§ 3105. Duration of rehabilitation programs

(a) In any case in which the Secretary is unable to determine whether a veteran is reasonably feasible for a veteran to achieve a vocational goal, the period of extended evaluation under section 3106(c) of this title may not exceed twelve months, except that such period may be extended for additional periods of up to six months if the Secretary determines that such veteran has a disability that is reasonably likely to preclude such veteran from performing the duties of the occupation for which such veteran was so rehabilitated, or (B) the occupation for which such veteran has been so rehabilitated is not suitable in view of such veteran’s current employment handicap and capabilities; or

(2) under regulations which the Secretary shall prescribe, that such veteran has a serious employment handicap and that an extension of such period is necessary to accomplish the purposes of a rehabilitation program for such veteran.

(d)(1) Except as provided in paragraph (2), the period of a program of independent living services and assistance for a veteran under this chapter may exceed twenty-four months as follows:

(i) If the Secretary determines that such veteran’s disability or disabil-

ities are so severe that the achievement of a vocational goal currently is not reasonably feasible may not exceed twenty-four months.

(ii) If the veteran served on active duty during the Post-9/11 Global Operations period and has a severe disability (as determined by the Secretary) incurred or aggravated in such service.

(B) In this paragraph, the term “Post-9/11 Global Operations period” means the period of the Persian Gulf War beginning on September 11, 2001, and ending on the date thereafter prescribed by Presidential proclamation or by law.

(e)(1) Notwithstanding any other provision of this chapter or section 3605 of this title, any payment of a subsistence allowance and other assistance described in paragraph (2) shall not—

(A) be charged against any entitlement of any veteran under this chapter; or

(B) be counted toward the aggregate period for which section 3605 of this title limits an individual’s receipt of allowance or assistance.

(2) The payment of the subsistence allowance and other assistance referred to in paragraph (1) is the payment of such an allowance or assistance for the period described in paragraph (3) to a veteran for participation in a vocational rehabilitation program under this chapter if the Secretary finds that the veteran had to suspend or discontinue participation in such vocational rehabilitation program as a result of being ordered to serve on active duty under section 688, 12301(a), 12301(d), 12302, or 12304 of title 10.

(3) The period for which, by reason of this subsection, a subsistence allowance and other assistance is not charged against entitlement or counted toward the applicable aggregate period for which section 3605 of this title limits the period of participation in the vocational rehabilitation program for which the veteran lost training time, as determined by the Secretary.

(Prior Provisions

Prior section 3105 was renumbered section 5305 of this title.

Amendments

2011—Subsec. (b). Pub. L. 112–56 substituted existing provisions as par. (1), substituted “Except as provided
§ 3106. Initial and extended evaluations; determinations regarding serious employment handicap

(a) The Secretary shall provide any veteran who has a service-connected disability rated at 10 percent or more and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 3104(a)(1) of this title as are necessary (1) to determine whether such veteran is capable of participating in a program of independent living services and assistance under section 3120 of this title, and (2) in any case in which the Secretary has determined that a veteran has a serious employment handicap but the Secretary is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is reasonably feasible, such veteran shall be provided with an extended evaluation consisting of the services described in section 3104(a)(1) of this title, such services under this chapter as the Secretary determines necessary to improve such veteran’s potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 3108 of this title.

(b) In any case in which the Secretary has determined that a veteran has a serious employment handicap and also determines, following such initial and any such extended evaluation, that achievement of a vocational goal currently is not reasonably feasible, the Secretary shall determine whether the veteran is capable of participating in a program of independent living services and assistance under section 3120 of this title.

(c) In any case in which the Secretary has determined that a veteran has a serious employment handicap but the Secretary is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is reasonably feasible, such veteran shall be provided with an extended evaluation consisting of the services described in section 3104(a)(1) of this title, such services under this chapter as the Secretary determines necessary to improve such veteran’s potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 3108 of this title.

(d) (A) The Secretary shall provide any veteran who has a service-connected disability rated at 10 percent or more and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 3104(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in any case in which the Secretary determines that a longer period is necessary and (A) for “Secretary” wherever appearing.

(B) In any case in which the Secretary has determined whether the veteran is entitled to and eligible for benefits under this chapter, the Secretary shall make such determination not later than the end of such extended evaluation or period of extension, as the case may be. In determining whether the achievement of a vocational goal currently is reasonably feasible, the Secretary shall resolve any reasonable doubt in favor of determining that such achievement currently is reasonably feasible.

(f) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Secretary shall assign a Department of Veterans Affairs employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 3117 of this title) and assistance under this chapter to such veteran.


Prior Provisions

§3106 was renumbered section 5306 of this title.

Amendments

1996—Subsec. (a). Pub. L. 104–275, §101(f)(1)(A), substituted “rated at 10 percent or more” for “described in clause (i) or (ii) of section 3102(1)(A) of this title”.

Subsec. (b). Pub. L. 104–275, §101(f)(1)(B), struck out “counseling in accordance with” before “an individualized written plan”.

Effective Date of 2011 Amendment

Amendment by Pub. L. 112–56 effective June 1, 2012, and applicable with respect to rehabilitation programs beginning after such date, see section 233(c) of Pub. L. 112–56, set out as a note under section 3102 of this title.

Effective Date of 2001 Amendment


Effective Date

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96–466, set out as a note under section 3100 of this title.