

**§ 21.6054**

**38 CFR Ch. I (7-1-03 Edition)**

Rehabilitation and Employment Division.

(Authority: 38 U.S.C. 1524(b))

**§ 21.6054 Criteria for determining good employment potential.**

(a) *Determining good employment potential.* Before scheduling an evaluation of feasibility to pursue a vocational goal for a qualified veteran under § 21.6005(c)(2), VA will first determine whether the veteran has good potential for achieving employment if provided a vocational training or employment program. This determination shall be made on the basis of the information of record, including information submitted by the veteran at the time of the veteran's request to participate in this temporary program.

(Authority: 38 U.S.C. 1524(a)(2); Pub. L. 100-687).

(b) *Criteria.* The criteria contained in paragraphs (c) and (d) of this section are to be applied by Vocational Rehabilitation and Employment professional staff members to determine whether information of record supports a determination that a veteran age 50 or older has good potential for employment. Any reasonable doubt shall be resolved in the veteran's favor.

(Authority: 38 U.S.C. 1524(a)(2))

(c) *Indicators of good potential for employment.* Indicators of good potential for employment include one or more of the following:

- (1) A period of stable employment prior to the onset of disability.
- (2) Strong motivation to return to the work force.
- (3) Successful pursuit of education or training.
- (4) Cooperation in treatment of disabling conditions.
- (5) Stabilization of medical conditions or substance abuse problems.
- (6) Participation in therapeutic work programs.
- (7) Evidence of recent sustained job-seeking.

(Authority: 38 U.S.C. 1524(b)(1))

(d) *Contraindications of good potential for employment.* Contraindications of

good potential for employment include one or more of the following:

- (1) A lifelong history of unstable employment with long periods of employment before the onset of disability.
- (2) Being out of the labor market for five years or more preceding the evaluation.
- (3) Unsuccessful pursuit of education or training.
- (4) Noncooperation in the treatment of disability.
- (5) Need for an additional period of medical care or treatment before training would be feasible.
- (6) Nonparticipation in prescribed or recommended therapeutic work programs.
- (7) Failure of previous vocational rehabilitation programs to achieve employability.

(Authority: 38 U.S.C. 1524(a)(2))

(e) *Negative determinations.* If VA does not find good employment potential, VA will notify the veteran that he or she is not eligible to receive an evaluation. Since this finding will preclude program participation, the veteran will be informed of his or her appellate rights as described in § 21.59 of this part.

- (1) If the determination cannot be made on the evidence of record, VA shall advise the veteran and may provide him or her with an opportunity to submit additional information within a reasonable time.
- (2) A veteran's disagreement with a negative finding shall be considered evidence of motivation for employment, and may, when considered in relation to other information, provide a basis for finding that good employment potential exists;
- (3) If the final VA determination, following a review of a contested negative finding, is that good potential for achieving employment does not exist, a personal interview will be scheduled, and the reasons for VA's determination shall be discussed with the veteran.

(Authority: 38 U.S.C. 1524(a)(2))

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