date entered in the “Calculate Through Date” field within the VBMS-A Automated Fee Calculator is actual date of the decision. In the example above, the date entered in the “Calculate Through Date” field will be February 15, 2024.

# Non-AMA Fee Denial Procedures

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

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

**References:**

* [M21-5, 8.B.2.a. When to Request Finance Transactions or Use Award Actions for Possible Direct Payment of Fees](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)
* [M21-5, 8.B.3.a. When to Make a Fee Decision and Send Decision Notice](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)

**When to make a fee deduction?** A deduction is only required on an EP020 when CUE or IU benefits are granted (M21-5, 8.B.2.a).

**When to make a fee decision?** A fee decision is required on an EP020 when there is a valid fee agreement of record, executed during the retroactive period, valid representation, and a grant of benefits occurred (M21-5, 8.B.3.a.).

**When to complete the agent/attorney fee calculator?** The manual calculator is only required when a deduction is present/required.

OAR currently has an enhancement request in with Production Optimization to update the verbiage in scenarios where a deduction is not warranted in order to improve clarity; however, in the interim our suggested guidance is to utilize **Letter Creator** for these scenarios and remove the last two sentences. If you do not remove the retroactive amount for fees from the No NOD/Review, Direct Payment Denied letter, then a manual calculator is required in order to verify accuracy.

# Question and Answer – Non-AMA Fee Denial Procedures

**1. Question** - **Today's presentation stated the manual calculator is only required when a deduction is present/required. We were also reminded that the retro is often not the amount that fees 'could' have been based on. But, if the calculator isn't uploaded, how is the authorizer to justify/support the amount entered in VBMS-A?**

Answer - If you are deducting fees, or at all providing the retroactive amount for fees within your summary of case fee decision notice, you will need to complete a manual calculator. If you are denying fees on a non-AMA EP and IU/CUE are not at issue, then you should use letter creator to complete your summary of case and remove the language that communicates the retroactive amount for fees.

**2. Question - If a dependency decision does not have fees due, is it necessary to send a no fee warranted letter?**

Answer - Yes, unless the case is not an original claim or denial of benefits, if there is a valid fee agreement of record, executed during the retroactive period and valid representation, a fee decision notice is required. Please refer to M21-5, 8.B.3.a. When to Make a Fee Decision and Send Decision Notice.

**3. Question - Question lingering at my RO regarding when to pay fees when an EP 020 and 040 are intertwined. When Atty fees are due does the rater rate separately?**

Answer - It is best practice if your station can rate them separately in order to avoid paying fees on a portion of the award (the EP020) that the agent/attorney is not entitled to. However, splitting ratings is not required. If you find you need to separate them manually and require assistance, please reach out to the AAFC corporate mailbox (afc.vbaco@va.gov).

# VBMS-A System Errors Reporting and Apportionment

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

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

**References:**

* [M21-5 8.B.2.a.  When to Request Finance Transactions or Use Award Actions for Possible Direct Payment of Fees](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)

Utilize finance to establish the fee deduction for month of death awards (M21-5 8.B.2.a).

The email correspondence sent on April 21, 2023, instructed personnel to utilize their local finance divisions to manually process an 18/31J transaction for Dependency and Indemnity Compensation (DIC) and Death Pension for CPD Award and Medal of Honor Award types *that require an agent/attorney fee deduction*. These award types are not supported by the “Agent/Attorney Fee” tab in VBMS-A released on Sunday, April 23rd, 2023, until further notice.

The Office of Administrative Review (OAR) is aware of VBMS-A fee deduction failures with claims involving apportionments. Please, **do not** utilize VBMS-A to enter a fee deduction that currently has an apportionment or has any terminated apportionment on the record. Please send a memo to finance to request the establishment of the fee deduction (M21-5 8.B.2.a).

If the VBMS-A attorney fee amount calculated by the system does not match your manual calculator (by more than one cent), DROC AAFCs must follow station guidance to notify the individuals listed below.

* DC DROC
	+ Jonathan Thoits
	+ Joleen McKinney
	+ Ginger Amundson
* St. Petersburg DROC
	+ Christina Opperman
	+ Lauren Haught
	+ Tracy Plante
* Seattle DROC
	+ Sandra Lindley
	+ Steven Roach
	+ Katrina Vanderpoel

For all other divisions, if the VBMS-A attorney fee amount calculated by the system does not match your manual calculator (by more than one cent), please complete the following steps:

1. Re-review all award lines and corresponding amount to verify accuracy of the manual calculator.
2. Enter an IT ticket documenting the issue.
3. Email the AFC box:
	1. Use subject line of “VBMS-A Calculator Ticket”
	2. Include the file number and IT ticket number
	3. Screenshot of VBMS-A Agent/Attorney Fee tab
	4. Copy of the manual Agent/Attorney Fee Calculator
4. Continue the case in pending authorization status until OAR review and coordination with system developers.
5. After OAR review is complete, then utilize the override functionality on the “Agent/Attorney Fee” tab in VBMS-A to manually edit the Retroactive Amount for Fees, the Agent/Attorney Fee (includes the assessment fee), and the Assessment Fee Amount matching the manual calculator.

# Question and Answer – VBMS-A System Errors Reporting and Apportionment

**1. Question** **- I am not familiar with apportionments; so where do I look to see if there is an active or inactive apportionment associated with the file.**

Answer - The award information screen (accessed via VBMS Core or Share) will reflect multiple award types with the beneficiary type listed as apportionee. In Share, the payment history will reflect additional payment record types with payee codes reflecting the apportionee. Additionally, the file will contain awards indicating apportionment payments.

**2. Question - AAFC calculator override is necessary when paying fees from an AEW that is addressing a rating that failed to withhold. Also, 930's don't pull in the correct amounts.**

Answer - This is an appropriate use of the override functionality because the VBMS-A fee calculator compares changes in gross rates only. The 04E would not be used in this scenario because that transaction sends the funds directly to appropriations, not to the eMPWR accountable balance. Overriding the VBMS-A calculator and entering the fee will allow funds from the AEW award net effect to be sent to the eMPWR accountable balance for the payment of fees. Please ensure the assessment fee is included in the "Agent/Attorney Fee" field. The “Agent/Attorney Fee” field is the only field communicated to eMPWR. Failing to include the assessment fee will result in a failure to make funds available processing error.

Please follow the instructions for submitting an IT ticket and notify OAR for any VBMS-A fee discrepancy that is greater than one cent.

**3. Question - What is the timeframe on VBMS-A Calculator Ticket responses. The pending authorization status should be keeping the claim on station and go against RO Mission/Goals.**

Answer - We acknowledge the importance of timely completion of authorization activity and have communicated that to the Office of Information Technology. Every effort will be made to resolve the matter as quickly as possible.

**4. Question - The claims that have/had apportionments with attorney fees are we calculating the fees in VBMS-A or are we just creating the calculator and the authorizer will have to manually do the 18/31J to SSD.**

Answer - The manual fee calculator is currently required for fee cases including cases that utilize VBMS-A to establish the fee deduction. There is no need to utilize VBMS-A to determine the fee amount. Please complete the manual fee calculator and request finance activity to establish the 18/31J transaction for the fee deduction.

# One-Cent Difference Overrides

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

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

Extensive investigation was conducted, and it was determined the VBMS-A has access to pay tables without rounding to calculate the rates. However, AAFCs only have access to the rounded amounts. Therefore, the VBMS-A calculations represent the authoritative source. The expectation is to cease the use of the manual Excel calculator.

Since the calculator functionality has been released, the system has been overridden in approximately 24% of the cases. To have better insight into the use of override functionality, we are asking users to stop overriding VBMS-A for the one cent difference. OFM will ensure SSD does not return memos to release for this.

Do not use the override functionality to update the VBMS-A calculator for a one-cent difference, whether in the retroactive amount for fees or attorney fee amount, with the manual Agent/Attorney Fee Calculator. Please keep the VBMS-A calculations.

# Question and Answer – One-Cent Difference Overrides

**1. Question - Do AAFCs authorize the award with discrepancies greater than $.01?**

Answer – The manual Excel Agent and Attorney Fee Calculator is currently mandatory when completing a fee deduction. If the discrepancy with the manual calculator and the automated calculator is greater than one cent, then please follow the instructions in the VBMS-A System Errors and Reporting topic. After OAR has reviewed the case, AAFCs will need to utilize the override function for discrepancies greater than one cent.

**2. Question – If it is 1 cent off, we use the VBMS-A amount, correct?**

Answer – Yes, you may authorize VBMS-A awards with a $0.01 discrepancy. Do not override VBMS-A to match the manual calculator. AAFCs do not need to contact OAR or enter an IT ticket for the $0.01 difference.

# Attorney Fee Vendor Information SharePoint

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

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

**Reference:**

* [M24-1 Chapter 03 All Programs Part 06 Attorney Fee (NEW PROCEDURES) (va.gov)](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001057/content/554400000204941/M24-1-Chapter-03-All-Programs-Part-06-Attorney-Fee-NEW-PROCEDURES)

AAFCs must not request access to the Office of Financial Management vendor information SharePoint. This SharePoint has EFT account information for the Attorney’s, which is considered personally identifiable information (PII) and access is restricted to only those finance users who are processing payments.  The SharePoint link is found in the finance M24-1 procedural manual.

# Question and Answer – Attorney Fee Vendor Information SharePoint

**1. Question - I've had a situation where an attorney changed their address from what was on the VA Form 21-22A and used the vendor SharePoint to verify the correct address. Now we don't have access to it. How do we know if there are any changes?**

Answer - Please use the OGC Accreditation website for the most current information. If you note a discrepancy, please email afc.vbaco@va.gov for OAR to look into it. Sometimes the VA Form 21-22a address isn't current anymore by the time you might work the case, so we confirm with the attorney or agent before making changes.

# Verifying Correct Attorney: Appointments and Correspondence

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

**Presenter:** Crystal Kappelman, Management & Program Analyst, OAR

**References:**

* [M21-5.8.A.3. Processing Agent/Attorney Appointments and Fee Agreements](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)
* [M21-1.I.i.2.C.2.a. Required System Updates for Changes in POA Appointments](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)
* [M21-1.I.i.2.C.3.a. General Information on POA Codes](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)
* [M21-1.I.i.2.B.1.d. Providing Notice of Correspondence to Private Attorneys or Claims Agents](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000181476/M21-1-Part-I-Subpart-i-Chapter-2-Section-B-A-Representatives-Right-to-Notification-and-Review-of-Records?query=package%20manager)

Verifying the correct attorney or agent by POA code is a critical early step in the representation process. Be mindful that multiple accredited individuals may have the exact same or at least similar names.

Carefully review the OGC accreditation website when processing appointments.

For instance, two attorneys named Robert A. Friedman are accredited to represent claimants:

* POA Code 189: Seattle, WA and,
* POA Code J99: New York, NY.

OAR has received notice from the New York based attorney that he is receiving correspondence for clients of the Washington based attorney.

Another example is two attorneys named Alison Brown:

* POA Code F94: Alison Marie Brown and,
* POA Code HQN: Alison K. Brown.

OAR has received notice from Alison M. Brown that her clients’ correspondence is being sent to Alison K. Brown.

Name changes occur – note that the same POA code means it is the same person and past fee agreements should be honored.

* Cheryl R. Carter (agent), formerly Cheryl R. King
* POA code remains 6QV

Issuing notice to the correct POA is vital – for example, if a Summary of the Case was not issued to the correct POA, it must be re-issued.

OAR has been notified of instances in which Manual Entry is used under Select a Recipient. This practice is outdated and no longer needed. Make sure to choose Power of Attorney as the recipient. This enables claims processors to then select a POA by the 3-character POA code. Caution against searching by name as that speaks to the issue we just discussed regarding same/similar names.



By using POA code to search, claims processors can be confident that the mail is addressed to the correct POA recipient.

# Question and Answer – Verifying Correct Attorney: Appointments and Correspondence

**1. If there is a VA Form 21-22a with Blocks 16A & 17A (or 17a & 18a) signed by the attorney/agent and the Veteran based on 38 CFR 14.630 AND there is also a valid fee agreement should we honor the fee agreement or go by what the 12-22a says?** If Attorney or Agent is marked under 15B of the Feb 2019 or earlier form (now 16B of the Jul 2023 form), yet 16A and 17A of the Feb 2019 or earlier form (17A and 18A of the Jul 2023) are also completed, the representation type is not clear.

This renders the VAF 21-22a incomplete under M21-1.I.i.2.C.1.e, What Constitutes a Complete VA Form 21-22 or VA Form 21-22a and the fee agreement invalid.

In such cases, we advise following the procedures at M21-1.I.i.2.C.1.h, Handling an Incomplete VA Form 21-22 or VA Form 21-22a.

**2. Three options appear in VBMS when searching for a Veteran's representative using key word 21-22. Power of Attorney (incl VA 21-22, VA 22a), Appointment of a VSO, Three -Appointment of an individual. When, if ever, should Power of Attorney (incl VA 21-22, VA 22a) be used? Can Option One be removed and limit the choice to either an individual or a VSO? When Option One is selected by claims processors through the life of the claim it doesn't identify if the rep is an agent/attorney or a VSO because it appears to cover both categories. This also makes it hard to address duplicates as they can't combine if they have different labels.**

OAR recommends utilizing "21-22a" in the Keyword search functionality. This will filter to any document with 21-22a in the document type or subject fields. Review each 21-22a to confirm date(s) of representation. This is the most accurate way to determine date of appointment and date of revocation, as applicable. Additionally, the POA History tab, accessible by clicking the down arrow next to Veteran, then POA, provides a good overview. However, the start and end dates are based on when a claims processor implements the change, which may be several days after the documents were received. Thus, refer to the documents for precise dates.

# Reasonable Review Reminders

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

**Presenter:** Crystal Kappelman, Management & Program Analyst, OAR

**References:**

* [M21-5.8.B.3.a. When to Make a Fee Decision and Send Decision Notice](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)
* [M21-5.8.B.5.d. Referral Required by Fee Eligibility for Multiple Agents/Attorneys](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)
* [38 C.F.R. § 3.103, Procedural due process and other rights](https://www.ecfr.gov/current/title-38/section-3.103)
* [M21-1.I.i.2.B.1.a-d. VA’s Duty to Notify Representatives](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000181476/M21-1-Part-I-Subpart-i-Chapter-2-Section-B-A-Representatives-Right-to-Notification-and-Review-of-Records)
* [M21-5.8.B.5.g. Process for Referrals for Reasonableness Review](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)

Since attorney fee decisions are contested claims, each impacted party must receive a decision addressed specifically to them (as in, not simply as a courtesy copy of a decision addressed to someone else). The reason, again, is that the decision is explaining directly to each party how it impacts each person’s entitlement to a fee, or portion of a fee.

Additionally, the currently accredited representative must receive a copy of everything addressed to their client (Veteran, survivor, other claimant). Thus, AAFCs may end up issuing an SOC courtesy copy to a separate entity completely, such as a VSO, or, to the current attorney, who also received a decision addressed to them (the attorney). Both are needed.

Make sure the EP claim label is set to or updated to ORR (OGC reasonableness review) for easy identification.

Please be aware that OGC is working through a significant backlog of cases. They review each one carefully and issue thorough decisions that often benefit the claimant. If, however, by the time they get to the case, they find the fee decision was not individually addressed to everyone with a stake, they have to pause and ask the station, either directly or with OAR’s support, to issue the fee decisions to all. As stations are already waiting a significant length of time to close these cases, please make sure a decision is addressed to each individual to avoid additional delay.

# Question and Answer – Reasonable Review Reminders

**1. Question - If there are two attorneys that are entitled can we reach out to one of the attorneys to waive the fees or are we required to send both fee decisions to both attorneys and OGC makes the decision?**

Answer - AAFCs may reach out to attorney(s) to waive the fee, however, this is not required. A fee waiver must be in writing (e.g., email or letter uploaded to VBMS). If this cannot be completed within a few days' time, refer the case to OGC.

# General Knowledge Review

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

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

**Poll 1 Question:** How much can agents/attorney charge to be eligible for a direct fee payment by VBA?

**Poll 1 Answer:** 20%

**Poll 1 Reference(s):** M21-5 8.A.1.e

**Poll 2 Question:** Why doesn’t the updated calculator include the bottom release section anymore?

**Poll 2 Answer:** The bottom release section provided instructions on how to generate the release memorandum taking the net effect of the award into consideration. If the net effect covered the fee, then the 06J1 transaction would release available funds from the eMPWR accountable balance. If the net effect did not cover any of the fee, then the 06A transaction would be used. Due to the 06J6 transaction released on December 22, 2023, funds will be available in the accountable balance regardless of the net effect amount.

**Poll 2 Reference(s):** December 2023 National AAFC Call

**Poll 3 Question:** True or False: The AAFC is required to upload the award information screenshot.

**Poll 3 Answer:** True

**Poll 3 Reference(s):** M21-5 8.B.1.a (step 3)

**Poll 4 Question:** If an AAFC determines fees were paid based on funds that are now being released in an AEW, then what needs to be done when processing the AEW award?

**Poll 4 Answer:** The AAFC should process an 04E transaction. This is the correct action regardless of the AEW generating before or after the payment of fees.

**Poll 4 Reference(s):** April 2023 National AAFC Call, June 2023 National AAFC Call, July 2023 National AAFC Call, M21-5 E.B.6.e

**Poll 5 Question:** True or False: The Agent/Attorney and the Veteran/Claimant must each be issued a Summary of the Case fee notification letter.

**Poll 5 Answer:** True

**Poll 5 Reference(s):** M21-5 8.B.3.a, M21-1 VI.1.B.1.c

**Poll 6 Question:** AAFC processing a rating decision with a proposal of incompetency has determined that fees are due. How does the AAFC process the award?

**Poll 6 Answer:** Utilizes the Pending Fiduciary Withholding Calculator to determine the correct withholdings for the net effect of the award to match the exact fee amount. After the appeal period, the AAFC releases funds from the eMPWR accountable balance using the 06J1 transaction.

**Poll 6 Reference(s):** January 2023 National AAFC Call, M21-5 8.B.1.b

**Poll 7 Question:** True or False: An assessment fee must be deducted from dependency claims where fees are payable and was based on a rating decision that processed fees.

**Poll 7 Answer:** False

**Poll 7 Reference(s):** M21-5 8.B.4.d, December 2022 National AAFC Call, November 2023 National AAFC Call

**Poll 8 Question:** What is the importance of the “Receivables (Existing Debt)” field on the calculator?

**Poll 8 Answer:** That field is ensuring the AAFC is looking for an existing debt on the record. If a debt is present, then the AAFC must follow instructions in the M21-5 to ensure the correct fee decision notice is sent.

**Poll 8 Reference(s):** December 2023 National AAFC Call, M21-5 8.B.2.i, M21-5 8.B.9.a

**Poll 9 Question:** The VBMS-A fee calculator required the AAFC to use the override functionality. When entering in the Agent/Attorney Fee amount should the AAFC also include the assessment fee?

**Poll 9 Answer:** Yes, the assessment fee must be included in the “Agent/Attorney Fee” field. The “Agent/Attorney Fee” field is the only field communicated to eMPWR. Failing to include the assessment fee will result in a failure to make funds available processing error.

**Poll 9 Reference(s):** November 2023 National AAFC Call, M21-5 8.B.2.b

**Poll 10 Question:** True or False: If the Agent/Attorney is still a valid representative on the record, they must be cc’d on the Veteran/claimant’s copy of their Summary of the Case fee notification letter.

**Poll 10 Answer:** True

**Poll 10 Reference(s):** M21-1 I.i.2.B.1.a

**Poll 11 Question:** An AAFC is processing a rating decision granting entitlement to individual unemployability but has determined attorney fees are not due. Should the AAFC withhold for fees and process a denial summary of the case fee decision?

**Poll 11 Answer:** Yes

**Poll 11 Reference(s):** October 2023 National AAFC Call, M21-5 8.B.3.a, M21-5 8.B.2.a

# Question and Answer – General Knowledge Review

1. **Question - Per MR 8.B.1.a.- Step #3 states-takes and uploads a screenshot of all applicable current award lines from the “Award Information” screen. In prior AAFC call, we were told not to do it anymore. Why is it still in the steps if there was an update 12/22/2023? QRT or STAR will give an error?**

Answer - Uploading the screenshot of all applicable current award lines from the "Award Information" screen remains a requirement to verify information used for the manual calculator old rates is valid.