

**VOLUME 7A, CHAPTER 33: “PAYMENTS ON BEHALF OF MENTALLY INCOMPETENT MEMBERS”**

**SUMMARY OF MAJOR CHANGES**

All changes are denoted by **blue font**.

Substantive revisions are denoted by an \* symbol preceding the section, paragraph, table, or figure that includes the revision.

Unless otherwise noted, chapters referenced are contained in this volume.

Hyperlinks are denoted by **bold, italic, blue and underlined font**.

The previous version dated December 2010 is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
Entire Chapter	The chapter is certified as current.	Update

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**CHAPTER 33****PAYMENTS ON BEHALF OF MENTALLY INCOMPETENT MEMBERS****3301 ENTITLEMENT**

Members on active duty are entitled to active duty pay and allowances even though mentally incapable of managing their own affairs. This includes miscellaneous payments authorized on separation from the Military Service. See Chapter 35.

**3302 PAYMENT**

The appointment of a guardian, trustee, or other legal representative is a prerequisite to payment. For designation of trustee and payment offices, see Table 33-1.

**3303 MEMBER MENTALLY INCOMPETENT BEFORE ENTRY ON ACTIVE DUTY**

When it is shown that a member was judicially declared mentally incompetent before induction or enlistment, member is not entitled to pay and allowances. See Chapter 1.

**3304 FINALITY OF PAYMENTS TO TRUSTEE**

Any payments on behalf of a mentally incompetent member to a designated trustee(s) are a complete discharge of the obligation of the United States as to amounts paid.

**3305 RESTRICTION AGAINST ACCEPTANCE OF FEES**

A person serving in a legal, medical, fiduciary, or other capacity may not demand or accept a fee, commission, or other charge (except bonding fee) for any service performed in administration of a mentally incompetent member account.

Table 33-1. Payment of Mentally Incompetent Members

<b>R U L E</b>	<b>A</b>	<b>B</b>	<b>C</b>	<b>D</b>
	<b>When</b>	<b>and member is in the</b>	<b>then the trustee is designated by</b>	<b>and payment is made by</b>
<b>1</b>	a court of competent jurisdiction has not appointed a guardian, committee, or other legal representative	Army or Air Force	Director, DFAS-CL	DFAS-IN.
<b>2</b>		Navy or Marine Corps		DFAS-CL.
<b>3</b>	a court of competent jurisdiction has appointed a guardian, committee, or other legal representative	Army, Air Force Navy, or Marine Corps	none required	appropriate office shown in rules 1, 2, or 3 except as indicated in note.

**NOTE:** Army Only: Local disbursing officer servicing the member's financial record may make payments.

BIBLIOGRAPHY

**CHAPTER 33: PAYMENTS ON BEHALF OF MENTALLY INCOMPETENT MEMBERS**

3301 - ENTITLEMENT

37 U.S.C. 601-604

Table 33-1

Deputy Secretary of Defense Memo,  
January 29, 1991  
Comptroller of the Department of Defense Memo  
February 1, 1991  
Director, Defense Finance and Accounting  
Service Memo, August 26, 2010  
Deputy Director, Operations, Defense Finance and  
Accounting Service Memo, September 9, 2010