

Chapter 4
VA VOCATIONAL REHABILITATION AND EMPLOYMENT SERVICES IN
CONJUNCTION WITH VA EDUCATION BENEFITS AND SERVICES

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4.01 Introduction

The Department of Veterans Affairs (VA) offers a variety of education, training and employment benefits and services to Veterans. This chapter provides a summary on how Vocational Rehabilitation and Employment (VR&E) services are provided in conjunction with other VA education training benefits, discusses regulatory guidance and provides procedural information on how to assist the Veteran in utilizing VA benefits and services.

4.02 References and Resources

Laws: 10 United States Code (U.S.C.) 1606
 10 U.S.C. 1607
 38 U.S.C. 1804
 38 U.S.C. 3105
 38 U.S.C. 3322
 38 U.S.C. 3695
 Public Law (Pub. L.) 78-346
 Pub.L. 96-342
 Pub.L. 111-377

Regulations: 38 Code of Federal Regulations (CFR) 21.21
 38 CFR 21.73
 38 CFR 21.78
 38 CFR 21.260
 38 CFR 21.264
 38 CFR 21.334
 38 CFR 21.4020

Website: www.gibill.gov

4.03 Education Benefits Available to Servicemembers and Veterans

There are a number of education benefits available to Servicemembers and Veterans. The following are the most prevalent:

- a. Education Benefits Under 38 U.S.C.

38 U.S.C. governs the delivery of Veterans' benefits. Title 38 includes the VR&E program, which is outlined in Chapter 31, as well as a number of Veterans' education benefits, including:

1. Montgomery GI Bill (Chapter 30)

To qualify for the Montgomery GI Bill (MGIB), active-duty Servicemembers enroll and pay \$100 per month for 12 months to be entitled to receive a monthly education benefit once they have completed a minimum service obligation. The MGIB provides up to 36 months of education benefits. This benefit may be used for degree and certificate programs, flight training, apprenticeship/on-the-job training and correspondence courses. Remedial, deficiency and refresher courses may be approved under certain circumstances. Generally, benefits are payable for 10 years following release from active duty.

2. Veterans' Educational Assistance Program (Chapter 32)

Veterans' Educational Assistance Program (VEAP) is available to those who entered service for the first time between January 1, 1977, and June 30, 1985. VEAP benefits can be used for degree, certificate, correspondence, apprenticeship/on-the-job training programs and vocational flight training programs. In certain circumstances, remedial, deficiency and refresher training may also be available. Benefit entitlement is up to 36 months. Generally, benefits are payable for 10 years following release from active duty.

3. Post-9/11 GI Bill (Chapter 33)

The Post-9/11 GI Bill provides financial support for education and housing to individuals with at least 90 days of service on or after September 11, 2001, or individuals discharged with a service-connected disability. Approved training under the Post-9/11 GI Bill includes graduate and undergraduate degrees, vocational/technical training, on-the-job training, flight training, correspondence training, licensing and national testing programs, and tutorial assistance. The program pays for tuition and fees in addition to a monthly housing allowance and a stipend for books and supplies. Benefit entitlement is up to 36 months. Generally, benefits are payable for 15 years following release from active duty.

4. Survivors' and Dependents' Educational Assistance (Chapter 35)

Survivors' and Dependents' Educational Assistance provides education and training opportunities to eligible dependents of certain Veterans. These

benefits may be used for degree and certificate programs, apprenticeship and on-the-job training. Remedial, deficiency and refresher courses may be approved under certain circumstances. The program offers up to 45 months of education benefits. The period of eligibility varies as it is based on a number of factors.

For more information on the delivery of these services, see M28R.VII.A.2.

5. Educational and Vocational Counseling Services (Chapter 36)

Free educational and vocational counseling services under Chapter 36 are provided to transitioning Servicemembers and Veterans six months prior to discharge to one year following discharge. Additionally, current beneficiaries of educational assistance in the programs discussed in M28R.VII.A.1.1.03 qualify for service under Chapter 36.

For more information on the delivery of these services, see M28R.VII.A.1.

6. Benefits for Children of Vietnam Veterans and Certain Other Veterans (Chapter 18)

VA provides monetary allowances, vocational training and rehabilitation, education services and health care benefits to certain Korea and Vietnam Veterans' birth children who are born with spina bifida.

See M28R.VII.A.3 for additional information on the implementation of Chapter 18 services.

Benefits under the Vietnam Era Veterans' Educational Assistance Program, Chapter 34, are no longer payable as of December 31, 1989. Veterans who previously participated in this program had the option to transfer any remaining benefit to Chapter 30. Those instances are commonly referred to as 34/30 conversions.

For more information on VA education benefits, see www.gibill.va.gov.

b. Education Benefits Under 10 U.S.C.

10 U.S.C. provides the delivery of education benefits to Veterans who are currently serving in the Reserve Components, as follows:

1. Selected Reserve Educational Assistance Program (Chapter 1606)

A Reservist must be actively drilling and have a six-year obligation in the Selected Reserve to be eligible for services under Chapter 1606. Approved training under this benefit includes graduate and undergraduate degrees, vocational/technical training, on-the-job or apprenticeship training, correspondence training and flight training. Benefit entitlement is up to 36 months. Entitlement to this benefit is generally contingent upon continued service in the Selected Reserve.

2. Reserve Educational Assistance Program (Chapter 1607)

Reserve Educational Assistance Program (REAP) is an educational program that provides assistance to members of the Reserve Components who are called or ordered to active service. Approved training under REAP includes graduate and undergraduate degrees, vocational/technical training, on-the-job or apprenticeship training, correspondence training and flight training. Benefit entitlement is up to 36 months. Entitlement to REAP is generally contingent upon continued service in the Reserve Components.

c. Education Benefits Under the National Defense Authorization Law

Pub.L. 96-342, the National Defense Authorization Law, provides education services to a distinct section of the Veteran population. Those programs include the following:

1. Educational Assistance Test Program (Section 901)

Section 901 is available to individuals who entered active duty after September 30, 1980, and before October 1, 1981. Educational services are limited to onsite training at post-secondary institutions only. Benefit entitlement is up to 36 months. Generally, benefits are payable for 10 years following release from active duty.

2. Educational Assistance Pilot Program (Section 903)

Educational benefits are available under section 903 to Servicemembers or Veterans who enlisted on active duty after November 30, 1980, and before October 1, 1981. Benefits can be used for degree, certificate, correspondence, apprenticeship/on-the-job training programs and vocational flight training programs. In certain circumstances, remedial, deficiency and refresher training may also be available. Benefit entitlement is up to 36 months. Generally, benefits are payable for 10 years following release from active duty.

4.04 Integration of Education Benefits with VR&E Services

Servicemembers and Veterans have a number of education benefits available for use. As a result, many times a Veteran will have eligibility and/or entitlement to more than one education benefit. When a Veteran applies for VR&E services, it is imperative that a review of eligibility for other education benefits is addressed to ensure that the Veteran is utilizing his/her benefits in the most advantageous manner. The Veteran may opt to apply for GI Bill education benefits while pursuing an entitlement determination for VR&E services. VA Education Services will complete a review of the Veteran's eligibility for education services and send the Veteran a Certificate of Eligibility (COE). The COE will identify the amount of VA education benefits available for use and the delimiting date. This information is useful when assisting the Veteran in making an informed decision about the use of his/her VA benefits.

a. Election Required if Eligible Under More than One Chapter

When a Veteran has entitlement to more than one education benefit, the Veteran must elect which benefit to receive per 38 U.S.C. 3322 and 38 CFR 21.21. Under no circumstance can a Veteran receive payment from one of the education benefits listed above while receiving Chapter 31 subsistence allowance.

b. Prior Training as Part of a Rehabilitation Program

When developing the Individualized Written Rehabilitation Plan (IWRP), the VRC must evaluate any prior training the Veteran possesses to ensure that the Veteran is taking full advantage of past experience per 38 CFR 21.21. To the extent possible, the utilization of prior training may reduce the amount of remaining training required and lead to employability in an expedient manner.

4.05 Entitlement Limitations and Extensions

Veterans who train under more than one chapter of the law are limited in their total period of entitlement per 38 U.S.C. 3105, 38 U.S.C. 3695 and 38 CFR 21.4020.

a. Entitlement Limitations

The total period for which a Veteran may receive assistance under two or more of the programs listed in M28R.VII.A.4.03 and VR&E services may not exceed a combined period of 48 months (or the part-time equivalent), unless one of the conditions outlined in M28R.VII.A.4.05.b are met.

b. Entitlement Extensions

38 CFR 21.78 allows a Veteran who previously utilized education benefits outlined in M28R.VII.A.4.03 and is currently participating in Chapter 31 services, to extend the 48-month limitation (or the part-time equivalent) if it is determined that additional months of benefits under Chapter 31 are necessary to achieve the Veteran's rehabilitation goals. The extension of benefits beyond the 48-month period of entitlement is based on the following factors:

1. Veterans Classified as Having an Employment Handicap

A rehabilitation program for a Veteran with an Employment Handicap (EH) may be extended beyond 48 months under any of the following:

- (a) The Veteran previously completed training in an occupational field, but the Veteran's service-connected disability(ies) worsened to the point that performing the duties of that occupation is no longer feasible, and a period of retraining in the same or a different field is necessary. An extension beyond 48 months under Chapter 31 alone shall be authorized for this purpose.
- (b) The occupation the Veteran previously trained for is found to be unsuitable due to the Veteran's functional limitations. An extension beyond 48 months under Chapter 31 alone shall be authorized for this purpose.
- (c) The Veteran previously utilized VA education benefits, and the additional period of assistance under Chapter 31 needed for the Veteran to become employable will result in more than 48 months being used under all VA education benefits. Under these conditions the number of months necessary to complete the program may be authorized under Chapter 31, provided the length of the extension will not result in authorization of more than 48 months under Chapter 31 alone.

2. Veterans Classified as Having a Serious Employment Handicap

If a Veteran is classified as having a Serious Employment Handicap (SEH), the extension of benefits beyond 48 months under Chapter 31 is allowable when the extension provides for the following:

- (a) Enables the Veteran to complete a period of rehabilitation to the point of employability.

- (b) Is used in conjunction with a period of extended evaluation to ensure that the Veteran can complete a period of rehabilitation to the point of employability.
- (c) Provides a program of Independent Living (IL) services, including cases in which an achievement of a vocational goal becomes feasible as a result of IL services.
- (d) Follows a determination of rehabilitated to the point of employability and additional training is needed due to the following circumstances:
 - The Veteran is unable to secure employment despite intensive efforts
 - The skills developed in training are no longer adequate to maintain employment in that field
 - The Veteran's service-connected disability(ies) has worsened to the point that he/she cannot perform the duties of the occupation for which he/she received training
 - The occupation no longer is suitable due to the Veteran's functional limitations

3. Approval of Entitlement Extension

Per 38 CFR 21.78, all extensions of benefits beyond 48 months of total entitlement require the approval of the Vocational Rehabilitation and Employment Officer (VREO). Factors, such as justification for the approval, the number of months requested, the anticipated completion date of the Veteran's rehabilitation and any additional information specified by the VREO should be included in the memo. Approval must be provided in writing and placed in the Veteran's Counseling/Evaluation/Rehabilitation (CER) folder.

Note: It is permissible to exceed 48 months of entitlement if the program of service consists only of a period of employment assistance since employment assistance is not charged against the months of entitlement under Chapter 31 per 38 CFR 21.73.

4.06 Provisions Specific to Veterans Eligible for Chapter 30 and Chapter 33 Benefits

The law allows special provisions for Veterans who are eligible to receive VA education benefits under Chapter 30 or Chapter 33 when used in conjunction with VR&E services.

a. Provisions Specific to Chapter 30 Recipients

A Veteran who is entitled to services under VR&E may elect to receive payment at the educational allowance rate and other assistance furnished under Chapter 30 in lieu of receiving a subsistence allowance through VR&E if he/she meets the entitlement criteria for Chapter 30 per 38 CFR 21.264.

1. Qualifications

To receive the educational allowance and other assistance furnished under Chapter 30 while participating in VR&E services, the Veteran must meet the following criteria:

- (a) Have remaining eligibility for, and entitlement to, educational services under Chapter 30, and
- (b) Enroll in an approved program of training under Chapter 30, and
- (c) Follow the approved training program as part of an IWRP.

2. Service Provision

A Veteran who elects to receive payment and other assistance at the Chapter 30 rate while participating in the VR&E program is provided the same training and rehabilitation services as other Veterans receiving VR&E services, with the exception of the following:

- Subsistence allowance
- Advances from the Revolving Fund Loan
- Payment for vocational or training services, supplies and individual tutoring assistance

b. Provisions Specific to Chapter 33 Recipients

A Veteran who has entitlement to VA education benefits under Chapter 33 and elects to use Chapter 31 benefits may elect to receive a subsistence allowance based on the military basic allowance for housing in lieu of the amount of subsistence otherwise payable under Chapter 31. This subsistence

allowance is referred to as the Post-9/11 subsistence allowance. It is important to note that this rate is not adjusted for dependents. Entitlement to all Chapter 31 services and assistance remain when this election is made. The only difference between Veterans who qualify to utilize this benefit and other Veterans in the VR&E program is the amount of monthly subsistence. See 38 CFR 21.260 for additional information on the payment of the Post-9/11 subsistence allowance.

c. Reelection of Subsistence Allowance

38 CFR 21.264 and 21.334 outline the reelection of benefits. A Veteran who is receiving either the education allowance payable under Chapter 30 or the Post-9/11 subsistence allowance under Chapter 33 can reelection payment of benefits at the Chapter 31 subsistence allowance rate only after completion of an educational term, quarter or semester, unless the following criteria are met:

- Entitlement to Chapter 30 or Chapter 33 expires
- Failure to approve immediate reelection would prevent the Veteran from continuing in his/her program