

§ 21.6410

38 CFR Ch. I (7–1–10 Edition)

DELEGATION OF AUTHORITY

§ 21.6410 Delegation of authority.

(a) *General.* Authority is delegated to the Under Secretary for Benefits and to supervisory or non-supervisory personnel within the jurisdiction of the Vocational Rehabilitation and Employment Service, to make findings and decisions under 38 U.S.C. 1524 and the applicable regulations, precedents and instructions pertaining to this program. See § 2.6(b).

(Authority: 38 U.S.C. 512(a))

(b) *Applicability of §§ 21.412 and 21.414.* The provisions of §§ 21.412 and 21.414 (except for (d) and (e)) are applicable to this temporary program.

(Authority: 38 U.S.C. 512(a))

COORDINATION WITH THE VETERANS SERVICE CENTER

§ 21.6420 Coordination with the Veterans Service Center.

It is the responsibility of the VR&E Division to inform the Veterans Service Center in writing of the following changes in the veteran's circumstances contained in the following paragraphs.

(Authority: 38 U.S.C. 1524, Pub. L. 101–237)

(a) *Evaluation.* (1) The date an evaluation being provided a veteran under age 45, who is required to participate in such evaluation, is suspended because of unsatisfactory conduct or cooperation; and

(2) The date the evaluation is resumed.

(Authority: 38 U.S.C. 1524, Pub. L. 101–237)

(b) *Income information.* Any information relating to income from work or training which may affect the veteran's continued entitlement to pension, including participation in:

(1) A work adjustment program, incentive or therapeutic work program, vocational training in a rehabilitation facility, or employment in a rehabilitation facility or sheltered workshop;

(2) On-job training;

(3) The work portion of a cooperative or combination program;

(4) Internships; and

(5) Full- or part-time employment.

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

(c) *Dependency changes.* Information regarding dependency changes if the case manager learns of such changes in the normal course of performing his or her duties.

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

(d) *Information to determine if the veteran's permanent and total disability rating is protected under § 3.343.* The information provided by the case manager includes:

(1) The employment was within the scope of the vocational goal identified in the veteran's individualized written plan of vocational rehabilitation, or in a related field, and the employment secured by the veteran requires the use of the training or services furnished under the rehabilitation plan.

(2) Employment was secured not later than one year after the date the veteran's eligibility for counseling expired. A veteran's eligibility for counseling expires on the date employment services are terminated by VA or the veteran completes rehabilitation to the point of employability and terminates program participation, whichever is later; and

(3) The veteran maintained his or her employment for 12 consecutive months.

(Authority: 38 U.S.C. 1524, Pub. L. 101–237)

[53 FR 4397, Feb. 16, 1988, as amended at 56 FR 21449, May 9, 1991; 71 FR 28586, May 17, 2006]

Subpart J—Temporary Program of Vocational Training and Rehabilitation

AUTHORITY: Pub. L. 98–543, sec. 111; 38 U.S.C. 1163; Pub. L. 100–687, sec. 1301, unless otherwise noted.

SOURCE: 51 FR 19333, May 29, 1986, unless otherwise noted. Redesignated at 53 FR 4397, Feb. 16, 1988.

§ 21.6501 Overview.

(a) *Purpose.* The temporary program for trial work periods and vocational rehabilitation is intended to test the extent to which a veteran, who has

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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: