

Department of Veterans Affairs

§ 21.284

§ 21.283 Rehabilitated.

(a) *General.* For purposes of chapter 31 a veteran shall be declared rehabilitated when he or she has overcome the employment handicap to the maximum extent feasible as described in paragraph (c), (d) or (e) of this section.

(Authority: 38 U.S.C. 3101 (1), (2))

(b) *Definition.* The term “suitably employed” includes employment in the competitive labor market, sheltered situations, or on a nonpay basis which is consistent with the veteran’s abilities, aptitudes and interests if the criteria contained in paragraph (c) (1) or (2) of this section are otherwise met.

(Authority: 38 U.S.C. 3100)

(c) *Rehabilitation to the point of employability has been achieved.* The veteran who has been found rehabilitated to the point of employability shall be declared rehabilitated if he or she:

(1) Is employed in the occupational objective for which a program of services was provided or in a closely related occupation for at least 60 continuous days;

(2) Is employed in an occupation unrelated to the occupational objective of the veteran’s rehabilitation plan for at least 60 continuous days if the veteran concurs in the change and such employment:

(i) Follows intensive, yet unsuccessful, efforts to secure employment for the veteran in the occupation objective of a rehabilitation plan for a closely related occupation contained in the veteran’s rehabilitation plan;

(ii) Is consistent with the veterans’s aptitudes, interests, and abilities; and

(iii) Utilizes some of the academic, technical or professional knowledge and skills obtained under the rehabilitation plan; or

(3) Pursues additional education or training, in lieu of obtaining employment, after completing his or her prescribed program of training and rehabilitation services if:

(i) The additional education or training is not approvable as part of the veteran’s rehabilitation program under this chapter; and

(ii) Achievement of employment consistent with the veterans’s aptitudes,

interests, and abilities will be enhanced by the completion of the additional education or training.

(Authority: 38 U.S.C. 3101(1), 3107 and 3117)

(d) *Rehabilitation to the point of employability has not been completed.* A veteran under a rehabilitation plan who obtains employment without being declared rehabilitated to the point of employability as contemplated by the plan, including a veteran in a rehabilitation program consisting solely of employment services, is considered to be rehabilitated if the following conditions exist:

(1) The veteran obtains and retains employment substantially using the services and assistance provided under the plan for rehabilitation.

(2) The employment obtained is consistent with the veterans’s abilities, aptitudes and interests.

(3) Maximum services feasible to assist the veteran to retain the employment obtained have been provided.

(4) The veteran has maintained the employment for at least 60 continuous days.

(Authority: 38 U.S.C. 3101(1), 3107 and 3117)

(e) *Independent living.* A veteran who has pursued a program of independent living services will be considered rehabilitated when all goals of the program have been achieved, or if not achieved, when:

(1) The veteran, nevertheless, has attained a substantial increase in the level of independence with the program assistance provided;

(2) The veteran has maintained the increased level of independence for at least 60 days; and

(3) Further assistance is unlikely to significantly increase the veteran’s level of independence.

(Authority: 38 U.S.C. 3101 (1), (2) 3107)

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§ 21.284 Reentrance into a rehabilitation program.

(a) *Reentrance into rehabilitation to the point of employability following a determination of rehabilitation.* A veteran who has been found *rehabilitated* under provisions of § 21.283 may be provided