



**DEPARTMENT OF VETERANS AFFAIRS
Veterans Benefits Administration
Washington, DC 20420**

March 1, 2011

Director (00/21)
All VA Regional Offices

Fast Letter 09-26
Revised

SUBJ: Revised Fiduciary Accounting Requirements

Fast Letter (FL) 09-26, issued June 5, 2009, and revised April 9, 2010, is amended to remove the requirement to obtain original financial institution documents as enumerated in the section titled "Requirements – Financial Documents." Also revised in this section is the language to be included in the account call letter.

This revision also removes the requirement of the Fiduciary Activity to verify surety bonds held by fiduciaries that are recognized by VA as court-appointed fiduciaries. Only bonds payable to the Secretary on behalf of a legal custodian will be confirmed during the account audit process. This information is detailed in the section, "Surety Bond Requirements."

Background Information

38 U.S.C. 5502 and 38 CFR 13.100 require VA to supervise the fiduciaries appointed to manage the estates of incompetent beneficiaries. Public Law 108-454 increases VA's fiduciary oversight responsibility and imposes penalties on VA for cases of misuse of funds where a lack of appropriate supervision of the fiduciary is found. Account audits are an integral component of fiduciary supervision.

Federal account audit practice currently requires legal custodians to submit VA Form 21-4706b, *Federal Fiduciary's Account*, and VA Form 21-4718a, *Certificate of Balance on Deposit and Authorization to Disclose Financial Records*. Court-appointed fiduciaries are required to furnish a court-certified copy of the accounting submitted to the court along with certification of assets.

The C&P Service has reviewed cases involving misuse of funds. In multiple instances, fiduciaries were able to transfer money into a beneficiary's bank account prior to the accounting due date. The accounting submitted showed what was seemingly a correct balance; however, the amount stated was only a

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snapshot of the correct balance for each beneficiary at the time of the accounting. Cases reviewed have shown the potential for considerable misuse of funds resulting from this practice.

Requirements – Financial Documents

Effective with all accounting due letters dated on or after this fast letter, every federal and court-appointed fiduciary is required to submit financial institution statements detailing account transactions for the entire accounting period. Reviewing the account statements for the complete period between the accountings will help auditors determine whether transactions and balances are legitimate. Each VA regional office (RO) Fiduciary Activity must inform fiduciaries of this requirement. The account due letters in the Fiduciary Beneficiary System (FBS) will be modified to reflect this change. In the interim, the following statement must be added to all account due letters:

“38 U.S.C. 5502(b) authorizes VA to request any financial information regarding the beneficiary and 38 CFR 13.58(b) requires fiduciaries submit proof of compliance with fund usage and investments. In accordance with these regulations, all fiduciaries are now required to submit financial institution statements or computer-generated financial institution statements bearing the institution’s Internet address when an accounting is submitted. The statements must encompass the entire accounting period and will include detailed account transactions. Failure to submit this documentation will result in disapproval of the accounting.”

Acceptable account verification documents include original or photocopied financial institution documents provided there are no signs of alteration. Also acceptable are statements printed from the financial institution’s website that bear the institution’s Internet address and can be reasonably recognized as uncompromised and unaltered documents.

Field stations are advised to continue accepting accountings received without an accompanying financial statement. However, stations should audit and disapprove such submissions and inform appointed fiduciaries of the needed corrective actions.

[REDACTED] If a fiduciary fails or refuses to submit acceptable financial institution statements, follow the procedures outlined in M21-1MR, Part XI, Chapter 3.C.12.

[REDACTED]



Review of Financial Documents

Upon receipt of a complete accounting, Fiduciary Activity is required to conduct a complete review of all accounting documents, including the financial institution statements.

At a minimum, the following potential “red flags” must be reviewed:

- ATM withdrawals – No money should be withdrawn from a beneficiary’s account via ATM. In cases where this has occurred, the auditor must pay particular attention to the frequency, location, and site of the ATM (i.e., casino, grocery store, etc.)
- Counter withdrawals – Cash withdrawals are not acceptable transactions except in very unusual circumstances.
- Transfers of funds – Reasons for funds transfers into or out of a beneficiary’s account must be obtained and analyzed. Although there may be justifications for transferring funds between accounts of a single beneficiary, transfers of funds may indicate potential misuse.
- Use of bank credit/debit card – All bills for the beneficiary should be paid either by check or electronic bill pay. The use of a credit/debit card may indicate misuse.
- Compare bank transactions with authorized fund usage – All electronic and physical payments must be matched against the fund usage agreement authorized during the most recent field examination. Payments that exceed authorized fund usage by more than 15% must be addressed.
- Compare bank transactions with claimed expenses – Payments listed on financial institution statements must be totaled and matched against expenses claimed on the accounting submitted by the fiduciary (i.e., total all payments made for the electric bill and match with the total claimed on the accounting).

Surety Bond Requirements

Effective for all accountings received on or after the date of this fast letter, all surety bonds held by legal custodians must be verified by the Fiduciary Activity reviewing the accounting. Prior to approving an accounting, the Fiduciary Activity must contact the bonding company to verify surety bond information. It is unnecessary to obtain confirmation of a bond held by a court-appointed fiduciary when this appointment is recognized by VA. VA Form 21-0820, *Report of*

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General Information must be used to document any telephone calls used to collect information and, at a minimum, will document the following information:

- Amount of coverage in effect
- Annual premium
- Confirmation the bond is payable to the Secretary, U.S. Department of Veterans Affairs.

If any of the items above differ from what is of record in the PGF, an updated copy of the bond must be requested and obtained within 45 days. If a surety bond is not in effect, is insufficient, or is not payable to the Secretary, immediate action must be taken to ensure appropriate estate protection. If a fiduciary is unwilling to provide adequate protection, follow the procedures listed in M21-1MR, Part XI, Chapter 3.C.12.

Questions

If you have questions or need additional information, e-mail your inquiry to

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/S/

Thomas J. Murphy
Director
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Enclosure