

VA Fiduciary Program Overview

Louisville VA Regional Office

Presenter:

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Louisville VA Regional Office – Louisville Fiduciary Hub

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VA



U.S. Department
of Veterans Affairs

Reference

Fiduciary Program Manual (FPM)
Part 1.2.A.2.h

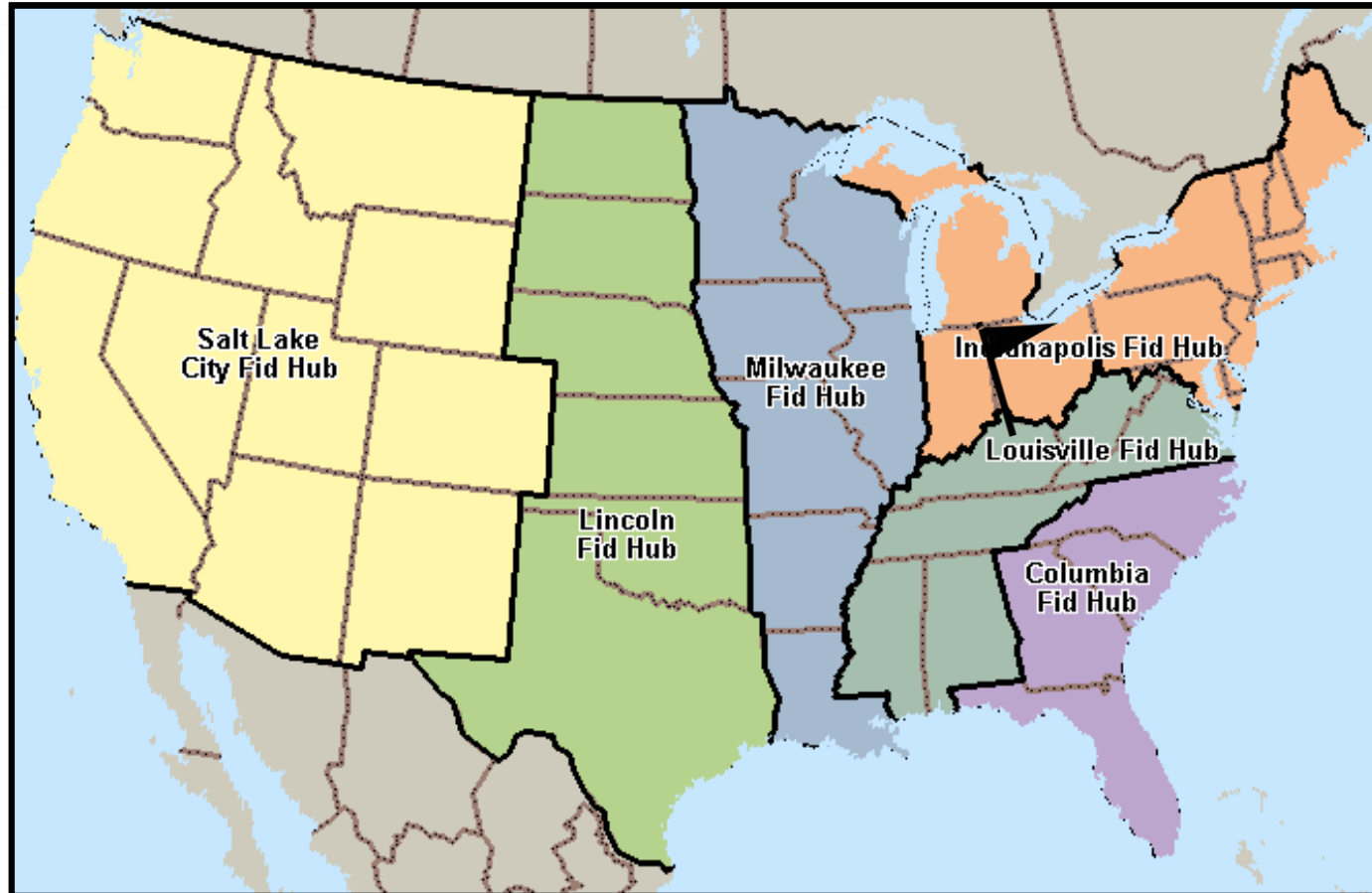
VA



U.S. Department
of Veterans Affairs

Fiduciary Program Overview

About Us



Fiduciary Program Overview

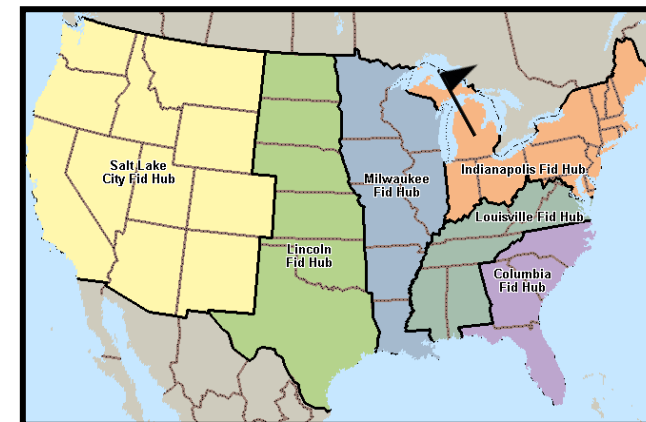
About Us



190 full time employees



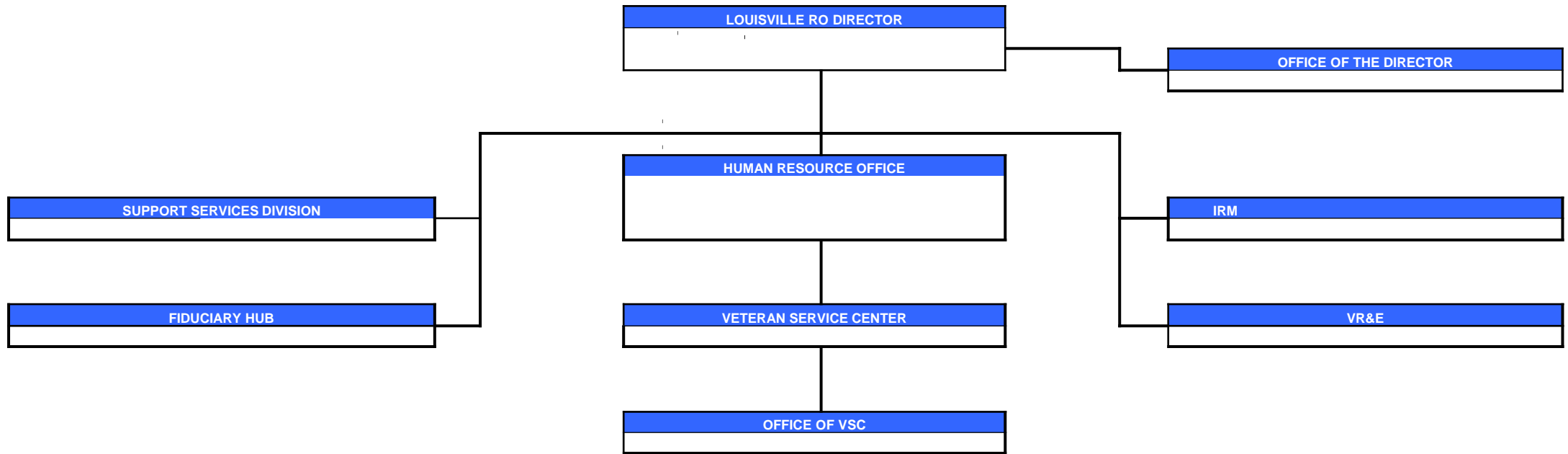
Serving 24,000 Beneficiaries



- Kentucky
- West Virginia
- Virginia
- Tennessee
- Alabama
- Mississippi
- Puerto Rico

Fiduciary Program Overview

Fiduciary Hub



Fiduciary Program Overview

Director's Priorities

- Serve Veterans, service members, and their families in an accurate and timely manner
- Provide excellent and compassionate assistance and information to all internal and external stakeholders
- Cultivate a strong cultural atmosphere of mutual respect, open communication and cohesion, where everyone feels welcome and empowered to do their best work

Program Review: overview

What is the **Fiduciary** program?

- The fiduciary program provides oversight of VA's most vulnerable beneficiaries
- Participants in the fiduciary program are unable to manage their VA benefits on their own
- This might be because of injury, disease, advanced age or youth
- VA appoints fiduciaries who manage VA benefits for these beneficiaries. VA also conducts oversight of VA-appointed fiduciaries to ensure VA beneficiaries' needs are met

What Is a Fiduciary?

- A fiduciary is a person or entity appointed by VA to receive benefits on behalf of a beneficiary

Program Review: overview

When Is a Fiduciary Needed?

- Every beneficiary has the right to manage his or her VA benefits; however, if medical evidence indicates they cannot manage their benefits, VA can appoint a fiduciary to assist the beneficiary
- A fiduciary may also be appointed if a court declares a beneficiary unable to manage financial affairs

For more information on the VA Fiduciary Program, visit <https://www.benefits.va.gov/fiduciary/index.asp>.

Fiduciary Program overview

Eligibility

You may be eligible for VA benefits if you are:

a Veteran

a Veteran's dependent

a surviving spouse, child or parent of a deceased Veteran

an active-duty military service member

a member of the Reserve or National Guard

Fiduciary Program overview

Compensation and Pension

VA can pay monthly compensation if you are at least 10% disabled as a result of your military service.

You can receive a monthly pension if you are a wartime Veteran with limited income, and you are permanently and totally disabled **or** at least 65 years old.

Time Limits: There is no time limit to apply for Compensation and Pension benefits.

Fiduciary Program overview

Incompetency

Defined as -

- 38 C.F.R. 3.353 defines a mentally incompetent person as one who because of injury or disease, lacks the mental capacity to contract or manage his or her own affairs, including disbursement of funds.
- 38 U.S.C. 5502 provides that rating agencies have the sole authority to make official determinations of competency and incompetency for purposes of insurance and disbursement of benefits.

Fiduciary Program overview

Fiduciary Program – Incompetency

Continue –

- Such determinations are final and binding
- Despite VA's sole authority to make competency decisions, the rating of incompetency is subject to appeal

• **Incompetency, as defined by VA, regarding the ability to manage VA funds does not affect rights.** Unlike a court disability, there is no loss of civil rights, such as the right to contract or to vote.

Fiduciary Program overview

OMB Approved No. 2900-0075
Respondent Burden: 15 minutes

Department of Veterans Affairs **STATEMENT IN SUPPORT OF CLAIM**

PRIVACY ACT INFORMATION: The VA will not disclose information collected on this form to any source other than what has been authorized under the Privacy Act of 1974 or Title 38, Code of Federal Regulations 1.576 for routine uses (i.e., civil or criminal law enforcement, congressional communications, epidemiological or research studies, the collection of money owed to the United States, litigation in which the United States is a party or has an interest, the administration of VA Programs and delivery of VA benefits, verification of identity and status, and personnel administration) as identified in the VA system of records, 50V21/22, Compensation, Pension, Education and Rehabilitation Records - VA, published in the Federal Register. Your obligation to respond is required to obtain or retain benefits. VA uses your SSN to identify your claim file. Providing your SSN will help ensure that your records are properly associated with your claim file. Giving us your SSN is voluntary. Refusal to provide your SSN by mail will not result in the denial of benefits. The VA will award an individual benefit for refusing to provide his or her SSN unless the disclosure of the SSN is required by Federal Statute of law in effect prior to January 1, 1971, and still in effect. The requested information is considered relevant and necessary to determine maximum benefits under the law. The responses you submit are considered confidential (38 U.S.C. 3701). Information submitted is subject to verification through computer matching programs with other agencies.

RESPONDENT BURDEN: We need this information to obtain evidence in support of your claim for benefits (38 U.S.C. 501(a) and (b); Title 38, United States Code, allows us to ask for this information. We estimate that you will need an average of 15 minutes to review the instructions, find the information, and complete this form. VA cannot conduct or sponsor a collection of information unless a valid OMB control number is displayed. You are not required to respond to a collection of information if this number is not displayed. Valid OMB control numbers can be located on the OMB Internet Page at www.omb.gov. If desired, you can call 1-800-427-1000 to get information on where to send comments or suggestions about this form.

FIRST NAME - MIDDLE NAME - LAST NAME OF VETERAN (Type or print)	SOCIAL SECURITY NO.	VA FILE NO.
		OCSS -

The following statement is made in connection with a claim for benefits in the case of the above-named veteran:

Veteran listed above was seen today by Dr. _____ at VAMC _____.
Based upon the new medical evidence that can be found in this veteran's VAMC medical record I recommend a rating of incompetency as the veteran clearly lacks the ability to manage his/her VA benefits.

I CERTIFY THAT the statements on this form are true and correct to the best of my knowledge and belief.

SIGNATURE	DATE SIGNED	
ADDRESS	TELEPHONE NUMBERS (Include Area Code)	
	DAYTIME	EVENING

PENALTY: The law provides severe penalties which include fine or imprisonment, or both, for the willful submission of any statement or evidence of a material fact, knowing it to be false.

VA FORM 21-4138 AUG 2004 EXISTING STOCKS OF VA FORM 21-4138, JUN 2006, WILL BE USED CONTINUE ON REVERSE

Veteran listed above was seen today by Dr. _____ at VAMC _____. Based upon the new medical evidence that can be found in this veteran's VAMC medical record I recommend a rating of incompetency as the veteran clearly lacks the ability to manage his/her VA benefits.

This language can be on letterhead, prescription pad, Memo or VA form 21-4138

Fax to Claims Intake Center, PO Box 95211, Lakeland, FL 33804-5211, Fax 888-581-6826 . Create a cover sheet

Fiduciary Program Overview

USE THIS COVER SHEET TO SEND DOCUMENTS TO THE VA FIDUCIARY INTAKE CENTER



Fiduciary Intake Center Coversheet
To: Department of VA Fiduciary Intake Center
PO BOX 95211, Lakeland, FL 33804-5211
Toll Free Fax: 888-581-6826 DID # 248-524-4264

Claimant Last Name:

Claimant First Name:

Claimant C-File #:

Claimant Zip Code:

Contact Email:

Fax Date (MM/DD/YYYY – if applicable):

of Pages to Include Coversheet:

List VA Forms Included/Attached:

IMPORTANT: Verify on fax confirmation sheet the fiduciary information was sent to 888-581-6826 or DID # 248-524-4264

Disclaimer: VA Directive 6609, "Mailing of Sensitive Personal Information," dated May 20, 2011 states that access to Veterans' records is limited to authorized persons only. Information may not be disclosed from this file unless permitted by all applicable legal authorities, enforced by 38 C.F.R. §§ 1.460 – 1.599 and 45 C.F.R. Parts 160 and 164. The Privacy Act contains provisions for criminal penalties for knowingly and willfully disclosing information from the Veterans' file

The cover sheet to the left should be utilized in order to ensure proper processing of any claims related materials.

Fax to Claims Intake Center, PO Box 95211, Lakeland, FL 33805-95211, Fax 888-581-6826 . Create a cover sheet

Fiduciary Program Overview

Evidence Required

VA is alerted to the possibility of incompetency by:

- Receipt of medical evidence or claim of incompetency from an interested third party such as a relative or friend, etc.
- Receipt of medical evidence or claim of incompetency from the beneficiary
- Medical evidence provided by VA Medical Center
- Court documentation confirming a legal disability

Fiduciary Program overview

Incompetency Proposal

Evidence or claim of incompetency is received

- Claim is reviewed to ensure the evidence to make the evaluation has been received
- Development of evidence

Evaluation of adequacy of evidence

- Determines if an examination is needed

Rating decision is prepared

- Notification of the beneficiary of proposal
 - 60-day due process

Fiduciary Program overview

Fiduciary Poll 1

Fiduciary Program overview

Fiduciary Poll 1

True or False – If a beneficiary is rated unable to manage his/her funds, or is under a court appointed guardianship, he/she is responsible for determining the type of fiduciary relationship that will best serve their needs.

Answer = **False**

If the beneficiary is rated unable to manage his/her funds, or is under a court appointed guardianship, **the Field Examiner (FE)** is responsible for determining the type of fiduciary relationship that will best serve the needs of the beneficiary. Benefit payments may be made –

- directly to a supervised direct payment beneficiary
- to a VA-appointed fiduciary
- to a spouse fiduciary, or
- in extenuating circumstances only, to a court-appointed fiduciary (VA recognized).

Ref: FPM 1.2.A.1.e

Fiduciary Program overview

Final Incompetency Decision

Upon expiration of due process or if due process is waived, the final decision is made

- A rating decision is prepared

Upon completion of the rating decision:

- The beneficiary is notified of the final decision
- Fiduciary Hub is notified of the request for an appointment of a fiduciary via VA Form 21-592

Fiduciary Program overview

Who can be a Federal Fiduciary?

Federal Fiduciaries may be the **wife** or husband of a Veteran; the **chief officer** of a non-VA institution in which a Veteran is receiving hospital treatment, domiciliary, institutional or nursing home care; or a **legal custodian**, the person or entity who has the care of the beneficiary or his estate. An individual **court-appointed** may also serve but would need to be VA recognized.

Fiduciary Program overview

Policy Regarding Benefits

It is the policy of the Department of Veterans Affairs (VA) to make benefit payments directly to adult beneficiaries unless VA has proof of actual incompetency or legal disability.

Upon receipt of a notice of incompetency or legal disability, the proposed fiduciary personnel may be considered in determining the most appropriate method of payment for the beneficiary.

Fiduciary Program overview

How Does The Process Begin

1. Voluntary request by Veteran submitted to the VA Regional Office and waiver by the Veteran of “due process for incompetency rating.”
2. Submission of medical evidence from a licensed physician to the VA Regional Office for rating that states “**the Veteran is incompetent to manage his finances.**”
3. Local or State court appointment of a conservator/guardian submitted to the VA Regional Office

Fiduciary Program overview

Purpose of Field Examination

- Assess the competence, adjustment, and personal welfare of the beneficiary
- Review fund usage, method of payment, and the performance of the fiduciary
- Develop information affecting entitlement to current or additional benefits

Fiduciary Program overview

Purpose of Field Examination

- Evaluate the situation considering all the facts and take all appropriate actions, and ...
- Ensure that the beneficiary's dependents, if any, are adequately provided for with the funds available.

Fiduciary Program overview

How Does a Field Examination Begin ...

. . . with the receipt, of *VA Form 21-592, Request for Appointment of a Fiduciary, Custodian or Guardian.*

This form is received in the Fid Hub either because the rating activity has determined a Veteran to be incompetent, a third party has forwarded guardianship papers to VA, or a third party has forwarded evidence of other legal disability.

Fiduciary Program overview

How Does a Field Examination Begin

A field examination is conducted in order that the Field Examiner (FE) may assess the competency and welfare of the beneficiary and determine whether the beneficiary should receive benefit payments directly, with VA supervision as a supervised direct payment (SDP) beneficiary, or through a fiduciary.

Fiduciary Program overview

How Does a Field Examination Begin

If it is determined that a fiduciary relationship would best serve the needs of the beneficiary, the FE must determine, select, and appoint the most appropriate type of fiduciary.

Note: VA policy is to use the least restrictive payment method to meet the beneficiary's needs and protect his/her VA estate.

Fiduciary Program overview

How Does a Field Examination Begin

The FE completes and submits a written field examination report which details the examiner's findings and assessments, and recommendations for the most appropriate method of payment to the fiduciary, if one is selected, and scheduling the next contact to reassess the case.

Subsequent field examinations are conducted to assess the competency and welfare of the beneficiary, and the continued suitability of the fiduciary.

Fiduciary Program overview

Misuse Investigation

A **misuse investigation** is conducted to address allegations of misuse made against a fiduciary. These allegations may be generated by complaints from the beneficiary or other interested third party. They may also be generated by VA if questionable actions or practices are discovered during routine operations.

Fiduciary Program overview

Findings of Competency

You may ask --

What happens when a Veteran who was previously rated incompetent is found, during a field examination, to be competent?

Fiduciary Program overview

Findings of Competency

The field examination report, together with any supporting evidence and a recommendation for restoration of competency, should be submitted for rating action **if** the field examination shows that the beneficiary is:

1. Competent to handle his/her funds
2. Understands his/her financial situation
3. Applies funds to needs with reasonable prudence
4. Would not benefit from further Veterans Benefits Administration (VBA) supervision.

Fiduciary Program overview

Toll Free Service

Benefits Information & Assistance

For more information about specific benefits, visit the nearest VA regional office or call

Fid 1-888-407-0144, Option #4
NCC 1-800-827-1000

Fiduciary Program overview

Other Contact Numbers

US Department of Veterans Affairs 800-827-1000

VARO Louisville Fiduciary HUB 888-407-0144

Health Care 877-222-8387

Education & Training 888-442-4551

VA Life Insurance 800-669-8477

Office of SGLI 800-419-1473

CHAMPVA 800-733-8387

Helpline (Agent Orange & Gulf War) 800-749-8387

Direct Deposit 877-838-2778

Headstones (*status of claims only*) 800-697-6947

Telecommunication Device for Deaf (*TDD*) 800-829-4833

Fiduciary Program overview

Our Pledge to Veterans

Treat you with courtesy, compassion and respect at all times

Communicate accurately, completely and clearly

Provide timely service

Make our services accessible

Fully answer questions and concerns

Fiduciary Program overview

Ask Here ...

