

Chapter 7  
SPECIAL EMPLOYER INCENTIVE PROGRAM

- 7.01 Introduction
- 7.02 References and Resources
- 7.03 Program Overview
  - a. General Information
  - b. Program Requirements
    - 1. Veterans' Eligibility Requirements
    - 2. Employers' Eligibility Requirements
      - (a) Course and Facility Approval
      - (b) Equal Employment Opportunity Requirements
  - c. Program Benefits
    - 1. Benefits for Veterans
    - 2. Benefits for Employers
- 7.04 How to Set Up Special Employer Incentives (SEI) Opportunities
  - a. General Information
  - b. Determining Need for and Type of SEI Opportunities
  - c. Search for Placement Opportunities
  - d. Amend Individual Employment Assistance Plans (IEAPs)
  - e. Coordinate Contract Agreements
  - f. Conduct Case Management
  - g. Complete Documentation
  - h. Reimburse Employers
    - 1. Reimbursement Limited to Direct Expenses
    - 2. Employer Responsible for Productivity Determination
    - 3. Limitations on Amounts an Employer Can Claim
    - 4. Vouchers
      - (a) Submission of Vouchers for Payment
      - (b) Review Vouchers
  - i. Perform Follow-Up
  - j. Adjusting the Type of Opportunity
  - k. Placement Termination or Reevaluation
  - l. Charge against Entitlement
- 7.05 Direct Benefit Payments to Veterans
  - a. Subsistence Allowance
  - b. Chapter 30 Allowance

7.06 Duration of Employer Payments

- a. Work Experience
- b. On-the-Job Training (OJT)

Appendix O. VA Forms

Appendix Q. Special Employer Incentive Contract

Appendix R. Schedule I

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 On-the-Job Training (OJT) 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- Regulations:         38 Code of Federal Regulation (CFR) 21.256 (superseded by  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 or OJT 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.

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 OJT 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**

**(c) 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.

**(d) 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 OJT 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 determine whether an OJT or work experience SEI opportunity is in the best interest of the Veteran. An OJT refers to a structured training process that needs to be completed for a specific job or position. A work experience opportunity provides the opportunity for a Veteran to improve his/her general skills and to develop new 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. Case managers must also determine whether the placement will involve OJT or not. OJT involves particular job elements that may not have been a part of a Veteran's generalized training under his/her Individual Written Rehabilitation Plan (IWRP). For example, a Veteran may have been trained in auto or TV repair, but not in the repair of a particular make of car or TV model series.

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. The company may pay the Veteran at a trainee wage rate in an OJT opportunity, but must pay the established journeyman rate if the job the Veteran is hired into does not include formal OJT.

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

### (e) 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

(f) 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:

- (a) Confirm with the employer that the Veteran has reached his/her goals
- (b) If the Veteran's employment is stable, complete recommendations for rehabilitation

(c) 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. Adjusting the Type of Opportunity

During an SEI, the employer may offer a new opportunity to the Veteran that will require a change in program type. Refer to M28R.VI.A.7.04.b.2 for more information on OJT vs. work experience opportunities.

ECs or VRCs should perform the following:

- Reclassify the opportunity from a work experience to an OJT or vice versa
- Adjust the duration of the SEI opportunity from the agreed-upon terms in the IEAP

Making adjustments during the Veteran's SEI opportunity may increase the Veteran's chances of maintaining employment with the employer. The EC or VRC will charge the period the Veteran used for the first SEI opportunity against the period available for the new SEI opportunity.

k. 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.

I. Charge against Entitlement

The case manager will charge basic Chapter 31 entitlement for the period during which the employer is entitled to reimbursements of direct expenses under the program. However, from the time VR&E staff determines that a Veteran needs an SEI opportunity and when the actual opportunity begins, VR&E staff will not charge either basic entitlement or the 18 months of employment services entitlement.

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 21.7136, a Veteran who is participating in an approved OJT program under Chapter 30 may elect to receive a subsistence allowance equivalent to the Chapter 30 rate only if he/she is eligible to receive payment at that rate.

7.06 Duration of Employer Payments

a. Work Experience

Case managers are responsible for approving a Veteran's initial SEI work experience opportunity; two to six months of work experience may be authorized. If needed, the case manager may request an additional three months for the VR&E Officer's approval. Work experience as an SEI opportunity may not exceed a total of nine months.

b. On-the-Job Training (OJT)

Case managers are responsible for approving a Veteran's initial SEI OJT opportunity; two to six months may be authorized. The VR&E Officer and Regional Office Director may authorize one three-month extension per SEI OJT opportunity. The VR&E Service Director will need to provide concurrence for the three-month extension. An SEI OJT opportunity may not exceed 12 months.