



DEPARTMENT OF VETERANS AFFAIRS

Office of the General Counsel

Washington DC 20420

MAY 29 2009

In Reply Refer To:

022D

Ms. Karen B. McIntyre
Assisted Living Placement
643 Springharbor Drive
Woodstock, GA 30188

Dear Ms. McIntyre:

It is a pleasure to welcome you as an accredited claims agent for the preparation, presentation, and prosecution of claims for veterans benefits before the Department of Veterans Affairs (VA). Your accreditation is effective on the date of this letter.

On May 22, 2008, VA published new claims agent and attorney accreditation and fee rules to implement laws enacted by Congress in December 2006. *See* 73 Fed. Reg. 29852. The new rules, effective June 23, 2008, among other things, impose new training and reporting requirements necessary to maintain VA accreditation, define the circumstances under which fees may be charged, and establish standards of conduct for persons providing representation before VA.

The new rules clarify that "representation" means the acts associated with representing a claimant in a proceeding before VA pursuant to appointment on a VA Form 21-22a, Appointment of Individual as Claimant's Representative. 38 C.F.R. § 14.627(n). Agents may not charge fees for preparing claims because such services generally are not provided in a proceeding before the Department pursuant to a VA Form 21-22a. The new rules also clarify that an organization with a financial interest in the successful outcome of a claim is not a disinterested third-party and, as a result, may not pay an agent for representing certain claimants. For example, an assisted-living facility that will receive payments for its services from prospective or current residents out of the residents' VA benefits does not qualify as a disinterested third party under VA's regulations. *See* 38 C.F.R. § 14.636(d)(2).

2.

Ms. Karen B. McIntyre

Annual Certification (38 C.F.R. § 14.629(b)(4))

The new rules impose annual reporting requirements for agents. Each agent must annually provide the Office of the General Counsel (OGC) information about every court, bar, or Federal or State agency to which he or she is admitted to practice. 38 C.F.R. § 14.629(b)(4). The agent must provide identification numbers and membership information for each court, bar, or Federal or State agency to which he or she is admitted and certify in writing to OGC that he or she is in good standing with respect to each such admission to practice. Any changes in the agent's status to practice in a given jurisdiction must be reported to OGC within 30 days of such change. No particular form is required for these submissions.

Continuing Legal Education (CLE) (38 C.F.R. § 14.629(b)(1)(iii) and (iv))

To maintain your accreditation, you must complete three hours of qualifying CLE within one year of your accreditation. A qualifying CLE course must be approved for a minimum of three hours of CLE credit by any State bar association or other State CLE authority and, at a minimum, must cover representation before VA, claims procedures, basic eligibility for VA benefits, right to appeal, disability compensation (38 U.S.C. chapter 11), dependency and indemnity compensation (38 U.S.C. chapter 13), and pension (38 U.S.C. chapter 15). You must also complete an additional three hours of qualifying CLE on veterans benefits law and procedure not later than three years from the date of your accreditation and every two years thereafter. You must certify to this office in writing that you have completed these CLE requirements. This certification must include the title of the CLE, the date and time of the CLE, and contact information for the CLE provider, and must be submitted to VA as part of the annual certification prescribed by 38 C.F.R. § 14.629(b)(4).

The new rules also establish uniform standards of conduct for all persons providing representation before VA. 38 C.F.R. § 14.632. The standards of conduct establish affirmative duties of honesty, competence, and diligence for persons providing representation and prohibit specific conduct including violation of the rules governing representation, delay of the claims process, charging fees contrary to law, and disclosing claimant information without authorization. Violation of the new standards of conduct may result in suspension or cancellation of accreditation under 38 C.F.R. § 14.633.

3.

Ms. Karen B. McIntyre

This letter does not address all the changes made by the new rules. Consequently, we encourage you to review the full text of the Federal Register notice concerning the new rules at www.va.gov/ogc/docs/73FR29850.pdf and the enclosed copy of 38 C.F.R part 14.

We look forward to working with you. Please note that we will make your name and contact information publicly available at the Office of the General Counsel website, <http://www.va.gov/OGC/accreditation.asp>.

If you have questions regarding accreditation, we recommend that you review our "Frequently Asked Questions" page at www.va.gov/ogc/accreditation.asp before contacting this office at ogcaccrreditationmailbox@va.gov or (202) 461-7699.

Sincerely,



David R. McLenachen
Deputy Assistant General Counsel

Enclosure