

Chapter 7
GUIDELINES FOR THE DEVELOPMENT AND ADMINISTRATION
OF AN EMPLOYMENT THROUGH LONG-TERM SERVICES PLAN

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7.01 Introduction

The Department of Veterans Affairs (VA) Vocational Rehabilitation and Employment (VR&E) program uses a variety of rehabilitation plans in an effort to provide individualized services. Veterans who require an extended period of rehabilitation services before seeking employment may benefit from an employment through long-term services rehabilitation plan. This chapter will outline the services available in an employment through long-term services plan, discuss how to develop and administer employment through long-term services plans and provide regulatory and procedural guidance on this type of plan.

7.02 References and Resources

Laws: 38 United States Code (U.S.C.) 3101
 38 U.S.C. 3104
 38 U.S.C. 3107
 38 U.S.C. 3111

Regulations: 38 Code of Federal Regulations (CFR) 21.35
 38 CFR 21.70
 38 CFR 21.78
 38 CFR 21.84
 38 CFR 21.283
 38 CFR 21.362
 38 CFR 21.364

VA Forms (VAF): VAF 28-0957, Vocational Rehabilitation Guidelines and Debt
 Prevention
 VAF 28-8872, Rehabilitation Plan
 VAF 28-8872a, Rehabilitation Plan - Continuation Sheet

Website: www.askjan.org

7.03 Employment through Long-Term Services Overview

a. Definitions

38 U.S.C. 3101 and 38 CFR 21.35 provide definitions to the most commonly used terms in VR&E. The most commonly used terms in an employment through long-term services rehabilitation plan are:

1. Rehabilitated to the Point of Employability (RTE)

RTE means that the Veteran is employable in an occupation for which a Vocational Rehabilitation program has been provided by VA's VR&E program.

2. Employable

38 CFR 21.250 defines employable as being able to secure and maintain suitable employment in the competitive labor market, in a sheltered workshop/rehabilitation facility or other special situation at the minimum wage.

3. Vocational Goal

A vocational goal means gainful employment that is consistent with the Veteran's abilities, aptitudes and interests.

4. Training Establishment

A training establishment is any public or private school, secondary school, vocational school, correspondence school, business school, junior college, college, normal school, professional school, university or technical institution or other institution furnishing education for adults.

5. Suitably Employed

38 CFR 21.283 defines suitably employed as employment in the competitive labor market, sheltered situations, or on a no-pay basis which is consistent with the Veteran's abilities, aptitudes and interests.

- b. Purpose

The purpose of an employment through long-term services rehabilitation plan is to provide an extended period of training and rehabilitation services to ensure the Veteran has the skills necessary to obtain and maintain suitable employment.

- c. Duration

Per 38 CFR 21.70, Vocational Rehabilitation programs cannot exceed 48 months, or the part-time equivalent, except as indicated in 38 CFR 21.78. Extensions are based on the Veteran's employment handicap (EH)

classification and require VR&E Officer concurrence. 38 CFR 21.78 provides the following guidance on extensions beyond 48 months based on the classification of:

1. EH

A rehabilitation program for a Veteran with an EH may be extended beyond 48 months when:

- (a) The Veteran previously completed training for a suitable occupation, but the Veteran's service-connected disability has worsened to the point that he/she is unable to perform the duties of the occupation for which training had been provided, and a period of training in the same or different field is required. An extension beyond 48 months under Chapter 31 alone shall be authorized for this purpose.
- (b) The occupation in which the Veteran previously completed training is found to be unsuitable because of the Veteran's abilities and EH. An extension beyond 48 months under Chapter 31 alone shall be authorized for this purpose.
- (c) The Veteran previously used education benefit entitlement under other programs administered by VA, and the additional period of assistance to be provided under Chapter 31, which the Veteran needs to become employable, will result in more than 48 months being used under all VA education programs. Under these conditions, the number of months necessary to complete the program may be authorized under Chapter 31 provided that the length of the extension will not result in authorization of more than 48 months under Chapter 31 alone.
- (d) A Veteran in an approved Chapter 31 program has elected payment at the Chapter 30 educational assistance rate. The 48 month limitation may be exceeded only:
 - To the extent that the entitlement in excess of 48 months does not exceed the entitlement previously used by the Veteran in a course at the secondary school level before December 31, 1989
 - If the Veteran is in a course on a term, quarter or semester basis which began before the 36 month limitation on Chapter 30 entitlement was reached, and completion of the course will be possible by permitting the Veteran to complete the training under Chapter 31

- (e) The assistance to be provided in excess of 48 months consists solely of employment assistance.

2. Serious Employment Handicap (SEH)

The duration of a rehabilitation program for a Veteran with an SEH may be extended beyond 48 months under Chapter 31 for the number of months necessary to complete a rehabilitation program under the following conditions:

- (a) To enable the Veteran to complete a period of RTE
- (b) To provide an extended evaluation in cases in which the total period needed for an extended evaluation and for RTE would exceed 48 months
- (c) To provide a program of independent living (IL) services, including cases in which achievement of a vocational goal becomes feasible during or following a program of IL services
- (d) The assistance provided in excess of 48 months consists solely of employment assistance.
- (e) Following RTE:
 - (1) The Veteran has been unable to secure employment in the occupation for which training was provided despite intensive efforts on the part of the VA and the Veteran, and a period of retraining or additional training is needed.
 - (2) The skills which the Veteran developed in training for an occupation in which he/she was employed are no longer adequate to maintain employment in that field, and a period of retraining is needed.
 - (3) The Veteran's service-connected disability has worsened to the point that he/she is unable to perform the duties of the occupation for which the Veteran has been trained, and a period of training in the same or different field is required.
 - (4) The occupation in which the Veteran previously completed training is found to be unsuitable due to the Veteran's abilities and EH.

d. Services

The services offered by the VR&E program are governed by 38 U.S.C. 3104. In employment through long-term services planning, services are individualized and designed to assist the Veteran in obtaining suitable employment. A variety of services are available to assist in meeting this goal, to include:

1. Academic Coursework

Academic coursework is a key component of most employment through long-term services plans. It is provided to assist the Veteran in obtaining the skills and education necessary to obtain and maintain suitable employment.

2. Subsistence Allowance

Subsistence allowance is a common aspect of employment through long-term services rehabilitation plans. It is paid in accordance to 38 CFR 21.260. See M28R.V.A.3 for procedural guidance on payment of subsistence allowance.

3. Revolving Fund Loan

Advances from the revolving fund are permissible while participating in an Individualized Written Rehabilitation Plan (IWRP). See M28R.V.B.9 for procedural guidance on advances from the revolving fund.

4. Work-Study Allowance

Participation in the work-study program is appropriate while participating in an IWRP. See M28R.V.A.3 for procedural guidance on the implementation of the work-study program.

5. Counseling

Per 38 U.S.C. 3107, all rehabilitation plans must include counseling services. The Vocational Rehabilitation Counselor (VRC) provides counseling services to assist the Veteran in utilizing his/her VA benefits in the most advantageous manner, make informed decisions, resolve adjustment issues and address aspects of disability on activities of daily living and any other areas of concern.

6. Medical and Mental Health Services

The VRC will coordinate medical and mental health services as needed with the Veterans Health Administration (VHA) to ensure the Veteran's health conditions are treated and stabilized to the maximum extent possible.

7. Employment Assistance

It is important to maintain a focus on employment throughout an employment through long-term services rehabilitation plan to ensure that the services provided will lead to employment in a suitable occupation. To achieve this goal, the VRC can provide employment assistance services from the onset of the IWRP. Examples of employment assistance include, but are not limited to:

- Resume development
- Interviewing skills training
- Job-readiness training
- Registration with career services office on campus
- Participation in professional organizations/groups

8. Job Accommodations

The VRC will work closely with the Veteran to identify and address any needed job accommodations and provide training on how to request accommodations in the work setting. The Job Accommodation Network (JAN) is an excellent resource for identifying accommodations that may be beneficial based on the disabling condition. For more information on JAN, go to www.askjan.org/media/adhd.html.

9. Employment Adjustment Allowance (EAA)

The following actions must occur before the Veteran is entitled to receive EAA:

- The Veteran must be within the 12-year eligibility period or extension of that period
- The Veteran's case must have progressed through RTE status to Job Ready (JR) status following the provision of services under an IWRP or combined IWRP/Individualized Employment Assistance Plan (IEAP)

- There must be a documented declaration of job-readiness by the VRC in the Counseling/Evaluation/Rehabilitation (CER) folder at the time the Veteran's case is placed in JR status
- An IEAP must be developed either as part of the IWRP or prior to assignment to JR status
- The Veteran must satisfactorily participate in the services planned in the IEAP for a period of 30 days before a payment of EAA may be authorized

See 38 CFR 21.268 and M28R.V.B.10 for more information on how to process and pay EAA.

10. Post-Employment Consultation and Assistance

The VRC will monitor the Veteran's progress for a minimum of 60 days post-employment to ensure that all barriers, issues and questions have been addressed and the employment is stable.

7.04 Employment through Long-Term Services Plan Development

The following information outlines the development of an employment through long-term service plan:

a. Conduct an Analysis of the Veteran's Needs

Using information gathered during the initial evaluation, and in collaboration with other service providers, conduct an analysis of the following factors to determine the services needed:

- Functional capacity/limitations
- Job accommodations
- IL needs, if appropriate
- Education/training needs

b. Develop the Employment through Long-Term Services Plan

Employment through long-term services rehabilitation plans are developed and documented in an IWRP or combined IWRP/ IEAP format. All

rehabilitation plans have common elements, but the VRC must individualize the elements to fit the Veteran's identified needs. The elements of an IWRP or combined IWRP/IEAP are:

1. Program Goal

The rehabilitation plan must include a specific occupational goal or occupational cluster and three-digit Dictionary of Occupational Titles (DOT) code, unless the VRC is utilizing a Fast Track plan. Fast Track planning allows for the use of DOT code 999 during a brief period in which services are provided while the Veteran continues to research occupational goals. See M28R.IV.C.2 for additional information and procedural guidance on Fast Track planning.

2. Intermediate Objectives

Intermediate objectives identify secondary goals that contribute directly to the achievement of the program goal. The VRC must ensure that each objective:

- Is clear and easily understood
- Relates to achieving the goal
- Is observable and can be evaluated
- Has a measurable outcome

3. Anticipated Completion Date

An anticipated completion date helps track progress toward the goal and keeps the plan moving forward. It also informs the VRC and the Veteran of the time frame in which services will be provided.

4. Services

There are a number of services that can be provided during an IWRP or combined IWRP/IEAP. See section 7.03 of this chapter for examples of these services.

The description of documented services must be:

- Specific and detailed

- Clear and unmistakable as to its relationship to a particular intermediate objective

5. Duration of Services

Duration of services specifies a start and end date for each intermediate objective.

6. Service Providers

Services can be provided by a variety of sources, to include:

- VR&E
- VHA
- Medical personnel
- Education/training facilities

The rehabilitation plan must list the contact information of the individual(s) providing services and include the following information:

- Name
- Address
- Telephone number
- Email address, if available

7. Evaluation Information

This section provides information on how the Veteran's progress will be measured during the rehabilitation process and provides an evaluation schedule. The following sources may be used to establish evaluation criteria:

- College transcripts
- Training progress reports
- Medical records

- Self-report by the Veteran and/or the Veteran's family
- Other sources as appropriate

This section outlines the terms that will be used to measure satisfactory conduct, as required by 38 U.S.C. 3111. The VRC and the Veteran must collaborate on the development of these terms since the successful development and implementation of a rehabilitation plan requires the full and effective participation of the Veteran in the rehabilitation process. See 38 CFR 21.362 and 21.364 for additional information and guidance on measuring conduct.

8. Progress Notes

Progress notes provide a place to document any additional information related to the plan.

It is important to note that when a court, with proper jurisdiction, has appointed a legal guardian or custodian for the Veteran, VR&E must develop the plan in consultation with the guardian or custodian.

c. Determine Case Management Level

There are three levels of case management based on the Veteran's needs. For those Veterans participating in an IWRP or combined IWRP/IEAP, the case management level must be either:

1. Level 1

Level 1 indicates that the Veteran exhibits independent, goal-oriented behavior and needs minimal contact from the VRC to stay on track. The Veteran may demonstrate the following characteristics:

- Stable medical conditions
- Minimum requirement for support services
- History of self-motivated achievement
- Exceeds criteria for satisfactory progress
- Independence in problem solving
- Absence of Level 2 and Level 3 criteria

Level 1 requires one annual face-to-face case management visit. Additionally, one case management follow-up by telephone or in-person is required during each of the other terms, or three times per year if non-standard terms or training is non-academic.

2. Level 2

Level 2 indicates that the Veteran needs guidance and structure but is able to follow through and stay on track. The Veteran may be recovering from recent setbacks and/or demonstrate the following characteristics:

- Circumstances interfere with the Veteran's progress in completing the rehabilitation plan, such as personal, family, emotional, financial or medical concerns
- Requires remedial instruction to prepare for post-secondary education placement tests

Level 2 requires face-to-face case management meetings at least once per academic term or at least three times per year for non-standard academic terms. For non-academic programs, face-to-face meetings are required once per month for the first three months, then quarterly.

3. Level 3

Level 3 indicates that the Veteran requires an intensive level of service to address multiple rehabilitation needs and will require frequent contact. Examples of circumstances that may require Level 3 case management are:

- Rehabilitation programs that include special rehabilitation facilities, Chapter 35 Special Restorative Training and/or services to address IL needs
- Chronic, inappropriate conduct and cooperation
- Behavior in violation of training establishment policies
- Severe impairments due to medical or neuropsychological condition(s)
- Substance abuse issues
- Homelessness

- Incarceration or threatened incarceration

Level 3 requires monthly, face-to-face case management visits.

d. Corporate WINRS (CWINRS) Activity

CWINRS activity requires updates to the claims processing and disposition tabs prior to the development of the IWRP or combined IWRP/IEAP. This is accomplished through the following steps:

- Ensuring that the SEH Handicap indicator is set to “Yes” or “No” as applicable by using the Update Disposition function on the Claim Processing tab.
- Entering the date that Evaluation and Planning status is closed.
- Selecting Entitlement Code from the drop-down list.
- Selecting the correct Rehabilitation Claim Disposition from the drop-down list.
- Allowing CWINRS default selection of Award Payment System.
- Entering Pre-Rehab Salary using 4 digits, with the maximum entry of 9999.

When the VRC and the Veteran agree upon the services to be provided during the IWRP or combined IWRP/IEAP, the VRC must complete the rehabilitation plan data fields under the REHAB tab of CWINRS, performing the following steps:

1. On the Rehab Tab, select Add Plan to enable the Plan functionality.
2. Select program plan IWRP.
3. Select Employment Through Long-Term Services from the track selection drop-down option.
4. Set Program Cost Limit form the drop-down option.
5. Enter the annual review date.
6. Enter the Plan Modified date.

7. Chose "no" under self-employment goal.
 8. Set case management level, referred to as Supervision Level in CWINRS, from the drop-down option.
 9. Enter the DOT code.
 10. Enter the program goal.
 11. At this point, the VRC must click OK to save the plan, then to add individual objectives using functionality on the Rehabilitation Plan screen.
 12. Click OK to save.
 13. Click Print Plan to print VAF 28-8872, Rehabilitation Plan, and VAF 28-8872a, Rehabilitation Plan Continuation Sheet (see Appendix O, VA Forms, for information on how to access VA Forms).
 14. Prepare High Cost Memo, as needed, based on approval levels for program costs (see M28R.IV.C.1 for information on cost approval levels).
 15. Use "Print Letters" to generate VAF 28-0957, Vocational Rehabilitation Guidelines and Debt Prevention.
 16. Update CWINRS case status to Rehabilitation to Employment. This action will automatically update the Benefits Delivery Network (BDN) with the DOT code.
- e. Complete the Orientation Process

The VRC must provide an orientation to ensure the Veteran understands the VRC's role and his/her role in the plan and to answer any questions the Veteran may have regarding the rehabilitation process. The rehabilitation plan and VAF 28-0957 are used to guide this orientation. The orientation emphasizes the following:

- Expectations for conduct and cooperation
- Requirement to report changes in dependency, contact information, performance and rate of participation immediately
- Process for obtaining supplies, medical treatment and other services outlined in the plan

Following orientation, the VRC and the Veteran must sign the rehabilitation plan and VAF 28-0957. Place the original on the right side of the CER folder and provide the Veteran with a copy.

f. Document the Planning and Orientation Process

The VRC must document the planning and orientation process and all decisions made during plan development. The following information must be included on either VAF 28-1902n or in a CWINRS case note:

- Vocational Exploration Activities
- Suitability of Selected Vocational Goal
- Type of Plan
- Planned Services
- Retroactive Induction
- Program Charges and Costs
- Level of Case Management
- Other Considerations

g. Administer the Plan

Once these actions are complete, services identified in the plan are implemented. All case activities are documented in CWINRS notes or on VAF 119, Report of Contact. See Appendix O, VA Forms for information on accessing VAFs.

See M28R, Part V, Section A for detailed information on plan implementation.

h. Evaluate and Amend the Plan

If the individual is not progressing through the plan as expected, or it becomes clear that the goals of the plan need to be reassessed, the VRC must redevelop the rehabilitation plan. The plan remains in its current status during the redevelopment period; not placed in Interrupted or Evaluation and Planning Status. The only time it is appropriate to move the plan to Interrupted status is if the case is being redeveloped to an Individualized

Independent Living Plan (IILP). This ensures that the statutory limits placed on IILPs are not exceeded.

i. Develop the Individualized Employment Assistance Plan (IEAP)

If the individual has achieved the objectives of the IWRP and is considered to be job ready, then the VRC may develop the IEAP and change the case status to job ready. It is important to note that services must be provided in Rehabilitation to the Point of Employability (RTE) status before movement into job ready status and the development of an IEAP. The VRC must ensure that all the objectives of the IEAP specifically address identified needs to obtain and maintain suitable employment. After a joint review of the plan, the VRC and Veteran must sign the plan. The VRC must provide a copy of the signed plan to the Veteran, and file the original on the right side of the CER folder.

After 30 days in job ready status, the VRC must determine if the Veteran is entitled to an employment adjustment allowance (EAA) and administer as appropriate. The VRC, or designated VR&E staff member, can only authorize EAA only if the Veteran has received services under an IWRP and is declared job ready. See M28R.V.B.10 for additional information on the payment and processing of EAA.

It is important to note that all IEAPs must be preceded by an IWRP or combined IWRP/IEAP. The only time the VRC can develop an IEAP without first providing services in an IWRP is when the individual is a prior vocational rehabilitation program participant who qualifies for a program of solely employment assistance, as outlined in 38 U.S.C. 3117.

7.05 Outcomes of Employment through Long-Term Services Plans

a. Rehabilitated

The intent of Chapter 31 is to enable Veterans, to the maximum extent possible, to become employable and to obtain and maintain suitable employment. Per 38 CFR 21.283, the VRC may move the case to Rehabilitated status when the Veteran has:

- Successfully completed the employment through long-term services program goals, and
- Maintained suitable employment for at least 60 days.

See M28R.V.A.7 for detailed information on how to complete the rehabilitation process.

b. Discontinued

If the Veteran decides not to pursue services or does not respond to attempts by the VRC to participate in the rehabilitation plan, discontinuation of the case may be necessary. See M28R.V.A.7 for information on the discontinuation process.