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SPECIAL EMPLOYER INCENTIVE PROGRAM

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Chapter 7 SPECIAL EMPLOYER INCENTIVE PROGRAM

7.01 Introduction

The Special Employer Incentive (SEI) program is a private-sector initiative that connects job-seeking Veterans with employers for training while on the job and employment opportunities.

This chapter provides an overview of the SEI program, steps required to arrange SEI opportunities, information on direct benefit payments to Veterans as well as the duration and limitations of employer payments. Statutory and regulatory provisions are also contained in this chapter.

7.02 References and Resources

- Laws: Pub. L. 112-56
 Rehabilitation Act of 1973, as Amended
 38 United States Code (U.S.C.) 4211(1)
 38 U.S.C. 4212
- Regulations: 38 Code of Federal Regulation (CFR) 21.256 (superseded by
 Pub. L. 112-56)
 38 CFR 21.290
 38 CFR 21.190
 38 CFR 21.292
 38 CFR 21.294
 38 CFR 21.7136
- VA Forms (VAF): VAF 28-1904, Agreement to Train on the Job Disabled
 Veterans
 VAF 28-1905c, Monthly Record of Training and Wages
 VAF 28-1905d, Special Report of Training
 VAF 28-1905m, Request for Supplies
 VAF 20-8206, VA Statement of Assurance of Compliance
 with Equal Opportunity Laws
 VAF 22-8794, Designation of Certifying Official(s)
 VAF 119, Report of Contact

7.03 Program Overview

a. General Information

The SEI program provides Veterans who face extraordinary obstacles to obtaining employment with additional assistance in finding employment in the private sector. Some Veterans may not be able to locate suitable employment opportunities in their local commuting areas; other Veterans may face additional challenges due to their disabilities. The goal of the program is to place Veterans who are generally qualified for employment, but may lack some specific training or work experience in an on-the-job training experience in an effort to gain the skills necessary to obtain and maintain employment.

The advantage to private-sector employers is that Vocational Rehabilitation & Employment (VR&E) Services will reimburse a portion of the expenses incurred as a result of either providing direct employment or on-the-job training opportunities to Veterans. VR&E staff will not make payments to government employers, including federal, state, or local agencies, as a part of this initiative.

b. Program Requirements

1. Veterans' Eligibility Requirements

Veterans may participate if the following occurs:

- (a) The Veteran has been determined generally qualified for employment.
- (b) The Veteran has been declared job ready.

2. Employers' Eligibility Requirements

(a) Course and Facility Approval

Employment Coordinators (ECs) and Vocational Rehabilitation Counselors (VRCs) must establish that potential employers comply with the course and facility approval provisions. These provisions are outlined under 38 CFR 21.290 and 21.292.

(b) Equal Employment Opportunity Requirements

ECs and VRCs must ensure that employers comply with the Rehabilitation Act of 1973, as Amended, and with 38 U.S.C. 4212 regarding equal employment opportunity requirements for Veterans with disabilities (as defined in 38 U.S.C. 4211(1)). The Department of Labor (DOL) publishes a list of non-complying employers. Unless a question arises regarding an employer's compliance, the case manager

will consider that an employer not on this list meets these compliance requirements.

VR&E staff members should direct questions concerning compliance to the local DOL representative or to the Education Liaison Representative at the VA Regional Office.

c. Program Benefits

1. Benefits for Veterans

The benefits for Veterans include:

- (a) Assistance with overcoming barriers to employment.
- (b) Increased opportunities for permanent placement.

2. Benefits for Employers

The benefits for employers include:

- (a) Reimbursement of up to 50 percent of the Veteran's salary during the SEI opportunity to cover compensation for the following:
 - Additional expenses incurred for cost of instruction
 - Loss of production
 - Additional supply and equipment costs
- (b) Minimal paperwork.
- (c) Case manager support to enable a successful employer/employee match.
- (d) Employee training at employer's standards.

7.04 How to Set Up SEI Opportunities

a. General Information

SEI should be arranged whenever the VRC or EC determines that this service is needed for the Veteran to obtain employment. All ECs and VRCs should be

familiar with the process and requirements. Setting up an SEI opportunity should be a streamlined process, which requires the following steps:

1. Determine the need for SEI.
 2. Locate an employer and conduct a site visit survey (38 CFR 21.294).
 3. Amend the Individualized Employment Assistance Plan (IEAP).
 4. Coordinate the Contract for Education and Training and Schedule I form with the contracting specialist or VR&E Officer.
 5. Complete the following forms and justification (See Appendix O, VA Forms):
 - VAF 22-8794, Designation of Certifying Official(s)
 - VAF 20-8206, VA Statement of Assurance of Compliance with Equal Opportunity Laws
 - VAF 28-1904, Agreement to Train On The Job Disabled Veterans
 - VAF 28-1905m, Request for Supplies (if applicable) (See M28-1,III,6 for information on the authorization of supplies.)
 - Perform follow-up efforts
- b. Determining Need for and Type of SEI Opportunities
1. Case managers must identify whether eligible Veterans need SEI opportunities.
 2. Case managers will determine whether SEI opportunities are necessary to overcome obstacles such as age, disability(ies), work history, a limited number of employers in the commuting area and/or adjustment problems. Oftentimes available local employers will offer on-the-job training or employment only if VA offers to reimburse them for direct expenses to the degree permitted under this program. (38 CFR 21.256 (b))
 3. The case manager must work closely with the Veteran to determine the most appropriate SEI program. Some Veterans will benefit from a program that focuses on the development of a specific set of skills, whereas some Veterans may need the opportunity to develop and/or improve basic employment skills.

c. Search for Placement Opportunities

The search process for SEI opportunities involves two important steps. ECs and VRCs will perform the following tasks:

1. Locate potential employers (a state vocational rehabilitation placement specialist, local DOL Disabled Veterans' Outreach Program (DVOP) specialist, or state employment representative may be contacted to assist in this effort). Cold calls are another way to identify potential employers. A Veteran may find his/her own employer as well.
2. Inform employers that the paperwork involved is minimal and that the EC or VRC will assist the employer with voucher preparation, if necessary.

d. Amend IEAPs

The case manager will amend the Veteran's IEAP after an employer is found and the Veteran agrees to participate in the program. The amended IEAP should list the steps necessary for the Veteran to maintain employment.

e. Coordinate Contract Agreements

Once the case manager determines that the employer meets the qualifications of the SEI program, he/she will coordinate the signing of the contract. Additionally, the case manager must ensure that the Veteran's Counseling, Evaluation and Rehabilitation (CER) folder contains the following:

- Verification of the employer's compliance with applicable laws and regulations, documented on VAF 28-1905d, Special Report of Training (See Appendix O) and in CWINRS case notes
- SEI Contract (See Appendix Q, Special Employer Incentives Contract for a sample of an SEI contract)
- Schedule I form (See Appendix R, Schedule I)
- A statement on the SEI contract: "The contractor will ensure the Veteran will not displace a current employee or prevent the recall of a laid-off employee."

The case manager should ensure that a veteran does not start work before the contract is signed. If an employer hires a Veteran without the SEI, an

SEI cannot be set up after the fact. The SEI is designed to encourage the employer to hire the Veteran.

f. Conduct Case Management

The Employment Services case manager must provide the same level of supervision provided to other Veterans receiving employment services. The Veteran will be provided an initial "face-to-face" supervision within 30 days of beginning the SEI opportunity and each month thereafter.

The case manager shall provide the level of support necessary to ensure the successful completion of the SEI program. Early intervention, should problems arise, will help to stabilize the veteran during and after participation in the SEI program. The case manager must perform follow-up efforts to address the employer's feedback regarding the Veteran's progress.

g. Complete Documentation

For all SEI programs, the case manager will maintain progress notes. Progress notes will be kept on VAF 28-1905d (See Appendix O, VA Forms) or in CWINRS notes and VAF 28-1905c, Monthly Record of Training and Wages (See Appendix O, VA Forms), which is completed by the employer and submitted to the case manager for review.

h. Reimburse Employers

VR&E can reimburse an employer up to a maximum of one-half the wages the employer pays the Veteran. These wages should be agreed upon prior to the time the contract is signed, but cannot be less than the wages other employees receive in the same or similar jobs for that period of time.

1. Reimbursement Limited to Direct Expenses

Employers may receive reimbursement only for direct expenses. Direct expenses include:

- Instructional costs (paying supervisors to instruct the Veteran and purchasing instructional aids)
- Training materials and supplies
- Modification of equipment or working areas to permit the Veteran to be as productive as other workers

- Any significant loss of company productivity

Employers should base all of these expenses on objective data and cannot approximate the data. For example, employers must show workers in the same occupational classification as a Veteran are more productive than the Veteran, but the workers and Veteran are paid a similar salary. If this is clearly verified by the case manager, the employer can charge VR&E a percentage of the wages the Veteran received during the SEI opportunity, not to exceed 50 percent.

2. Employer Responsible for Productivity Determination

The employer is responsible for making the decision regarding loss of productivity. VR&E staff members may NOT review productivity or similar records beyond the brief justification, which the employer submits to VR&E in claiming reimbursement for the loss of productivity.

3. Limitations on Amounts an Employer can Claim

The employer may NOT claim reimbursement for more than one-half the total wages paid to the Veteran (projected in item #5 of Schedule I of the contract). The employer will project the amount for reimbursement in item #6 of Schedule I of the contract. The employer may itemize each of the expense factors (e.g., 30 percent due to loss of productivity) or submit a single figure encompassing all of the factors for which reimbursement may be claimed.

4. Vouchers

(a) Submission of Vouchers for Payment

The employer may submit vouchers on a monthly or quarterly basis or a voucher at the end of the Veteran's SEI opportunity. The voucher must include the following:

- (1) Start and end dates of the period for which the employer is claiming reimbursement.
- (2) Wages the employer paid during this period to the Veteran.
- (3) Wages the employer paid during this period to employees in the same or similar jobs, if applicable.

(4) Amount of reimbursement the employer claims for the following items:

- Instruction costs
- Productivity losses
- Supply and equipment expenses

(b) Review Vouchers

Case managers will perform the following tasks:

- (1) Review vouchers.
- (2) Ensure the figures correspond with Schedule I of the contract and VAF 28-1905c (See Appendix O, VA Forms) that the employer previously submitted.
- (3) Ensure the total claim does not exceed 50 percent of item #5 of Schedule I of the contract and not more than 50 percent of the salary paid for the time period invoiced.
- (4) Determine if the claim is incorrect and return the total voucher to the employer with an explanation of the reasons for the return.
- (5) Forward the voucher to the Contracting Specialist for payment following approval in the same manner as other vouchers.

i. Perform Follow-Up

Case managers will follow up with their Veterans for at least 60 days after completion of the SEI program. Case managers must ensure the following:

1. Confirm with the employer that the Veteran has reached his/her goals.
2. If the Veteran's employment is stable, complete recommendations for rehabilitation.
3. If the Veteran's employment is not stable, determine interventions.

The following documents (See Appendix O, VA Forms) must be completed, signed, and collected during the follow-up period:

- VAF 28-1905c, Monthly Record of Training and Wages
- VAF 28-1905d, Special Report of Training or CWINRS notes
- VAF 119, Report of Contact or CWINRS notes, if appropriate
- Employer invoices

j. Placement Termination or Reevaluation

1. A Veteran may have to leave his/her position due to performance, the deterioration of his/her disability or other issues. The case manager may need to reevaluate a participating Veteran's current employment needs. After the reevaluation, the EC or VRC and Veteran may decide to pursue and develop another SEI opportunity with a different employer. This new SEI opportunity may occur without regard to the number of months of entitlement used in the previous SEI opportunity.

Case managers should carefully monitor entitlement usage for Veterans who do not have a serious employment handicap (SEH) to ensure that these Veterans do not use more than 48 months of entitlement. Upon completion of the SEI, case managers, in coordination with the contracting officer and VR&E Officer, must ensure that the contract with the employer is officially closed out.

2. Additional SEI Program Approvals

Before a Veteran can participate in a second or subsequent SEI opportunity, the Regional Office Director and the VR&E Service Director must approve the new opportunity.

k. Charge against Entitlement

The case manager will not charge basic Chapter 31 entitlement for the period during which the employer is entitled to reimbursements of direct expenses under the program.

7.05 Direct Benefit Payments to Veterans

a. Subsistence Allowance

No Veteran may receive Chapter 31 subsistence allowance while participating in an SEI program. However, SEI participants are eligible for all services that Veterans can receive under VR&E's Employment Services.

b. Chapter 30 Allowance

In accordance with 38 CFR 21.256, if the SEI meets the criteria for approval of on-job training under Chapter 30, the Veteran may be paid at the educational assistance rates provided for this type of training under Chapter 30 to the extent that he/she has remaining eligibility and entitlement under Chapter 30 and has elected to receive a subsistence allowance in accordance with 38 CFR 21.7136.

7.06 Duration of Employer Payments

Per 38 CFR 21.256, the period for which the employer is paid may not exceed the period necessary to accomplish on-job training or to begin and maintain employment at the journeyman level for at least 2 months. The period for which payment may be authorized may not exceed 6 months, unless the VR&E Officer approves a longer period. The VRC may request up to two additional 3-month periods of SEI if it is reasonable to assume the extended period of service would increase the Veteran's marketability and/or employment options.