

**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 [November 2020](#) is archived.

<b>PARAGRAPH</b>	<b>EXPLANATION OF CHANGE/REVISION</b>	<b>PURPOSE</b>
All	Updated formatting to comply with current administrative instructions.	Revision
Table 33-1	Updated “Table 33-1” to include the U.S. Space Force in accordance with Public Law 116-92, section 952, dated December 20, 2019.	Revision
References	Updated statutes and supporting references.	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 INCOMPETENT BEFORE ENTRY ON ACTIVE DUTY

When it is shown that a member was judicially declared mentally incompetent 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(s) 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 administration of a mentally incompetent member account.

\*Table 33-1. Payment of Mentally Incompetent Members

<b>R U L E</b>	<b>When</b>	<b>and member is in the</b>	<b>then the trustee is</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, Air Force, or Space Force	designated by the Director, Defense Finance and Accounting Service (DFAS) - Cleveland	DFAS-Indianapolis.
<b>2</b>	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.
<b>3</b>	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

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