

§21.5103

38 CFR Ch. I (7-1-12 Edition)

(b) *Availability of counseling.* Counseling assistance is available for—

(1) Identifying and removing reasons for academic difficulties which may result in interruption or discontinuance of training, or

(2) In considering changes in career plans, and making sound decisions about the changes.

(Authority: 38 U.S.C. 3697A(a))

(c) *Optional counseling.* VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (b) of this section upon request of the individual. VA shall take appropriate steps (including individual notification where feasible) to acquaint all participants with the availability and advantages of counseling services.

(Authority: 38 U.S.C. 3241, 3697A(a) and (b))

(d) *Required counseling.* (1) In any case in which VA has rated the veteran as being incompetent, VA must provide counseling as described in 38 U.S.C. 3697A prior to selection of a program of education or training. The counseling will follow the veteran's initial application for benefits or any communication from the veteran or guardian indicating that the veteran wishes to change his or her program. This requirement that counseling be provided is met when—

(i) The veteran has had one or more personal interviews with the counselor;

(ii) The counselor has jointly developed with the veteran recommendations for selecting a program;

(iii) These recommendations have been reviewed with the veteran.

(2) The veteran may follow the recommendations developed in the course of counseling, but is not required to do so.

(3) VA will take no further action on a veteran's application for assistance under 38 U.S.C. chapter 32 unless he or she—

(i) Reports for counseling;

(ii) Cooperates in the counseling process; and

(iii) Completes counseling to the extent required under paragraph (d)(1) of this section.

(Authority: 38 U.S.C. 3241, 3697A(c))

[45 FR 31, Jan. 2, 1980, as amended at 47 FR 51746, Nov. 17, 1982; 53 FR 34497, Sept. 7, 1988; 58 FR 31911, June 7, 1993; 61 FR 29030, June 7, 1996; 61 FR 36629, July 12, 1996]

§21.5103 Travel expenses.

(a) *General.* VA shall determine and pay the necessary expense of travel to and from the place of counseling for a veteran 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 veteran.

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

[61 FR 29030, June 7, 1996]

PAYMENTS; EDUCATIONAL ASSISTANCE ALLOWANCE

§21.5130 Payments; educational assistance allowance.

VA will apply the following sections in administering benefits payable under 38 U.S.C. Chapter 32:

(a) Section 21.4131—Commencing dates (except paragraph (d)).

(b) Section 21.4135—Discontinuance dates.

(c) Section 21.4138 (except paragraph (b))—Certifications and release of payments.

(d) Section 21.4146—Assignments of benefits prohibited.

(Authority: 38 U.S.C. 3241(a))

(e) Section 21.4136(k) (except paragraph (k)(3))—Mitigating circumstances.

(Authority: 38 U.S.C. 3241(a), 3680(a))

[45 FR 31, Jan. 2, 1980, as amended at 46 FR 32024, June 19, 1981; 53 FR 617, Jan. 11, 1988; 55 FR 31582, Aug. 3, 1990; 57 FR 38612, Aug. 26, 1992; 61 FR 29030, June 7, 1996; 63 FR 35836, July 1, 1998; 64 FR 23772, May 4, 1999; 65 FR 5786, Feb. 7, 2000]