

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

SUMMARY OF MAJOR CHANGES

Changes are identified in this table and also denoted by [blue font](#).

Substantive revisions are denoted by an asterisk (*) 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 [October 2022](#) is archived.

PARAGRAPH	EXPLANATION OF CHANGE/REVISION	PURPOSE
All	Updated formatting to comply with current administrative instructions.	Revision

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CHAPTER 33**PAYMENTS ON BEHALF OF MENTALLY INCOMPETENT MEMBERS****1.0 GENERAL****1.1 Purpose**

This chapter establishes policy for members entitled to active duty pay and allowances while serving on active duty even though mentally incapable of managing their own affairs. This includes miscellaneous payments authorized on separation from the Military Service. See Chapter 35, section 7.0.

1.2. Authoritative Guidance

The pay policies and requirements established by the DoD in this chapter are derived primarily from, and prepared in accordance with Title 37, United States Code (U.S.C.). The specific statutes, regulations, and other applicable guidance that govern each individual section are listed in a reference section at the end of the chapter.

2.0 PAYMENT

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

3.0 MEMBER MENTALLY INCAPACITATED BEFORE ENTRY ON ACTIVE DUTY

When it is shown that a member was judicially declared mentally incapacitated before induction or enlistment, the member is not entitled to pay and allowances. See Chapter 1, paragraph 5.5, and Table 1-15, rule 8.

4.0 FINALITY OF PAYMENTS TO TRUSTEE

Any payments on behalf of a mentally incompetent member to a designated trustee on behalf of a member to whom this Chapter applies are a complete discharge of the obligation of the United States as to amounts paid.

5.0 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 the administration of the account of a member to whom this Chapter applies.

Table 33-1. Payment of Mentally Incompetent Members

R U L E	When	and member is in the	then the trustee is	and payment is made by
1	a court of competent jurisdiction has not appointed a guardian, committee, or other legal representative	Army, Air Force, or Space Force	designated by the Director, Defense Finance and Accounting Service (DFAS) - Cleveland	DFAS-Indianapolis.
2	a court of competent jurisdiction has not appointed a guardian, committee, or other legal representative	Navy or Marine Corps	designated by the Director, Defense Finance and Accounting Service (DFAS) - Cleveland	DFAS-Cleveland.
3	a court of competent jurisdiction has appointed a guardian, committee, or other legal representative	Army, Air Force, Space Force, Navy, or Marine Corps	not required	the appropriate office shown in rules 1 or 2, except as indicated in the note.

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

REFERENCES

CHAPTER 33: PAYMENTS ON BEHALF OF MENTALLY INCOMPETENT MEMBERS

1.0 – GENERAL

Title 37, U.S.C, sections 601-604

3.0 – MEMBER MENTALLY INCAPACITATED BEFORE ENTRY ON ACTIVE DUTY

Deputy Secretary of Defense Memo, November 7, 2022
DFAS Office of General Counsel (OGC) Memo,
March 11, 2024

4.0 – FINALITY OF PAYMENTS TO TRUSTEE

Deputy Secretary of Defense Memo, November 7, 2022
DFAS Office of General Counsel (OGC) Memo,
March 11, 2024

5.0 – RESTRICTION AGAINST ACCEPTANCE OF FEES

Deputy Secretary of Defense Memo, November 7, 2022
DFAS Office of General Counsel (OGC) Memo,
March 11, 2024

*Table 33-1

Rules 1, 2

Public Law 116-92, section 952, December 20, 2019
Deputy Secretary of Defense Memo,
January 29, 1991
Comptroller of the Department of Defense Memo,
February 1, 1991
DFAS Memo, August 26, 2010
DFAS Memo, September 9, 2010
DFAS Memo, August 29, 2011
Deputy Secretary of Defense Memo, November 7, 2022
DFAS Office of General Counsel (OGC) Memo,
March 11, 2024