

## Department of Veterans Affairs

## § 21.3130

(2) The eligible child has reached the compulsory school attendance age under State law, but has neither reached his or her 18th birthday, nor completed secondary schooling. See § 21.3040(a).

(b) *Spouse or surviving spouse.* Counseling is required for a spouse or surviving spouse only if he or she desires specialized vocational training.

(Authority: 38 U.S.C. 3520, 3536, 3541, 3561)

### § 21.3103 Failure to cooperate.

VA will not act further on an eligible person's application for assistance under 38 U.S.C. chapter 35 when counseling is required for him or her and the eligible person—

(a) Fails to report;

(b) Fails to cooperate in the counseling process; or

(c) Does not complete counseling to the extent required under § 21.3102.

(Authority: 38 U.S.C. 3536, 3541, 3561(a))

### § 21.3104 Special training.

(a) *Initial counseling.* A counseling psychologist or vocational rehabilitation counselor in the Vocational Rehabilitation and Employment Division will counsel an eligible person with a disability who is a child, spouse, or surviving spouse before referring the case to the Vocational Rehabilitation Panel (established under § 21.60) for consideration as to the child's, spouse's or surviving spouse's need for a course of specialized vocational training or special restorative training. After consulting with the panel, and considering the panel's report, the counseling psychologist or vocational rehabilitation counselor will determine if the child, spouse, or surviving spouse needs a course of specialized vocational training or special restorative training, and where need is found to exist will prescribe a course which is suitable to accomplish the goals of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3536, 3540-3543, 3561(a))

(b) *Counseling after special restorative training.* When an eligible person completes or discontinues a course of special restorative training without having selected an objective and a program of education, a counseling psy-

chologist or vocational rehabilitation counselor in the Vocational Rehabilitation and Employment Division will provide additional counseling to assist him or her in selecting a program of education suitable to accomplish the purposes of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3561)

[61 FR 26109, May 24, 1996, as amended at 73 FR 2424, Jan. 15, 2008]

### § 21.3105 Travel expenses.

(a) *General.* VA shall determine and pay the necessary expense of travel to and from the place of counseling for an eligible person who is required to receive counseling as provided under 38 U.S.C. 111 (a), (d), (e), and (g).

(Authority: 38 U.S.C. 111 (a), (d), (e), and (g))

(b) *Restriction.* VA will not pay the necessary cost of travel to and from the place of counseling when counseling is not required, but is provided as a result of a voluntary request by the eligible person.

(Authority: 38 U.S.C. 111)

## PAYMENTS

### § 21.3130 Educational assistance.

(a) *Approval of a program of education.* VA will approve a program of education selected by an eligible person if:

(1) The program is described in § 21.3021 (h) and (i) or (j);

(2) The individual is not already qualified for the objective of the program of education;

(3) The proposed educational institution or training establishment is in compliance with all the requirements of 38 U.S.C. chapters 35 and 36; and

(4) It does not appear that the enrollment in or pursuit of such person's program of education would violate any provision of 38 U.S.C. chapters 35 and 36.

(Authority: 38 U.S.C. 3521)

(b) *Payments.* VA will pay educational assistance at the rate specified in § 21.3131 (subject to the reductions required by § 21.3132) while the eligible