#### Department of Veterans Affairs M21-1, Part I, Chapter 3

**Veterans Benefits Administration July 29, 2015**

**Washington, DC 20420**

#### Transmittal Sheet

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| Changes Included in This Revision | The table below describes the changes included in this revision of Veterans Benefits Manual M21-1, Part I, “Claimant Rights and Responsibilities,” Chapter 3 “Power of Attorney.”***Notes***: * The term regional office (RO) also includes pension management center (PMC), where appropriate.
* The term Veterans Service Center Manager (VSCM) also includes Pension Management Center Manager (PMCM), where appropriate.
* Minor editorial changes have also been made to
* renumber topics within the section so that the section starts with topic 1
* update section and topic titles to more accurately reflect their content
* reassign alphabetical designations to individual blocks to account for new and/or deleted blocks within a topic update obsolete terminology, where appropriate
* clarify block labels and/or block text,
* update terminology
* update incorrect or obsolete hyperlink references, and
* bring the documents into conformance with M21-1 standards.
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| Reason(s) for the Change | Citation |
| * To add several items of guidance on authority for payment of fees.
* To add references.
 | M21-1, Part I, Chapter 3, Section C, Topic 1, block a (I.3.C.1.a.) |
| To add a new block on unauthorized solicitation of fees.  | I.3.C.1.b |
| To add references. | I.3.C.1.d |
| * To reorganize and clarify the guidance on Agent and Attorney Fee Coordinator (AAFC) duties relating to analysis of direct-pay fee agreements.
* To add information on paperless processing.
* To update information on notices that are not contained in the Letter Creator.
* To delete information that is being moved to I.3.C.1.f.
 | I.3.C.1.e |
| To add a new block on determining whether a valid fee agreement has been submitted based in part on guidance previously contained in I.3.C.1.d. | I.3.C.1.f |
| To add a new block on determining whether direct payment of fees is at issue based on material located from old topic 16, block a. | I.3.C.1.g |
| To delete existing blocks e and f (old topic 14) on the process of paying fees from past due benefits and the direct payment of fees when appointment of a fiduciary is pending as these blocks will be relocated to a new topic 2. | I.3.C.1 |
| To create a new topic on the process of payment of fees directly from past due benefits based on information previously in the first topic (old 14)  | I.3.C.2 |
| To add a new block on the direct fee payment process, relocated from the first topic (old 14). | I.3.C.2.a |
| To add a new block on direct payment of fees when appointment of a fiduciary is pending, that was relocated from the first topic (old 14).  | I.3.C.2.b |
| * To move information from the block text to a table on when to withhold a portion of past due benefits for potential payment of fees before making an attorney or agent fee eligibility decision and sending notice as provided in the next topic.
* To clarify that the policy on withholding applies each time the amount of past due benefits arising from a particular rating changes.
* To add references
 | I.3.C.3.a |
| To provide updated information on sending the correct decision notice using the Letter Creator.  | I.3.C.3.b |
| To add a new block on the appropriate period to use when calculating past due benefits.  | I.3.C.3.c |
| To add a new block based on existing material, regarding how to calculate the amount of past due benefits for the purpose of withholding amounts for potential direct payment of fees when the award requires a reduction or offset.  | I.3.C.3.d |
| To add a new block on making a direct pay fee decision based on the past-due benefit calculation. | I.3.C.3.e |
| To update the block to reflect that withholding will now be via VBMS rather than VETSNET.  | I.3.C.3.f |
| * To remove obsolete content on processing an award in BDN and VETSNET.
* To provide references when authorizing a case involving direct payment of fees from past due amounts awarded to an incompetent claimant pending appointment of a fiduciary.
 | I.3.C.3.g |
| To delete existing blocks c and d (old topic 15) which contain obsolete information on withholding via BDN | I.3.C.3 |
| To add a new block on the concept of the “case” on which fee eligibility can be established.  | I.3.C.4.a |
| To add a new block to provide an example of application of principles relating to the the case concept.  | I.3.C.4.b |
| To add a new block to provide an example of application of principles relating to the case concept.  | I.3.C.4.c |
| To add a new block to provide an example of application of principles relating to the case concept.  | I.3.C.4.d |
| To add a new block to provide an example of application of principles relating to the case concept.  | I.3.C.4.e |
| To add a new block to provide an example of application of principles relating to the case concept.  | I.3.C.4.f |
| To add a new block to provide an example of application of principles relating to the case concept.  | I.3.C.4.g |
| To add a new block to provide an example of application of principles relating to the case concept.  | I.3.C.4.h |
| To add a new block to provide an example of application of principles relating to the case concept.  | I.3.C.4.i |
| To add a new block containing guidance on action to take on a qualifying case based on whether or not a NOD has been received, and – if a NOD has been received – when the NOD was filed.  | I.3.C.4.j |
| To reorganize and update the guidance on final decision and attorney retention criteria that apply in cases where the NOD was received on or before June 19, 2007. | I.3.C.4.k |
| To add a new block containing guidance on making a decision and taking related actions on direct payment of fees in cases where the NOD was received on or before June 19, 2007. | I.3.C.4.l |
| To add a new block containing guidance on representation criteria that are applicable in cases where a NOD was received on or after June 20, 2007. | I.3.C.4.m |
| To add a new block containing guidance on making a decision and taking related actions on direct payment of fees in cases where the NOD was received on or after June 20, 2007. | I.3.C.4.n |
| To add a new block on calculation of attorney or agent assessments at the time of an eligibility determination for cases where the NOD was received on or after June 20, 2007. | I.3.C.4.o |
| To delete the following existing blocks (old topic 16)* block a, which was incorporated into topic 1, block g
* block b, which was moved to in topic 3, block d
* block d, which was included in topic 4, block l
* block e, which was replaced by topic 4, blocks a to i
* block f, which was replaced by topic 4, block m
* block g, which was replace by topic 4, block n
 | I.3.C.4 |
| To add a new block focused on guidance on fee eligibility appeals. | I.3.C.5.a |
| To add a new block focused on who handles fee eligibility appeals. | I.3.C.5.b |
| * To add a new block based on the prior block a focused on the prohibition against releasing funds during the appeal period or when an appeal is ongoing.
* To emphasize that VA does not honor requests from the parties seeking to expedite payment of fees.
* To relocate content to new block a.
 | I.3.C.5.c. |
| * To clarify the guidance on releasing withheld funds in appealed fee decisions.
* To relocate content to new block b.
 | I.3.C.5.d |
| To clarify the guidance on releasing withheld funds when the fee decision is not appealed.  | I.3.C.5.e |
| To provide guidance relating to when the claimant dies before promulgation of an award on remand.  | I.3.C.5.f |
| To delete existing blocks g, h and i (old 17) on reasonableness review of fees, which is now discussed in new topic 6. | I.3.C.5 |
| To create a new topic on reasonableness review of fees by Office of General Counsel including material from relocated from deleted blocks g, h and i of topic 5 (old topic 17).  | I.3.C.6 |
| To add a new block introducing the concept of reasonableness reviews.  | I.3.C.6.a |
| To add a new block on the time limit for motions for reasonableness review.  | I.3.C.6.b |
| To add a new block based on deleted block g of topic 5 (old 17) on RO referral of statements that could constitute requests for reasonableness review to Office of General Counsel. | I.3.C.6.c |
| To add a new block based on deleted block h of topic 5 (old 17) specifying that when two or more attorneys or agents are found eligible for payment of fees referral for reasonableness review is required.  | I.3.C.6.d |
| To add a new block emphasizing the importance of prompt referrals for reasonableness reviews.  | I.3.C.6.e |
| * To add a new block based on deleted block i of topic 5 (old 17) on the RO process for referrals for reasonableness review.
* To update the requirements for what must be provided to OGC when making a referral for a reasonableness review.
 | I.3.C.6.f |
| To add a new block on when to consider the matter of failure to withhold past due benefits.  | I.3.C.7.a |
| To add a new block stating the principle that failure to withhold a portion of past due benefits for the possible direct payment of fees does not relieve VA of the obligation to pay the fees when entitlement is established.  | I.3.C.7.b |
| To delete material moved to blocks a and d and premise action uner the block upon an evidentiary showing that there was a qualifying failure to withhold benefits as provided in new block a.  | I.3.C.7.c |
| To add a new block based on material moved from block c.  | I.3.C.7.d |
| To provide updated guidance to send notices using the Letter Creator in place of references to exhibits of notice content. | I.3.C.7.e |
| To provide updated guidance to send a decision notice using the Letter Creator in place of a reference an exhibit of notice content.  | I.3.C.7.f |
| To add a new topic for an exhibit of a decision notice used when the decision is that there is no valid power of attorney. | I.3.C.8 |
| To add a new topic for an exhibit of a decision notice used when the decision is that there was no fee agreement and/or valid POA in a claim involving a survivor | I.3.C.9 |
| To add a new topic for an exhibit of a decision notice used when the decision is that no NOD was filed in a claim involving a survivor. | I.3.C.10 |
| To add a new topic for an exhibit of a decision notice used when the decision is that there was no cash payment to the claimant.  | I.3.C.11 |
| To remove exhibits of notice letters, old topic numbers 19, 20, 21, and 23, as the notice content has been incorporated into the Letter Creator.  |  |

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| Rescissions | None |

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| Authority | By Direction of the Under Secretary for Benefits |

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| Signature | Thomas J. Murphy, DirectorCompensation Service |

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