## Section I. Correcting Erroneous Payments to a Beneficiary

#### Overview

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| In This Section | This section contains the following topics: |

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| Topic | Topic Name |
| 1 | Overview of Erroneous Payments |
| 2 | Adjusting Awards for Erroneous Payments (Based on Duplicate Payment(s)) |
| 3 | Handling Cases Involving Administrative Errors |
| 4 | Handling Cases Not Involving Administrative Errors |
| 5 | Erroneous Payment End Product (EP) Control and Tracking |

#### 1. Overview of Erroneous Payments

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| Introduction | This topic contains an overview of erroneous payments, including* definition of erroneous payments
* definition of duplicate payments
* examples of duplicate payments
* examples of erroneous payments that are not duplicate payments, and
* actions to take for erroneous payments.
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| a. Definition: Erroneous Payments | ***Erroneous payments*** are payments made to a beneficiary that are not authorized by law. |

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| **b. Definition: Duplicate Payment(s)** | A ***duplicate payment***is defined as a type of erroneous payment where two or more payments are made concurrently to any person, one or more of which are not authorized by law. |

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| **c. Examples of Duplicate Payments**  | Examples of duplicate payments include* a payment of compensation and a payment of pension
* more than one compensation payments
* more than one payment of Dependency and Indemnity Compensation (DIC), or
* more than one payment of pension.
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| **d. Examples of Erroneous Payments That Are Not Duplicate Payments** | Examples of erroneous payments where a duplicate payment does not exist include* assigning an incorrect effective date for the addition of a dependent to a Veteran’s award
* payment of benefits in an amount exceeding a beneficiary’s entitlement that is due to claims-processing delays, or
* a decision that resulted in payment but is later found to be clearly and unmistakably erroneous.
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| **e. Actions to Take for Erroneous Payments** | Follow the instructions in the table below to determine the action to take for erroneous payments based on whether or not a duplicate payment exists. |

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| **If ...** | **Then ...** |
| a duplicate payment exists | follow the instructions in M21-1, Part III, Subpart v, 1.I.2 for adjusting awards with duplicate payments. |
| a duplicate payment does not exist | follow the instructions in M21-1, Part III, Subpart v, 1.I.3 for evaluating if the erroneous payments is due to administrative error. |

#### 2. Adjusting Awards for Erroneous Benefits (Based on Duplicate Payment(s)

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| **Introduction** | This topic contains special instructions for adjusting payments based on erroneous payments, specifically handling duplicate payments, including* multiple payment(s)
* action to take upon discovering duplicate payments
* consideration of administrative errors
* circumstances not warranting an administrative error memorandum
* examples of circumstances in which an administrative error should not be considered, and
* example of a circumstance in which an administrative error can be considered.
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| **a. Multiple Payment(s)**  | In unique situations, a Veteran may receive more than one compensation and/or pension benefit, which is permissible by law. In these situations, the multiple payments are based on* a benefit paid to the person on his or own service, and
* a benefit paid on the death or disability of another person.

These scenarios are appropriate payments of benefits, should not be considered duplicate payments, and require no action.***Reference***: For more information on exceptions to the prohibition against duplication of benefits, see * [38 U.S.C. 5304(b)(1](https://www.law.cornell.edu/uscode/text/38/5304)), and
* [38 CFR 3.700](http://www.ecfr.gov/cgi-bin/text-idx?SID=71b7afe297ca96ddfd0bd10b00fb6501&mc=true&node=se38.1.3_1700&rgn=div8).
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| **b. Action to Take Upon Discovering Duplicate Payments**  | Upon discovering that the Department of Veterans Affairs (VA) is paying duplicate payment(s) to a beneficiary, follow the instructions in the table below.

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| **Step** | **Action** |
| 1 | Establish the appropriate end product (EP) control using the date the error was found as the date of claim. |
| 2 | Payment cannot be suspended without due process if there is entitlement to the benefits on both payments. If the duplicate payment is based on two separate compensation disability conditions, without regard to evaluation, skip to Step 4.In all other scenarios, continue to Step 3. ***Examples***:* Veteran is in receipt of amputation of the left leg at 30 percent and arthritis of the right knee at 10 percent under record “A,” and in receipt of posttraumatic stress disorder (PTSD) at 50 percent and arthritis of the right knee at 10 percent under record “B.” This should be considered an exception. Skip Step 3 and follow the instructions found below in Step 4 since suspending either award would be taking adverse action without due process on an entitlement.
* Veteran is in receipt of 10 percent for erectile dysfunction, 10 percent for diabetes mellitus, and special monthly compensation (SMC) for loss of use of a creative organ under record “A,” and in receipt of 10 percent for diabetes mellitus on record “B.” Follow the instructions below in Step 3 as the Veteran is being paid for diabetes mellitus on record “A.”
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| 3 | Suspend the duplicate payment effective the date of the last payment per [38 U.S.C. 5112(b)(10)](https://www.law.cornell.edu/uscode/text/38/5112).***Important***: * When suspending a duplicate compensation payment that involves the same disability at different evaluations, suspend the award with the lower of the two evaluations.
* When suspending a duplicate pension award, suspend the lower payment.
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| 4 | Establish EP 600 to control for due process and propose to stop the duplicate payments from the effective date of the award. Include appropriate language in the proposed adverse action letter that if the proposed adjustment is taken, it ***may*** result in an overpayment of benefits, and language about minimizing overpayments.***Important***: * Due process is always required before the processing of an overpayment, even when the duplicate payment is suspended as described in Step 3.
* Propose to stop the duplicate payment from the effective date of the award regardless of preliminary evidence that the duplicate payment was due to an administrative error. Proposing to stop duplication of payment effective the date of the award allows VA the flexibility to evaluate all evidence of record after the due process period ends and make a final determination based on the evidence of record.
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| 5 | Review the guidance found in M21-1, Part III, Subpart v, 1.I.3, on administrative errors and in M21-1, Part III, Subpart v, 1.I.2.c and d on special considerations for duplicate payments found. Then use the following table to determine next steps.

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| **If in accordance with the references above a duplicate payment is based on…** | **Then…** |
| a circumstance in which an administrative error should not be considered  | * do not complete an administrative error memorandum, and
* proceed to Step 6.
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| an administrative error on the part of VA  | * prepare the administrative error memorandum in accordance with M21-1, Part III, Subpart v, 1.I.3, and
* proceed to Step 6.
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| 6 | At the end of the expiration of the due process period * evaluate the evidence of record, and
* take the appropriate action as shown in the table below.

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| **If ...** | **Then ...** |
| * an administrative error memorandum was not warranted, and
* no additional evidence was received by the beneficiary, or the beneficiary agrees with the action
 | process the award and generate a decision notice to the beneficiary. |
| * an administrative error memorandum was not warranted, and
* additional evidence was received that resulted in the need to create an administrative error memorandum
 | * create an administrative error memorandum, and
* submit for approval based on the instructions found in M21-1, Part III, Subpart v, 1.I.3.h.
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| * an administrative error memorandum was completed, and
* no additional evidence was received by the beneficiary, or the beneficiary agrees with the action
 | take the corrective action(s) prescribed by the final decision maker to include, if applicable,* Compensation Service’s Program Review Staff, or
* P&F Service’s Quality, Training, and Site Visits Staff.
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| * an administrative error memorandum was completed, and
* additional evidence was received that could potentially result in a change to the final administrative error memorandum
 | * adjust the administrative error memorandum as appropriate, and
* resubmit for approval based on the instructions found in M21-1, Part III, Subpart v, 1.I.3.h.
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***Important***: If a debt is created, ensure that a debt is created on the correct record.  |
| 7 | For cases worked by the Pension Management Centers (PMCs), annotate the tracker log described in M21-1, Part III.v.1.I.5.b. |

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| **c. Consideration of Administrative Errors** | Do not automatically consider duplicate payments as an administrative error. In limited circumstances, a decision to waive the debt due to administrative error is appropriate. In these situations, careful consideration is required and should include determining if the beneficiary could have had knowledge of any additional payments. |

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| **d. Circumstances Not Warranting an Administrative Error Memorandum** | Do *not* complete an administrative error memorandum on the following* a payment of compensation and a payment of pension
* more than one compensation payments when payment is based on the same condition, regardless of the evaluation of the disability
* more than one payment of DIC, or
* more than one payment of pension, including
* one payment under Section 306 Pension and one payment under current-law pension
* one payment under Old Law Pension and one payment under current-law pension, or
* more than one payment under current-law pension, regardless of the maximum annual pension rate or income for VA purposes.
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| **e. Example 1 of Circumstances in Which an Administrative Error Should Not Be Considered** | ***Situation***:* A surviving spouse is in receipt of Survivors Pension and her benefits were converted into a new electronic record without a Social Security number (SSN).
* On May 1, 2012, during a record update, a new Participant Identification Number (PID) is created by adding the spouse’s SSN.
* On June 1, 2015, a Veterans Service Representative (VSR) processing a medical expense report identifies the claimant is receiving two payments.

***Result***: Do not consider the payment of additional benefits, from May 1, 2012, as an administrative error. Suspend the duplicate payment effective the date of the last payment. Provide due process notice regarding the overpayment and after the expiration, adjust the award and send a notification letter. The surviving spouse is responsible for repaying the overpayment. |

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| **f. Example 2 of Circumstances in Which an Administrative Error Should Not Be Considered** | ***Situation***:* A Veteran is in receipt of service-connected compensation benefits for a shoulder injury at 10 percent.
* On December 1, 2013, the Veteran submits a new claim for an increase for his shoulder injury.
* A claims assistant (CA) establishes the Veteran’s claim under a new PID and VA pays the Veteran, under the new PID, 20 percent for his shoulder injury. The Veteran then receives two checks based on the old and new PID.
* On June 1, 2015, the Veteran contacts VA concerning an address change and VA determines the Veteran is receiving two benefit checks.

***Result***: Do not consider the payment of additional benefits, from December 1, 2013, as an administrative error. Suspend the duplicate payment effective the date of the last payment. Provide due process notice regarding the overpayment and after the expiration, adjust the award and send a notification letter. The Veteran is responsible for repaying the overpayment. |

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| **g. Example 3 of Circumstances in Which an Administrative Error Should Not Be Considered** | ***Situation***:* On December 1, 2013, a Veteran in receipt of Section 306 Pension submits a request for current-law pension benefits including aid and attendance.
* VA establishes the claim under the incorrect PID.
* On January 1, 2014, VA grants pension.
* The Veteran is receiving two checks, one for current law pension and one for Section 306 Pension.
* On March 1, 2015, the Veteran notifies VA that he has changed medical facilities and a VSR finds that the Veteran has been receiving two pension payments.

***Result***: Do not consider the payment of additional benefits, from December 1, 2013, as an administrative error. Suspend the duplicate payment effective the date of the last payment. Provide due process notice regarding the overpayment and after the expiration, adjust the award and send a notification letter. The Veteran is responsible for repaying the overpayment. |

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| **h. Example 4 of Circumstances in Which an Administrative Error Should Not Be Considered** | ***Situation***:* On September 1, 2014, a surviving spouse recurring Survivors Pension and applies for DIC.
* The DIC claim is established under an incorrect PID.
* On January 1, 2015, her claim for DIC is granted and she begins receiving payments for DIC benefits in addition to her Survivors Pension payments.
* On March 1, 2014, the surviving spouse contacts VA to confirm her new address and a VSR identifies that the surviving spouse has been receiving both Survivors Pension and DIC payments.

***Result***: Do not consider the payment of additional benefits, from January 1, 2015, to be an administrative error. Suspend the duplicate payment effective the date of the last payment. Provide due process notice regarding the overpayment and after the expiration, adjust the award and send a notification letter. The surviving spouse is responsible for repaying the overpayment. |

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| **i. Example** **of a Circumstance in Which an Administrative Error Can Be Considered** | ***Situation***: * On May 1, 2012, VA assigns a 50 percent disability rating to a Veteran for PTSD.
* On August 12, 2014, a CA establishes a new claim under a new PID, for a claim for service connection for coronary artery disease.
* On October 1, 2014, the Veteran is granted 50 percent service connection for coronary artery disease and the Veteran begins receiving two payments (one for each PID).

***Result***: Consider this an administrative error. Do not suspend either benefit until the final award action. Provide due process notice and after the expiration, adjust the award and send a notification letter.  |

#### 3. Handling Cases Involving Administrative Errors

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| Introduction | This topic contains special instructions for handling cases involving administrative error, including* consideration of the cause of erroneous benefits
* evidence to consider
* determining cause of erroneous benefits
* payment of erroneous benefits due to systems malfunctions or programming errors
* example of an administrative error on the part of VA
* payment of erroneous benefits due to claims-processing delays
* requirement for an administrative error memorandum and advance notice of adverse action
* approval of administrative decisions involving administrative error
* requesting Compensation or Pension and Fiduciary (P&F) Service’s approval of administrative decisions
* actions to take if a beneficiary does not respond to the notice of proposed adverse action
* actions to take if a beneficiary provides new evidence or requests a hearing, and
* substituting a hearing decision for a new administrative decision.
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| **a. Consideration of the Cause of Erroneous Benefits** | Erroneous payments require the determination on whether the cause was due to * an action the beneficiary took (commission) or failed to take (omission)
* payee knowledge
* an administrative error, or
* fraud.

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| **Term** | **Definition** |
| commission | ***Commission*** occurs when a person knowingly takes a wrongful action. |
| omission | ***Omission*** occurs when an individual has not taken an action or has left something out. |
| payee knowledge | Separate and distinct from omission or commission is the knowledge of the beneficiary or payee. ***Payee knowledge*** takes into consideration what the payee knew or should have known. Payee or beneficiary knowledge is * the actual knowledge of the beneficiary or payee, or
* based on the facts of the case, the individual should have known the receipt of such benefits were in error.
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| administrative error | ***Administrative errors*** occur when VA pays benefits to a beneficiary in an amount that exceeds his/her entitlement due to actions on the part of VA usually, but not always, due to a misapplication of the law.Administrative errors include errors in judgment on the part of VA employees.  |
| fraud | ***Fraud*** is wrongful deception intended to result in financial or personal gain. It occurs either through an act of commission or omission by the beneficiary. |

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| **b. Evidence to Consider** | When determining the cause of the erroneous benefit, consider all available evidence such as* VA notifications, including
* cost of living adjustment letters
* award notifications, and
* development letters, and
* statements made by the beneficiary or others.
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| **c. Determining Cause of Erroneous Benefits** | Weigh all available evidence carefully. Based on all available evidence, determine which category below is most appropriate and follow the steps provided. |

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| **If the payment of erroneous benefits is due to ...** | **Then ...** |
| * an action the beneficiary took (commission)
* an action the beneficiary failed to take (omission)
* an action the beneficiary should have known to take or not to take or if the payee knew or should have known that the payment was in error (payee knowledge)
 | follow the instructions found in M21-1, Part III, Subpart v, 1.I.4 under the provisions of [38 CFR 3.500(b)(1)](http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8). |
| an erroneous payment that cannot be attributed to commission, omission, nor payee knowledge (administrative error) | follow the instructions below in M21-1, Part III, Subpart v, 1.I.3 for adjusting the beneficiary’s award under the provisions of [38 CFR 3.500(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8).***Reference***: For more information on preparing administrative error memorandums, see M21-1, Part III, Subpart v, 1.I.4.  |
| fraud | follow the instructions in M21-1, Part III, Subpart vi, 5.A.2 for adjusting the beneficiary’s award under the provisions of [38 CFR 3.500(k)](http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8).***Reference***: For more information on fraud, see M21-1, Part III, Subpart vi, 5.A. |

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| d. Payment of Erroneous Benefits Due to Systems Malfunctions or Programming Errors | The erroneous payment caused by a system malfunction or programming error is ***not*** considered an administrative error under [38 CFR 3.500(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8) and should not be treated as such.***Exceptions***: * If the *automated* processing of a legislative increase in benefits results in the payment of a higher rate of *pension* to a beneficiary than the rate to which he/she is entitled, or
* if incorrect rates are created as a result of the Rules-Based Processing System (RBPS), then
* treat the erroneous payment as an administrative error under [38 CFR 3.500(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8), and
* complete an administrative error memorandum and adjust the beneficiary’s award according to the instructions in M21-1, Part III, Subpart v, 1.I.3.
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| **e. Example of an Administrative Error on the Part of VA** | ***Situation***:* On May 1, 2008, VA assigns a 50 percent disability rating to a Veteran for her service-connected disabilities.
* On August 12, 2010, the Veteran gives birth to a child.
* The Veteran doesn’t notify VA of her new dependent until November 10, 2013.

***Result***: A VA employee erroneously adds this child to the Veteran’s award effective the date of the child’s birth. This is considered an administrative error because VA should have added the child from November 10, 2013 as over one year had passed before the birth of the Veteran’s child was reported to the VA by the Veteran.***Reference***: For more information on award adjustments for dependency, see M21-1, Part III, Subpart iii, 5.F.5. |

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| f. Payment of Erroneous Benefits Due to Claims-Processing Delays | The payment of benefits in an amount exceeding a beneficiary’s entitlement that is due to claims-processing delays is ***not*** considered administrative error.***Example***:* A Veteran notifies VA of a January 1, 2012 divorce on April 21, 2012.
* On March 15, 2013, VA adjusts the Veteran’s award to the date of divorce.

***Result***: The payment of additional benefits beyond April 21, 2012, is not considered administrative error. The Veteran remains responsible for repaying the overpayment that resulted from the delay in adjusting his award. |

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| g. Requirement for an Administrative Error Memorandum and Advance Notice of Adverse Action | If an erroneous payment is believed to be due to an administrative error, and VA is paying benefits in an amount that exceeds entitlement, then* prepare an administrative decision according to the instructions in M21-1, Part III, Subpart v, 1.A that proposes to reduce or discontinue benefits under [38 CFR 3.500(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8)
* send the beneficiary notice of the proposed adverse action according to instructions in M21-1, Part I, 2.B, and
* do not take action to reduce or discontinue benefits until 65 days after the date of the notice of proposed adverse action, unless immediate action is required under the instructions for duplicate payments found in M21-1, Part III, Subpart v, 1.I.2.

***Important***: If an administrative decision has not been approved by officials listed in M21-1, III.v.1.I.3.h, include appropriate language in the proposed adverse action letter, including language that the adjustment ***may*** result in an overpayment of benefits and language about minimizing any overpayments. |

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| h. Approval of Administrative Decisions Involving Administrative Error | Use the table below to determine who must approve administrative decisions involving an administrative error that resulted in the erroneous payment of benefits to a beneficiary. |

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| If the total amount of erroneous benefits paid to the beneficiary is … | Then the decision must be approved by … |
| less than $2,000 | a Coach.  |
| between $2,000 and $24,999 | a Veterans Service Center Manager (VSCM), Pension Management Center Manager (PMCM) or designee no lower than a Coach. |
| $25,000 or more | Compensation Service’s Program Review Staff or Pension and Fiduciary (P&F) Service’s Quality, Training and Site Visits Staff.***Reference***: For information about obtaining approval from the Compensation Service’s Program Review Staff or P&F Service’s Quality, Training and Site Visits Staff, see M21-1, Part III, Subpart v, 1.I.3.i. |

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| ***Notes***: Calculate the total amount of erroneous benefits paid to a beneficiary by multiplying the amount of erroneous benefits VA paid to the beneficiary each month by the number of months VA had paid the erroneous benefits as of the date the administrative decision was prepared. |

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| i. Requesting Compensation or P&F Service’s Approval of Administrative Decisions | Follow the instructions in the table below if approval of an administrative decision by Compensation or P&F Service is necessary according to the instructions in M21-1, Part III, Subpart v, 1.I.3.h. |

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| Step | Action |
| 1 | If the claims folder is ***not*** completely electronic, place a paper flash on the front of the beneficiary’s paper claims folder that briefly describes the reason for transferring the paper claims folder to Compensation Service or P&F Service.***Note***: This is ***not*** necessary for completely electronic claims. |
| 2 | Extend the suspense date of the EP that was established in connection with the administrative decision to a date that is 60 days in the future. |
| 3 | For completely electronic claims notify the appropriate staff by e-mail that an administrative decision requiring approval is available in the beneficiary’s eFolder.* For claims requiring review from Compensation Service’s Program Review Staff, e-mail VAVBAWAS/CO/214B.
* For claims requiring review from P&F Service’s Quality, Training, and Site Visits Staff, e-mail VAVBAWAS/CO/PENSION TRNG & QUALITY.

Follow the instructions in the table below for paper claims folders.

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| If the claim is processed by a … | Then … |
| Veterans Service Center (VSC) | temporarily transfer the paper claims folder toDepartment of Veterans AffairsQuality AssuranceAttn: Program Review Staff (214B)3322 West End Ave, Ste 730Nashville, TN 37203 |
| PMC | temporarily transfer the paper claims folder to Pension and Fiduciary Service (21PF)Attn: Quality, Training, and Site Visits Staff810 Vermont Ave., NWWashington, DC 20420 |

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| 4 | Did the Compensation Service’s Program Review Staff or P&F Service’s Quality, Training, and Site Visits Staff approve the administrative decision?* If *yes*, take final action on the award.
* If *no*, take the corrective action(s) prescribed by the
* Compensation Service’s Program Review Staff, or
* P&F Service’s Quality, Training, and Site Visits Staff.
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| j. Actions to Take If a Beneficiary Does Not Respond to the Notice of Proposed Adverse Action | Follow the steps in the table below if a beneficiary does ***not*** respond to the notice of proposed adverse action referenced in M21-1, Part III, Subpart v, 1.I.2.b and M21-1, Part III, Subpart v, 1.I.3.g with the submission of* new evidence within 60 days of the date of the notice of proposed adverse action, or
* a request for a hearing within 30 days of the date of the notice of proposed adverse action.
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| Step | Action |
| 1 | Adjust the beneficiary’s award so the reduction or discontinuation takes effect the first of the month following the month for which VA last paid the beneficiary.***Rationale***: VA may ***not*** create an overpayment in a beneficiary’s account when adjusting his/her award to correct an administrative error.***Note***: The actual payment of VA benefits is always one month in arrears. ***Example***: Benefits due a beneficiary for the month of October are deposited in the beneficiary’s account at the end of October or the beginning of November. Using this example, “the first of the month following the month for which VA last paid benefits to the beneficiary” would be November 1. |
| 2 | Enter the following as an annotation in Veterans Benefits Management System (VBMS) after generating the adjusted award* brief description of the error
* date the error occurred
* name and title of the individual who made the error
* the amount of erroneous benefits, and
* the regulation under which the adjustment was made ([38 CFR 3.500(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=739acb1a641592f98bdc1e89d1f2e6a5&node=se38.1.3_1500&rgn=div8)).
 |
| 3 | Prepare a memorandum for the claims folder or upload the memorandum into VBMS that states* the beneficiary submitted no new evidence, and
* the proposed decision is final.

***Important***: Preparation of a second, final administrative decision is unnecessary. |
| 4 | Follow the instructions in the table below.

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| If the administrative decision that preceded the final decision was approved by … | Then … |
| a Coach | ensure a Coach signs the memorandum. |
| the VSCM, PMCM, or a designee no lower than a Coach | ensure the VSCM, PMCM, or a designee no lower than a Coach signs the memorandum. |
| * Compensation Service’s Program Review Staff, or
* P&F Service’s Quality, Training, and Site Visits Staff
 | ensure the VSCM or PMCM signs the memorandum. |

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| 5 | * File a copy of the memorandum and corresponding administrative decision in the VSCM or PMCM’s office for a period of one year from the date of the final decision.
* After one year, dispose of the documents*.*
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| k. Actions to Take If a Beneficiary Provides New Evidence or Requests a Hearing | If a beneficiary submits new evidence within 60 days of the date of the notice of proposed adverse action, or requests a hearing within 30 days of the same date, continue benefits at the same rate until a final decision is made.***Exception***: Do not continue duplicate payments as described in M21-1, Part III, Subpart v, 1.I.2.b.***Important***: If a beneficiary submits new evidence, preparation of a new administrative decision that considers the new evidence is required. |

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| l. Substituting a Hearing Decision for a New Administrative Decision | If a beneficiary requests a hearing in connection with a proposal to reduce or discontinue his/her award to correct an administrative error, the employee that conducts the hearing will prepare a decision that satisfies the requirement in M21-1, Part III, Subpart v, 1.I.3.k for a new administrative decision.Use the table below to determine whether approval of the hearing decision by a member of management is required. |

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| If the administrative decision that preceded the hearing decision was approved by … | Then … |
| a Coach | approval of the hearing decision by a member of management is ***not*** necessary. |
| the VSCM, PMCM, or a designee no lower than a Coach | the VSCM, PMCM, or a designee no lower than a Coach must approve the hearing decision. |
| Compensation Service’s Program Review Staff or P&F Service’s Quality, Training, and Site Visits Staff | the VSCM or PMCM must approve the hearing decision. |

#### 4. Handling Cases Not Involving Administrative Errors

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| --- | --- |
| Introduction | This topic contains special instructions for handling cases involving non-administrative errors, including* processing erroneous payments with no administrative error, and
* specific scenarios.
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| **a. Processing Erroneous Payments With No Administrative Error** | In circumstances where there is an erroneous payment that is neither a duplicate payment nor an administrative error, follow the instructions in the table below. |

|  |  |
| --- | --- |
| **Step** | **Action** |
| 1 | Establish the appropriate EP control. |
| 2 |

|  |  |
| --- | --- |
| **If the error was identified …** | **Then …** |
| via 1st party information | proceed to Step 5. |
| via 3rd party information or a VA employee | proceed to Step 3. |

 |
| 3 | * Provide due process to the Veteran in accordance with M21-1, Part I.2.B, and
* include appropriate language in the proposed adverse action letter that if the proposed adjustment is taken, it ***may*** result in an overpayment of benefits, and language about minimizing overpayments.
 |
| 4 | At the end of the expiration of the due process period * evaluate the evidence of record, and
* take the appropriate action as shown in the table below.

|  |  |
| --- | --- |
| **If …** | **Then …** |
| an administrative error memorandum is still not warranted based on the guidance in M21-1, Part III, Subpart v, 1.I.3. | proceed to Step 5 |
| an administrative error memorandum may be warranted based on the guidance in M21-1, Part III, Subpart v, 1.I.3. | * refer to M21-1, Part III, Subpart v, 1.I.3 to determine if an administrative error memorandum is needed, complete administrative error memorandum where appropriate per the guidance in M21-1, Part III, Subpart v, 1.I.3, and
* proceed to Step 5.
 |

 |
| 5 | Adjust the award and send a decision letter to the Veteran. |

|  |
| --- |
| ***Note***: For information on handling specific scenarios of erroneous payments with no administrative error, see M21-1 Part III.v.1.I.4.b. |

|  |  |
| --- | --- |
| **b. Specific Scenarios** | Additional processing instructions exist for some erroneous payments. For example,  |

|  |  |
| --- | --- |
| **If the erroneous payment involves ...** | **Then ...** |
| incarceration | see* M21-1, Part III, Subpart v.8.A
* M21-1, Part X, 12.A, and
* M21-1, Part X, 15.
 |
| dependency | see M21-1, Part III, Subpart iii, 5.F.7. |
| income verification match (IVM) | see M21-1, Part X, 9.C. |
| notice of death | see M21-1, Part X, 5.2. |

#### 5. Erroneous Payment End Product (EP) Control and Tracking

|  |  |
| --- | --- |
| Introduction | This topic contains special instructions for handling cases involving erroneous payments, including* EP control, and
* erroneous payment log.
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|  |  |
| --- | --- |
| a. EP Control | Each RO must establish EP 960 to track the erroneous payment.***Reference***: For more information on EP usage, see M21-4, Appendix B. |

|  |  |
| --- | --- |
| b. Erroneous Payment Log | The VSCM/PMCM at each VSC/PMC must maintain a log for all erroneous payment(s). The tracking log should include the following* claim number
* Beneficiary Identification and Records Locator Subsystem (BIRLS) record number (if applicable)
* duplicate payment information, if applicable, including
* number of additional payments (outside of the adjusted award)
* total of amount of each additional payment (outside of the adjusted award)
* the date each EP was established and cleared to control for the
* erroneous payment
* due process, and
* potential overpayment
* trouble ticket number
* date the corporate record was corrected, and
* amount waived as part of any administrative decision.
 |