

## Department of Veterans Affairs

## § 21.6509

been awarded a VA compensation rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of service-connected disability, may benefit from vocational rehabilitation services which may be authorized under 38 U.S.C. chapter 31, and 38 U.S.C. 1163. See §§ 3.340 and 3.341 of this title.

(b) *Chapter 31 evaluations.* All veterans participating in this temporary program are to be evaluated to determine whether:

(1) They are eligible for and entitled to receive assistance under chapter 31; and

(2) Achievement of a vocational goal is reasonably feasible.

(Authority: 38 U.S.C. 1163; Pub. L. 100-687).

(c) *Applicability of chapter 31 provisions.* The provisions of §§ 21.1 through 21.430, generally applicable to veterans eligible for benefits under chapter 31, apply except as added to or modified by the provisions of the following sections. Participants not found eligible for chapter 31 benefits may nevertheless receive counseling services under 38 U.S.C. 3104(a)(2) and placement and postplacement services under 38 U.S.C. 3104(a)(5).

(Authority: 38 U.S.C. 1163)

[51 FR 19333, May 29, 1986. Redesignated at 53 FR 4397, Feb. 16, 1988, as amended at 55 FR 17272, Apr. 24, 1990]

### § 21.6503 Definitions.

(a) *Program period.* The term *program period* means the period beginning on February 1, 1985, and ending December 31, 1992.

(Authority: 38 U.S.C. 1163(a)(2)(B); Pub. L. 102-291)

(b) *Qualified veteran.* The term *qualified veteran* means a veteran who has a service-connected disability, or service-connected disabilities, not rated as total, but who has been awarded a rating of total disability by reason of inability to secure or follow a substantially gainful occupation as a result of such disability or disabilities. Such a rating is referred to as an IU (individual unemployability) rating. See §§ 3.340, 3.341, and 4.16 of this title.

(c) *Receives an IU rating.* The phrase *receives an IU rating* refers to the date of the rating decision authorizing total disability compensation based upon individual unemployability.

(Authority: 38 U.S.C. 1163(a)(2)(A))

[51 FR 19333, May 29, 1986. Redesignated at 53 FR 4397, Feb. 16, 1988, as amended at 55 FR 17272, Apr. 24, 1990; 58 FR 41637, Aug. 5, 1993]

### § 21.6505 Participation in the temporary program.

Participation in this temporary program of trial work periods and vocational rehabilitation is limited to qualified veterans.

(Authority: 38 U.S.C. 1163(a)(2)(A)).

[55 FR 17272, Apr. 24, 1990]

### § 21.6507 Special benefits for qualified veterans under test program.

(a) *Protection of IU rating under 38 CFR 3.343(c)(2).* The total disability rating of any qualified veteran who begins to engage in a substantially gainful occupation during the program period is protected from reduction by VA on the basis of the veteran's having secured and followed a substantially gainful occupation under the provisions of § 3.343(c)(2) of this title.

(Authority: 38 U.S.C. 1163(a))

(b) *Counseling and employment services for qualified veterans.* During the program period, VA will make the counseling services described in 38 U.S.C. 3104(a)(2), and the placement and postplacement services described in 38 U.S.C. 3104(a)(5), available to each qualified veteran for whom achievement of a vocational goal is reasonably feasible. These services will be made available regardless of the veteran's entitlement to or desire to participate in a vocational rehabilitation program under chapter 31. See § 21.6519.

(Authority: 38 U.S.C. 1163(b))

### § 21.6509 Notice to qualified veterans.

(a) At the time notice is provided to a qualified veteran of an award of an IU rating, VA shall provide the veteran with an additional statement. These statements shall contain the following information:

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(1) Notice of the provisions of 38 U.S.C. 1163;

(2) Information explaining the purposes and availability of, as well as eligibility requirements and procedures for pursuing a vocational rehabilitation program under Chapter 31; and

(3) A summary description of the scope of services and assistance available under that chapter.

(Authority: 38 U.S.C. 1163(c)(1)).

(b) *Opportunity for evaluation.* After providing the notice required under paragraph (a) of this section, VA shall offer the veteran the opportunity for an evaluation under § 21.50 of this part.

(Authority: 38 U.S.C. 1163(c); Pub. L. 100–687).

(c) *Evaluation.* The term *evaluation* hereinafter shall be understood to mean the same evaluation accorded in an *initial evaluation* and an *extended evaluation* as those terms are described in §§ 21.50 and 21.57 of this part.

(d) *Responsible staff member.* The evaluation or reevaluation will be provided by a counseling psychologist in the Vocational Rehabilitation and Employment (VR&C) Division.

(Authority: 38 U.S.C. 1163(c)).

[55 FR 17273, Apr. 24, 1990]

### §§ 21.6511–21.6513 [Reserved]

#### § 21.6515 Formulation of rehabilitation plan.

(a) *Formulation of plan.* Following an evaluation, the counseling psychologist will formulate an IWRP (individualized written rehabilitation plan) or an IEAP (individualized employment assistance plan) for each participating qualified veteran for whom achievement of a vocational goal is reasonably feasible. These plans shall be prepared in accordance with § 21.84 (IWRP) or § 21.88 (IEAP).

(b) *Existing plan.* If the veteran already has undertaken a rehabilitation program under Chapter 31, a new plan shall not be developed unless cir-

cumstances indicate that the existing plan should be modified or replaced.

(Authority: 38 U.S.C. 1163(c); Pub. L. 100–687).

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### § 21.6517 [Reserved]

#### § 21.6519 Eligibility of qualified veterans for employment and counseling services.

(a) *General.* A qualified veteran for whom vocational rehabilitation and achievement of a vocational goal are reasonably feasible may be provided the employment and counseling services to which he or she may be entitled under chapter 31. If the qualified veteran is not eligible for such assistance under chapter 31, he or she may be provided, nevertheless, the counseling, placement and postplacement services provided under 38 U.S.C. 3104(a)(2) and (5). The specific services which may be authorized are discussed in §§ 21.100, 21.252 and 21.254(a).

(b) *Services under other VA and non-VA programs.* Veterans being provided counseling, placement and postplacement services under §§ 21.100, 21.252, and 21.254(a) will also be aided in identifying services of other VA and non-VA programs which may be of assistance in securing employment. All elements of a program of these services shall be incorporated in the IEAP.

(c) *Veteran elects counseling, placement and postplacement services.* If a qualified veteran elects not to undertake the IWRP and is otherwise eligible for counseling, placement and postplacement services under 38 U.S.C. 3104(a)(2) and (5), he or she may be provided those services.

(Authority: 38 U.S.C. 1163(b)).

(d) *Duration of services under 38 U.S.C. 3104(a) (2) and (5).* The services provided under 38 U.S.C. 3104(a)(2) and (5), are limited to an 18-month period of employment assistance as described in § 21.73.

(Authority: 38 U.S.C. 1163(b))

[51 FR 19333, May 29, 1986. Redesignated at 53 FR 4397, Feb. 16, 1988, as amended at 55 FR 17273, Apr. 24, 1990]