**TABLE OF CONTENTS**

[VBMS-A Summary of the Case (SOC) Fee Decision Notice Functionality 1](#_Toc148437141)

[When to Withhold for Fees – Individual Unemployability (IU) and Clear and Unmistakable Errors (CUEs) 2](#_Toc148437142)

[Announcements 3](#_Toc148437143)

# VBMS-A Summary of the Case (SOC) Fee Decision Notice Functionality

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

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

**References:**

* [VBMS-A Summary of Case Fee Decision Notice Job Aid](https://vbaw.vba.va.gov/OAR/docs/vbms-a-summary-of-case-fee-decision-job-aid.pdf)

**Key Reminders**

* EP 290 One Time Clear
	+ date the fee decision notice is *generated* as the date of claim
* EP400 Creation and Tracked Item
	+ date the fee decision notice is *generated* as the date of claim
	+ establish “Attorney Fee” tracked item to the EP 400, **updating the suspense to reflect 65 days from the date on the fee decision notice**
* Accept/Reject Banner at Concur

We had a few inquiries surrounding quality concerns and the date of claim of both the EP 290 one-time PCLR as well as the creation and date of claim of the EP 400 - specifically when a concur is required. The Authorizing AAFC should be the individual who is completing the fee decision and thus should also be the person to complete the EP290 one-time PCLR and the establishment of the EP400.

This has been accounted for within the M21-5 using the specific verbiage shown above. Both dates of claim reference using the date that the fee decision is ***generated,*** not when it is finally adjudicated or authorized, which allows for the correct personnel to still complete and get credit for the fee decision notice.

OAR also recently published a manual update to Section B on M21-5, noting that the “Attorney Fee” tracked item associated with the EP 400 appeal period can and should be manually updated to reflect 65 days from the date on the fee decision. Using the date that automatically generates on the fee decision notice (rather than 65 days from *today)*, whether that is tomorrow or next Monday if completing on a Friday will allow for immediate action once the suspense expires.

Lastly, just a few reminders for concurring personnel: the Accept/Reject banner will be prompted for that employee, so it is imperative that they are aware of their part in the process. We have had several notifications of letters not finalizing based on incorrect rejections. The final update of the tracked item to reflect 65 days from the date of the fee decision will also be the responsibility of the concurring personnel in those cases as the concur may not happen on the same day as the authorization.

**Communication of Failures**

* Please continue to communicate by sending your inquiries to the Agent/Attorney Fee Corporate mailbox (AFC.VBACO@va.gov), especially if you are seeing errors, such as missed issues, or letter failures.
* use subject line of “VBMS-A SOC Feedback”
* include the file number
* explanation of the issue

# When to Withhold for Fees – Individual Unemployability (IU) and Clear and Unmistakable Errors (CUEs)

**Target Audience:** AAFCs, AAFC Management, AQRSs, and QRT Management

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

**References:**

* M21-5 8.B.2.a, *When to Request Finance Transactions or Utilize Award Actions for Possible Direct Payment of Fees*
* M21-5 8.A.2.b, *Agent and Attorney Fee Coordinator (AAFC) Role and Associated Duties*

**When should an AAFC withhold for fees?**

AAFC’s should withhold for fees under the following circumstances:

* + When there is a valid fee agreement
	+ When there is valid representation via a 21-22a
	+ When there is a grant of benefits under Appeals Modernization Act decision lanes (supplemental claim, higher-level review, or direct appeal to the Board)
	+ When there is a grant of individual unemployability under *any non-original claim type*
	+ When there is a grant of clear and unmistakable errors under *any non-original claim type*

M21-5 8.B.2.a, *When to Request Finance Transactions or Utilize Award Actions for Possible Direct Payment of Fees*, was updated on September 25, 2023, to clarify when the AAFC must request finance transactions or utilize award actions for the possible direct payment of fees.

A note was added to the reference stating the following:

“*A fee deduction is required when a grant of benefits is made under any of the AMA decision review lanes (supplemental claim, higher-level review, or direct appeal to the Board) as well as****grants of individual unemployability and clear and unmistakable error under any claim type****. The AAFC will make the final adjudication determining whether direct payment of fees are payable or not payable. A deduction of fees does not always represent fee entitlement*.”

Please be aware, that a deduction of fees does not always represent fee entitlement.

Under M21-5 8.A.2.b, *Agent and Attorney Fee Coordinator (AAFC) Role and Associated Duties,* the AAFC must make determinations related to the direct payment of fees, including:

* + the amount of past-due benefits (if any)
	+ the amount needed for potential direct payment of fees, and
	+ if the agent or attorney is eligible for the payment of fees.

If the AAFC determines fees are not due (IU, CUE), then the fee must be released to the claimant at the end of the 65-day appeal period.

We want to reiterate that withholding the fees does not automatically mean that the agent or attorney is entitled to fees. OAR has received many inquiries concerning navigating the entitlement to agent/attorney fees when individual unemployability is involved. OAR is working with the Office of General Counsel to provide guidance. Unfortunately, the guidance is not yet available.

# Announcements

1. When completing a memo to release, please utilize the OAR resources page to retrieve the memo. There will be an update to the finance system soon that will expedite payments to agents/attorneys when a failure to make funds available for the payment of fees case is processed. Currently, the memo section for processing failure to make funds available instructs finance to simultaneously create a debt on the claimant and pay the attorney using the 06B transaction. Finance is updating procedures to reflect a new transaction type (06J7) to complete the process. The new transaction will go into production on October 20, 2023 and the memo to release will be updated to incorporate that system update into the memo language.

2. OAR is continuing receive notifications of the automated fee calculator presenting an incorrect amount. OIT has requested some live cases that have not yet been authorized. If AAFCs do come across a case with a large discrepancy, please reach out to OAR at the AFC mailbox prior to authorization of the case, so that OAR and OIT may troubleshoot to resolve this issue efficiently.