

DEPARTMENT OF VETERANS AFFAIRS  
Veterans Benefits Administration  
Washington, D.C. 20420

October 16, 2009

Director (00/21)  
VA Regional Offices and Centers

Fast Letter: 09-41

**SUBJ: Revised Procedures for Releasing Monthly Benefits with Proposal of Incompetency**

**Purpose**

This letter provides revised procedures for the release of monthly benefits to a beneficiary when incompetency has been proposed.

**Background**

Historically, VA has withheld benefits payable to a beneficiary while competency is considered, and during the period required to appoint a fiduciary. This practice is consistent with M21-1MR, III.v.9.B.

**Revised Procedures**

Effective immediately, all monthly and recurring benefits will be released upon the promulgation of an original award, a reinstated award, or an award for increased benefits. These benefits will be paid notwithstanding the expiration of due process for the determination of incompetency, or the period pending an appointment of a fiduciary. The release of monthly benefits will be precluded only when misuse of the beneficiary's funds is evident.

For those awards controlled by EP 600 on the date of this Fast Letter, action will be taken to release monthly benefits at the expiration of due process, and before the initiation of EP 290.

**No retroactive benefits may be released until the issue of incompetency has been resolved.** If the proposal of incompetency is not upheld by final rating decision, any retroactive benefits due will be released to the beneficiary. However, if the rating activity confirms the proposed rating of incompetency, retroactive benefits may not be released until VA Form 21-555, *Certificate of Legal Capacity to Receive and Disburse Benefits*, has been certified by the Veterans Service Center Manager or designee.

Procedures contained in M21-1MR, III.v.9 regarding awards in incompetency cases will be updated accordingly.

### **If You Have Questions**

Please submit questions concerning this fast letter to VAVBAWAS/CO/212A.

/S/

Bradley G. Mayes  
Director  
Compensation & Pension Service