

§ 13.2

set forth in §§13.1 through 13.111 inclusive, are to be performed under the direction of, and authority vested in, the Director of the field facility.

[40 FR 54247, Nov. 21, 1975]

§ 13.2 Field examinations.

(a) *Authority to conduct; generally.* Field personnel in the Veterans Service Center and other employees who are qualified and designated by the field facility Director are authorized, when assigned, to conduct investigations (field examinations) and examine witnesses upon any matter within the jurisdiction of the Department of Veterans Affairs, to take affidavits, to administer oaths and affirmations, to certify copies of public or private documents and to aid claimants in the preparation of claims.

(b) *Scope of field examinations; fiduciary activities.* Field examinations include but are not limited to the following:

(1) Matters involving the administration of estates and the welfare of beneficiaries of the Department of Veterans Affairs who are under legal disability or in need of supervision by the Veterans Service Center Manager.

(2) Matters involving the welfare and needs of dependents of incompetent beneficiaries.

(3) Recovery of amounts due the Government or General Post Fund under laws administered by the Department of Veterans Affairs.

[40 FR 54247, Nov. 21, 1975, as amended at 67 FR 46869, July 17, 2002]

§ 13.3 State legislation.

Field facility Directors are authorized to cooperate with the affiliated organizations, legislative committees, and through the General Counsel with local and State bar associations, to the end that deficiencies of the State laws relating to Department of Veterans Affairs operations may be removed. No action to commit the Department of Veterans Affairs regarding any proposed legislation relating to fiduciary matters will be taken without the approval of the Under Secretary for Benefits or designee.

[40 FR 54247, Nov. 21, 1975]

38 CFR Ch. I (7-1-04 Edition)

§ 13.55 Veterans Service Center Manager to select and appoint or recommend for appointment the person or legal entity to receive Department of Veterans Affairs benefits in a fiduciary capacity.

(a) *Authority.* The Veterans Service Center Manager is authorized to select and appoint (or in the case of a court-appointed fiduciary, to recommend for appointment) the person or legal entity best suited to receive Department of Veterans Affairs benefits in a fiduciary capacity for a beneficiary who is mentally ill (incompetent) or under legal disability by reason of minority or court action, and beneficiary's dependents.

(b) *Payees.* Authorized payees include:

- (1) The beneficiary (§ 13.56(c));
- (2) The beneficiary under supervision (supervised direct payment) (§ 13.56 (a) and (b));
- (3) The wife or husband of an incompetent veteran (§ 13.57);
- (4) The legal custodian of a beneficiary's Department of Veterans Affairs benefits (§ 13.58);
- (5) A court-appointed fiduciary of a beneficiary (§ 13.59);
- (6) The chief officer of the institution in which the veteran is receiving care and treatment (§ 13.61);
- (7) The bonded officer of an Indian reservation (§ 13.62);
- (8) A custodian-in-fact of the beneficiary (§ 13.63);
- (9) Dependents of the veteran by an apportioned award (§ 13.70).

(c) *Certification.* The Veterans Service Center Manager's certification is authority to make payments to the designated payee.

[40 FR 54247, Nov. 21, 1975]

§ 13.56 Direct payment.

(a) *Veterans.* Department of Veterans Affairs benefits payable to a veteran rated incompetent may be paid directly to the veteran in such amount as the Veterans Service Center Manager determines the veteran is able to manage with continuing supervision by the Veterans Service Center Manager, provided a fiduciary is not otherwise required. If it is determined that an amount less than the full entitlement is to be paid, such payment shall be for

a limited period of time, generally 6 months, but in no event to exceed 1 year, after which full payment will be made and any funds withheld as a result of this section will be released to the veteran, if not otherwise payable to a fiduciary.

(b) *Other adults.* Department of Veterans Affairs benefits payable to an adult beneficiary who has been rated or judicially declared incompetent may be paid directly to the beneficiary in such amounts as the Veterans Service Center Manager determines the beneficiary is able to manage with continuing supervision by the Veterans Service Center Manager, provided a fiduciary is not otherwise required. If it is determined that an amount less than the full entitlement is to be paid, such payment shall be for a limited period of time, generally 6 months, but in no event to exceed 1 year, after which full payment will be made and any funds withheld as a result of this section will be released to the beneficiary, if not otherwise payable to a fiduciary.

(c) *Minors.* Department of Veterans Affairs benefits payable to a minor:

(1) May be paid direct when:

(i) Arising in connection with a program of education or training under 38 U.S.C. ch. 35.

(ii) The Veterans Service Center Manager determines it would be in the minor's best interests.

(2) Will be paid direct when:

(i) The beneficiary's only legal disability is minority and he or she is in active military, naval, or air service, or the widow or widower of a veteran.

(ii) The minor is deemed otherwise emancipated under State law.

[40 FR 54247, Nov. 21, 1975, as amended at 42 FR 34282, July 5, 1977; 67 FR 46869, July 17, 2002]

§ 13.57 Payment to the wife or husband of incompetent veteran.

Compensation, pension or emergency officers' retirement pay of a veteran rated or judicially declared incompetent, may be paid to the veteran's spouse, provided the spouse is qualified to administer the funds payable and agrees to use the amounts paid for the veteran and the veteran's dependents, if any.

[40 FR 54247, Nov. 21, 1975]

§ 13.58 Legal custodian.

(a) *Authority.* The Veterans Service Center Manager is authorized to make determinations as to the person or legal entity to be appointed legal custodian to receive Department of Veterans Affairs payments on behalf of a beneficiary who is incompetent or under legal disability by reason of minority or court action. In the absence of special circumstances, the person or legal entity to be appointed legal custodian will be the person or legal entity caring for and/or having custody of the beneficiary or the beneficiary's estate.

(b) *Payment to.* Department of Veterans Affairs benefits may be paid to a legal custodian subject to the following conditions:

(1) The Veterans Service Center Manager has determined that it would be in the best interests of the beneficiary to appoint a legal custodian.

(2) The proposed legal custodian is qualified to administer the benefits payable and will agree to:

(i) Apply the benefits paid for the best interests of the beneficiary,

(ii) Invest surplus funds as provided by Department of Veterans Affairs regulations,

(iii) Furnish, upon request, evidence of compliance with agreement as to usage and investment of Department of Veterans Affairs benefits, and

(iv) Inform the Veterans Service Center Manager of any change in the beneficiary's estate or any other circumstances that might affect entitlement or the manner in which payments are to be made.

[40 FR 54247, Nov. 21, 1975]

§ 13.59 Court-appointed fiduciary.

(a) *Payment to.* Any Department of Veterans Affairs benefit may be paid to the fiduciary appointed by a State court for a beneficiary who is a minor, or incompetent or under other legal disability adjudged by a court of competent jurisdiction. Formal or informal accountings may be required from such fiduciaries, with or without judicial proceedings.

(b) *Veterans Service Center Manager's responsibility.* The Veterans Service Center Manager shall: (1) Determine