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2.01 Introduction

The Department of Veterans Affairs (VA) Vocational Rehabilitation and Employment (VR&E) program provides services to assist Servicemembers and Veterans with disabilities to obtain and maintain suitable employment, and/or to obtain the skills to live as independently as possible. The services to be provided are outlined in a rehabilitation plan. When developing the plan, the Vocational Rehabilitation Counselor (VRC) must work closely with the individual to identify and address several factors that will impact the development and administration of the plan. This chapter will outline a number of those factors and provide regulatory and procedural guidance that will enable the VRC and the individual to make informed decisions during the development and administration of the rehabilitation plan.

It is important to note that the term "individual" is used in this chapter to refer to participants of the Chapter 31 program, which includes Servicemembers and Veterans. The term "Servicemember" or "Veteran" will be used when procedural guidance is specific to one of those populations.

2.02 References and Resources

Laws:                   38 United States Code (U.S.C.) 3103  
                              38 U.S.C. 3104

Regulations:         38 Code of Federal Regulations (CFR) 21.41-21.44  
                              38 CFR 21.60-21.62  
                              38 CFR 21.260  
                              38 CFR 21.282  
                              38 CFR 21.310  
                              38 CFR 21.312

VA Forms (VAF):    VAF 4107, Your Rights to Appeal Our Decision  
                              VAF 28-1902n, Counseling Record - Narrative Report  
                              (Supplemental Sheet)  
                              VAF 28-1905, Authorization and Certification of Entrance  
                              or Reentrance into Rehabilitation and Certification of Status  
                              VAF 28-1905m, Request for and Receipt of Supplies  
                              VAF 28-8861, Request for Medical Services

2.03 Vocational Rehabilitation Panel's (VRP) Role in Plan Development

The VRP plays a vital role in the development of some rehabilitation plans by providing expert opinions and guidance on complex issues. The following information outlines the process for referral to the VRP, the responsibility of the parties involved, identifies the required elements of the case review summary and discusses integrating the VRP's recommendations into the rehabilitation plan.

a. VRP Referral

1. Referral for Rehabilitation Plans

The VRC must prepare a written referral when seeking the assistance of the VRP. The referral must contain the following information:

- Reason for the referral, to include a precise statement of what action or information is requested.
- Summary of the individual's medical history, to include a clear description of his/her present functional abilities and limitations.
- Copies of pertinent medical records from private physicians as members of the panel will have access to the individual's VA medical records.
- Additional facts, observations or information deemed useful.

2. Referral for an Independent Living (IL) Plan

If the VRC is seeking guidance for an IL plan, then the referral must contain the following information:

- Statement describing the basis for the VRC's determination that the pursuit of a vocational goal is not feasible at this time.
- Statement describing the individual's IL needs.
- Specific IL objectives to be achieved by participation in the plan.
- Selected services that will assist the individual in achieving the objectives.
- Brief assessment of the individual's motivation to achieve the objectives.

b. Roles and Responsibilities

### 1. Vocational Rehabilitation Counselor (VRC)

The VRC is responsible for the following:

- Preparing the referral.
- Filing the referral in the corresponding Counseling/Evaluation/Rehabilitation (CER) folder.
- Routing the referral to the VREO or designee for review.
- Presenting the case to the VRP.
- Filing the VRP's case review in the individual's CER folder and centralized VRP file.
- Informing the individual of the VRP's recommendations.
- Integrating the VRP's recommendations into the rehabilitation plan as applicable.

### 2. VR&E Officer (VREO)

The VREO is responsible for the following:

- Reviewing the referral to ensure that the information is adequate for VRP review.
- Advising the Regional Office (RO) Director when other non-medical specialists are needed for the panel to adequately address the issues to be considered.
- Presenting the case to the VRP if the VRC is not available.

### 3. VRP Members and Consultants

The VRP members and consultants are responsible for the following:

- Discussing the physical, social and emotional aspects of the individual's situation within the scope of the referral.
- Developing recommendations.
- Seeking additional information when needed to develop recommendations.

#### 4. VRP Chairperson

The VRP chairperson, which in many instances is the VREO, is responsible for the following:

- Scheduling the VRP meeting.
- Sending the meeting agenda and referral information to all members of the VRP.
- Notifying the individual's accredited representative if the representative holds power of attorney in the management of the individual's case.
- Ensuring the consensus of the panel's recommendations are identified and documented in a signed and dated summary case review.
- Submitting the VRP's case review to the referring case manager.

#### 5. VA Medical Center (VAMC) Consultant

The VAMC consultant will advise the VREO when other medical specialists are needed as a part of the VRP.

#### c. VRP Summary Case Review

The VRP Chairperson will document and compile the VRP's findings and recommendations into a summary case review that includes the following information:

- Name and title of the chairperson.
- Names of the attending VRP members.
- Name of the RO handling the case.
- Individual's name, date of birth and Social Security Number (SSN) or claim number.
- Concise summary of the VRP's recommendations and conclusions.
- Any other pertinent information.

#### d. Integrating VRP Findings

Once the VRC and the individual have discussed the findings and recommendations made by the VRP, the VRC must integrate those recommendations into the rehabilitation plan as appropriate.

See M28R.II.A.4, 38 U.S.C. 3104 and 38 CFR 21.60-21.62 for additional information on the VRP.

#### 2.04 Services Requiring Prior Approval

Several types of plans, or services provided under plans, require additional oversight and prior approval from the VREO, RO Director, or Director, VR&E Service, as indicated in M28R.IV.C.1, or are strictly prohibited under a vocational rehabilitation plan.

##### a. Individualized Independent Living Plan (IILP)

A program of IL services must have prior approval of the VREO. Additional oversight is required if costs exceed certain levels. Refer to M28R.IV.C.9 for additional guidance on the development and administration of IILP.

##### b. Self-Employment Plans

All Category I designations for self-employment must be reviewed and approved by the Director, VR&E Service prior to plan development. The VREO must approve a self-employment plan with an estimated or actual cost of up to \$25,000. The VR&E Service Director must approve a self-employment plan with an estimated or actual cost of \$25,000 or more.

Refer to M28R.IV.C.8 for additional guidance on the development and administration of self-employment plans.

##### c. Retroactive Induction

The VREO must give prior approval of retroactive induction to benefits. Refer to section 2.05, below, for detailed guidance on retroactive induction.

##### d. Firearms

The VRC must assess the suitability of the occupational goal and provide the rationale for the appropriateness of the goal for the individual when considering a vocational goal in which a firearm will be used during training or employment.

The VRC must ensure that a written documentation is obtained from the proposed training facility or employer that clearly addresses the following:

- The requirement for a firearm.
- The specific firearm that would satisfy the requirement.
- The date that the firearm is needed.
- Any pre-conditions that must be met before training or employment can begin.

Note: For authorizing purchase of firearm for an individual, the term "firearm" will include ammunition and firearm parts.

The VRC must take the following steps to obtain concurrence when developing a plan that includes reimbursement for a firearm:

#### 1. Development of Proposed Rehabilitation Plan

The VRC and the individual should develop a proposed rehabilitation plan with the understanding that the plan is not approved and services are not authorized unless concurrence is obtained from the VREO and the RO Director. Under the heading, "Services Provided," the plan should clearly state what VA will provide regarding the type of firearm as well as any specific quantities of ammunition, firearm parts, and/or other related equipment that are needed to reach the employment goal. The following statement should also be included in the plan:

"The form, Conditions of Reimbursement for Purchase of Firearms, must be signed by the individual and the VR&E Counselor. Reimbursement for the purchase of a firearm may not be authorized without the concurrence of the VR&E Officer and the Director of the VA Regional Office."

The VRC must inform the individual his/her right to an administrative review by the Director of VR&E Service or an appeal to the Board of Veterans' Appeals if concurrence is not obtained.

#### 2. Review of State and Local Laws

Relevant state and local laws and regulations regarding the purchase, licensing, registration, and use of firearms must be reviewed to identify any issues that should be addressed prior to authorization of such purchase. VA Regional Counsel should be consulted to assist with this review. A copy of local laws and regulations, or Regional Counsel's review

of the application of these laws in this specific case, should be filed in the CER folder.

### 3. Documentation of Application and Registration Process

The individual is responsible for completing any necessary applications or other paperwork regarding background checks (criminal, mental health, safety, or other), licensing and registration of the firearm, or permits to carry or use the firearm. VA may reimburse the individual for the cost of this paperwork. A copy of all paperwork related to the application for the firearm must be filed in the CER folder. If the individual is approved for the purchase, a copy of that clearance and a copy of the license and/or registration of the firearm and related permits must also be filed in the CER folder.

### 4. Required Concurrence

A memorandum to the RO Director through the VREO must be prepared for review and concurrence prior to authorizing the purchase of a firearm. The VREO is responsible for reviewing the entire CER folder, the current VA service-connected and non-service-connected disability ratings, and any pending claims for disability. The VREO must use the checklist found in Appendix AZ, Review Prior to Purchase of Firearms, to identify and address any issues that could warrant disapproval of the purchase. Examples of disability conditions which warrant sufficient documentation to resolve any doubt of the appropriateness of the handling of firearms includes neuropsychiatric conditions, such as schizophrenia, major depression, and bipolar disorder; other mental health conditions, such as post-traumatic stress disorder and anxiety disorder, and substance abuse.

#### (a) VR&E Officer's Concurrence

(1) If the VREO does not concur, the VRC must provide the individual with written notification of the decision, the right to administrative review by the Director of VR&E Service and VAF 4107, Your Rights to Appeal Our Decision.

(2) If the VREO concurs, the memorandum and CER folder will be forwarded to the RO Director for review and concurrence.

#### (b) RO Director's Concurrence

(1) If the RO Director does not concur, the VRC must provide the individual with written notification of the decision, the right to

administrative review by the Director of VR&E Service and VAF 4107.

- (2) If the RO Director concurs, a copy of the memo and the concurrence must be filed in the CER folder. Subsequently, the VRC will meet with the individual to review and sign Appendix BA, Conditions of Reimbursement for Purchase of Firearms.

Refer to M28R.V.A.4 for guidance on procedures on reimbursement of purchase of a firearm. Refer to Appendix O, VA Forms, for information on how to access all VA forms referred to in this chapter.

#### 5. Required Systematic Review

The case manager is responsible for an ongoing review of any circumstances that may interfere with the successful completion of the individual's rehabilitation program. This includes review of any situation that may lead to the revocation of the individual's registration to own or permit to use the firearm.

#### e. Prohibited Goods and Services

Certain goods and services are not appropriate for any type of vocational rehabilitation plan and must not be authorized. In addition, plan goals in certain industries, such as the medical marijuana industry, are in violation of federal law and must not be approved. The following goods and services must not be provided by VR&E:

##### 1. Vehicles

A vehicle is defined as a conveyance moving on wheels, runners, tracks, or the like, which is used for transporting people or goods. Purchase or rental of trucks, cars, golf carts, all-terrain vehicles, or other means of transportation is prohibited. In addition, items such as a tractor, mower, or similar equipment must not be authorized as part of an IILP.

##### 2. Medical Marijuana

An individual's use of medical marijuana in states where it is legal may not bar access to federal funding for a program of VA vocational rehabilitation services. However, provision of goods and services, and rehabilitation goals related to the medical marijuana industry is prohibited. Training and tools for cultivating, distributing, dispensing, or selling of medical marijuana must not be authorized under a vocational rehabilitation plan.

## 2.05 Retroactive Induction

VA may authorize payment for tuition, fees, and other verifiable expenses that an individual incurred, as well as establish payment of a subsistence allowance for a period of training, when it is determined that those services and training are consistent with the individual's approved rehabilitation plan.

### a. Criteria for Retroactive Induction

A program of rehabilitation and assistance may be approved retroactively when the following conditions are met, per 38 CFR 21.282:

- The period for which retroactive induction is requested is within the individual's basic period of eligibility or extended eligibility as provided in 38 U.S.C. 3103 and 38 CFR 21.41 through 21.44.
- The individual is entitled to disability compensation during the period for which retroactive induction is requested.
- The individual meets the criteria of entitlement to VR&E services for the requested period.
- The training pursued during the retroactive period is determined to be suitable for achieving the vocational goal of the individual's rehabilitation plan.

### b. Roles and Responsibilities

#### 1. Participant

The individual must complete the following activities when requesting a retroactive induction:

- Submit a written request that outlines the period for which reimbursement is requested.
- Submit a written justification and a completed VAF 28-1905m, Request for and Receipt of Supplies, for all supplies and equipment for which reimbursement is requested.
- Provide an itemized receipt with proof of purchase, or an itemized list of items with bank or credit card statements to substantiate cost and proof of purchase. The bank or credit card account number must be redacted prior to submission to the VA.

#### 2. VRC

The VRC must complete the following activities when processing a retroactive induction:

- (a) Verify that the individual meets the criteria for retroactive induction.
- (b) Obtain transcripts of the training for which the individual is requesting retroactive induction to verify that the classes are consistent with individual's vocational goal as indicated on the rehabilitation plan.
- (c) Request the training facility complete VAF 28-1905, Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status, for the period of training for which the individual is requesting reimbursement. It is important to note the VA should be billed only for the program of education after the application of:
  - Any waiver of, or reduction in, tuition and fees.
  - Any scholarship, or other Federal, State, institutional, or employer-based aid or assistance that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a).
- (d) Obtain receipts, either directly from the individual, vendor, or training facility. If receipts are not available, then obtain a letter from the facility or vendor, which identifies the cost of items at the time training was completed.
- (e) Prepare a memorandum for review and an approval by the VREO that includes the following information:
  - Specific dates of retroactive training.
  - Requested date of induction.
  - Number of months of remaining entitlement.
  - Entitlement Termination Date (ETD).
  - Disability rating information.
  - Vocational goal.

- Documentation of other VA educational benefits used during the retroactive period.
- Information about the individual's cooperation during the counseling process.

### 3. VREO

The VREO must concur with the retroactive induction prior to the processing of payment. This concurrence must be documented in the corresponding CER folder.

#### c. Completing the Retroactive Induction

Once the VREO has approved the retroactive induction, the VRC must:

- Authorize services and assistance consistent with achievement of the individual's vocational goal.
- Arrange the termination of any other VA education benefit that may have been used during the retroactive period.
- Coordinate collection of any overpayment of other VA education benefits created by the retroactive induction.
- Establish a subsistence allowance award for the period covered by the approved retroactive induction plan, as appropriate.
- Directly reimburse the individual for all applicable expenses incurred during the retroactive period.
- Authorize any related payments to service providers which are due and payable or which become payable in the future under the rehabilitation plan.

To process a direct reimbursement, VR&E staff must enter reimbursement information correctly in Corporate WINRS (CWINRS). This information must reflect the requested dates for retroactive induction and invoice information. Refer to the CWINRS User Guide, Chapter 7.5.2, for instructions on entering direct reimbursement information in the Add/Edit/View Direct Reimbursement Payment screen.

The VRC must send all documentation, to include receipts, to Finance activity at the RO for processing. Finance activity will process the payment directly to the individual through the Financial Management System (FMS). Finance

uses the individual's claim number or Social Security Number (SSN) to access direct reimbursements and adds the code of WINVET to indicate to Treasury that the payment is not taxable and should not be added to personal income. The method used to submit forms to finance is varied and dependent upon local guidelines.

d. Limitations

Retroactive induction is prohibited in the following situations:

- For rehabilitation plans of service consisting solely of Independent Living services.
- During periods of extended evaluation.
- When the individual is requesting a transfer from Chapter 33, the Post 9/11 GI Bill, to the VR&E program.

2.06 Retroactive Reimbursement

Retroactive reimbursement is applied on authorization of benefits and services under Chapter 31 for a period previously paid under Chapter 33 only. It includes calculating and paying the difference between the benefits the individual received under Chapter 33 and the individual would have received under Chapter 31 for that same period, if the individual had been determined eligible and entitled to Chapter 31 for that period.

a. Difference Between Retroactive Induction and Retroactive Reimbursement

The requirement that currently exists for retroactive induction that does not apply to retroactive reimbursement is the recoupment of VA benefits that were previously paid. This means that overpayment is not created for cases in which Chapter 33 benefits were previously paid.

The Office of General Counsel (OGC) does not consider a duplication of benefits if payments authorized under Chapter 31 only include any of the following:

- Charges that were not previously paid under Chapter 33.
- Charges that were not previously waived by the training facility.
- Charges that were not previously paid by grant or scholarship.

b. Options for Electing Payment of Benefits under Chapter 31

An individual with dual eligibility for Chapter 33 benefits and Chapter 31 benefits will also have the following two options for electing payment of benefits under Chapter 31, including the Chapter 31 Post-9/11 Subsistence Allowance (P911SA):

1. P911SA Monthly Allowance under Chapter 31, Without Requesting Retroactive Benefit Coverage

To receive this benefit, the individual must have some remaining eligibility under Chapter 33. The individual must use the "Election of Post-9/11 Subsistence Allowance in Lieu of Regular Chapter 31 Subsistence Allowance" form, in M28R, Appendix AY, to document this election.

2. Retroactive Reimbursement

To receive the difference in benefits under Chapter 31 and Chapter 33, the individual must elect a start date for Chapter 31 coverage that includes the period when Chapter 33 benefits were paid. This includes reimbursement of the difference in tuition, fees, books, supplies, and monthly allowance benefits when the benefits that can be authorized under Chapter 31 are greater than what the individual was paid under Chapter 33. The individual must use Appendix AB, Election of Retroactive VR&E Chapter 31 Benefits, to document this election. The individual may only elect P911SA for a period of retroactive approval beginning August 1, 2011 or later.

c. Criteria for Retroactive Reimbursement

A VRC may approve a program of rehabilitation and assistance retroactively when the following conditions are met:

- Following an initial evaluation, the individual was determined eligible and entitled under Chapter 31 during the prior period of training.
- The individual has requested reimbursement under Chapter 31 for that period of training. The evidence of record must show that the conditions for retroactive approval outlined in 38 CFR 21.282, with the exception of the condition outlined in 38 CFR 21.282(c)(5), were met for the period of training the individual requests retroactive reimbursement under Chapter 31.
- The prior training will contribute to the achievement of the vocational goal approved in the Chapter 31 rehabilitation plan.

- The VREO or designee concurs with the request for reimbursement.

d. Effective Date of Transfer of Benefits

Transfer of benefits from Chapter 33 to Chapter 31 will be effective on the term following the last term the individual was paid under Chapter 33. Election and transfer dates must coincide with the start or end of a school term. Transfer or coverage of benefits under Chapter 31 may not occur mid-term.

The date of election of Chapter 31 for the purpose of retroactive reimbursement will be different from the date of transfer to Chapter 31.

e. Restrictions for Retroactive Reimbursement

Retroactive reimbursement will not be authorized for individuals receiving an Individualized Independent Living Plan (IILP) of services or Individualized Extended Evaluation Plan (IEEP) of services.

f. Authorization for Retroactive Reimbursement

Upon receipt of request for retroactive reimbursement of benefits, the VRC must first determine whether retroactive coverage is appropriate. This will be determined on a case-by-case basis using the criteria for authorizing retroactive induction outlined in section 2.06 of this chapter.

1. Appendix BB - VRC Checklist – Ch33 Retroactive Reimbursement

The VRC will follow the steps outlined in Appendix BB, VRC Checklist – CH33 Retroactive Reimbursement, when administering retroactive reimbursement of benefits to ensure appropriate actions are taken in documenting and processing the transfer and payment of funds.

2. Case in Evaluation and Planning (EP) Status

If the individual has used or is currently using Chapter 33 and his/her case is in EP status at the time retroactive reimbursement is requested, the VRC must follow the steps below:

- (a) The VRC must explain the benefits the individual would receive under each program.
  - (b) The VRC must advise the individual that he/she must elect to use only one of the two benefits, as both cannot be used concurrently.
  - (c) The VRC must provide Appendix BR, Transfer to Chapter 31 – Instructions to Veteran, and Appendix AB, Election of Retroactive VR&E Chapter 31 Benefits, and review them with the individual. This form explains the retroactive reimbursement and the calculation for the difference between benefits actually received under Chapter 33 and what one would have received under Chapter 31. It provides the requirements to process retroactive reimbursement, such as receipts for books and supplies. When reviewing this information with the individual, the VRC must explain the guidelines regarding transfer and reimbursement procedures and that any grants or scholarships already applied to tuition and fees will not be reimbursed under Chapter 31, as discussed in M28R.V.B.7.
  - (d) Appendix AB, Election of Retroactive VR&E Chapter 31 Benefits, is used to document the individual's formal election to receive the P911SA while participating in a plan of services under Chapter 31. It is used also to determine the date of election for receipt of retroactive benefits, as well as the effective date of transfer to Chapter 31.
  - (e) The individual must sign the form and the VRC must ensure that a copy is placed in his/her CER folder.
  - (f) The VRC will develop an Individualized Written Rehabilitation Plan (IWRP) leading to a suitable vocational goal and obtain approval for annual costs of services authorized in the plan, if required. Current procedures for justification of high cost facilities and approval of annual costs must be followed, including costs related to retroactive reimbursement. The VRC must ensure that items to be retroactively reimbursed for the period previously paid under Chapter 33 are clearly listed in the IWRP.
3. Individual Currently Participating in an IWRP

If the individual is already participating in a plan of services, the VRC must amend the plan and obtain concurrence from the VREO or designee prior to signing the amended plan of services. The VRC must ensure that items to be retroactively reimbursed for the period previously paid under Chapter 33 are clearly listed in the individual's amended plan.

#### 4. Required Documentation for VR&E Officer's Concurrence

The VREO or designee must concur with the retroactive reimbursement prior to the signing of a new or amended IWRP that includes retroactive reimbursement. The VRC must submit the following items when requesting VREO concurrence:

- (a) A written justification for retroactive reimbursement on VAF 28-1905d or CWINRS Note that clearly indicates the following:
  - How the criteria for retroactive approval under 38 CFR 21.282, except 21.282(c)(5), have been met.
  - The period to be approved.
  - The specific services to be approved, e.g., difference of tuition.
- (b) A copy of the signed Appendix AB, Election of Retroactive VR&E Chapter 31 Benefits.
- (c) A copy of the Long Term Solution (LTS) screens showing Chapter 33 benefits paid to the individual for the period that is requested for retroactive reimbursement.
- (d) A copy of the IWRP or amended IWRP that clearly lists all retroactive services that are being authorized.
- (e) Appendix AV, VREO Concurrence – Ch33 Retroactive Reimbursement, that documents the VREO or designee's concurrence.

#### 5. VR&E Officer Does Not Concur

If the VREO does not concur with the retroactive reimbursement, the VREO must document the reasons for denial on the Appendix AV, VREO Concurrence – Ch33 Retroactive Reimbursement. The VRC must provide the individual with a written notice of adverse action and appellate rights. All documentation must be filed in the individual's CER folder.

#### 6. VR&E Officer Concurs

When concurrence is obtained, the VRC must review all aspects of the plan with the individual, including the individual's responsibilities for providing supporting documentation for the retroactive reimbursement payment, at the time the IWRP is signed. In addition to VA Form 28-0800, VR&E Program Orientation, the VRC must provide the individual with Appendix BO, Veteran Checklist – Ch33 Retroactive Reimbursement.

The checklist provides guidelines for gathering documents necessary to process the retroactive reimbursement. Documents include school transcript of records, course syllabi and receipts of payment for required books and supplies. The checklist includes a section for the individual to certify that the information provided is accurate and complete. The VRC must verify receipt of the documents from the individual. The VRC must not sign the checklist until the individual submits all receipts and supporting documentation. The signed copy of the checklist, along with the required documentation, must be filed on the left section of the individual's CER folder.

7. Notify the Regional Processing Office (RPO)

The VRC must notify the RPO of the effective date of the individual's transfer to Chapter 31 and must verify that the RPO will process no further Chapter 33 award following the end of the current or most recent award period.

The earliest effective date of transfer will be the day following the last date of payment under the current or most recent Chapter 33 award. The date of transfer may be different from the date for which the individual is requesting reimbursement.

Note: Retroactive reimbursement is an internal VR&E process only. The VRC must not notify the RPO of the requested date for reimbursement as the RPO may inadvertently terminate Chapter 33 benefits on that date, and create an overpayment.

8. Notify the Training Facility

After the individual and VRC sign the plan, the VRC will notify the training facility of funding authorized under Chapter 31 using VAF 28-1905, Authorization and Certification of Entrance or Reentrance into Rehabilitation and Certification of Status. The form is used to confirm individual's election of Chapter 31 benefits including any current or future training and to identify the VR&E contact for billing and enrollment certification.

9. Process Subsistence Allowance Award

If the individual is eligible to receive a subsistence allowance, then the VRC, or designated VR&E staff member, will process the Chapter 31 award in the Subsistence Allowance Module (SAM) to pay monthly subsistence allowance for the period following the date of transfer.

However, the Chapter 31 award for the retroactive period will not be processed in SAM. Any difference in the subsistence allowance due to the individual for reimbursement is processed out-of-system, as outlined in M28R.V.B.8.

If the individual is approved for retroactive reimbursement for a period previously paid under Chapter 33, the individual is eligible for P911SA for that period but not earlier than August 1, 2011.

It is important to note that Servicemembers are not eligible to receive a subsistence allowance while on active duty status.

#### 10. Notify the Individual

When the retroactive reimbursement is processed by Finance, the VRC must send the individual the appropriate notification letter with an explanation of retroactive reimbursement payment amounts. See Appendix AF, VA Letters, for information on how to access VA letters.

The VRC must update the form letter with the payment amounts that the VRC authorized for the individual in CWINRS and on the Calculator Tool Summary Sheet. A copy of the letter will be placed in the left flap of the CER folder.

#### 11. Notify VR&E Service

VR&E Service is tracking retroactive reimbursements that are completed in each RO. Upon each completion of a retroactive reimbursement, the RO must submit the completed summary sheet in Appendix AH, Ch33 Retroactive Reimbursement Calculator. The VRC must ensure that only the summary sheet is submitted to VR&E Service via FAX with the cover sheet in Appendix AJ, FAX – CH33 Retroactive Reimbursement.

#### g. Requests for Retroactive Reimbursement for Closed Cases

Retroactive reimbursement may be provided to individual whose cases have been closed in either Rehabilitated or Discontinued status.

##### 1. Initiation of the Retroactive Reimbursement

- (a) If an individual contacts VR&E to request retroactive reimbursement after his/her case is closed, the responsible employee must begin the process by ensuring that the individual completes the required election form.

- (b) If an individual made a request for retroactive reimbursement that was documented in his/her CER folder prior to case closure, the responsible employee should contact the individual and inform him/her that the required election form must be completed to begin the process.

## 2. Individual Relocates After Case Closure

- (a) If the individual is requesting retroactive reimbursement only and is not initially applying or is not requesting additional services under Chapter 31, the RO that held jurisdiction over the case at the time of closure will coordinate with the individual, review the request, and process retroactive reimbursement, if appropriate.
- (b) If the individual submits an original application or applies for additional services under Chapter 31, the RO with jurisdiction over the individual's current residence will process the request for services, which includes redetermination of individual's entitlement.

If retroactive reimbursement is determined applicable at that time, the RO will follow the procedures outlined in Section 2.06.e of this chapter. The VRC must coordinate closely with the previous RO of jurisdiction in identifying the appropriate points of contact at the training institution to gather documentation needed for processing the retroactive reimbursement.

## 3. Requirements for Retroactive Reimbursement

- (a) The VRC must ensure that the criteria outlined in Section 2.06 of this chapter are met to authorize and process retroactive reimbursement.
- (b) The VRC's concurrence is required prior to processing the reimbursement. VRC must follow the guidelines outlined in Section 2.06 of this chapter.

## 4. Updating CWINRS

The VRC must ensure that the case is maintained in Rehabilitated or Discontinued status in CWINRS when processing the reimbursement.

If an individual is approved for retroactive reimbursement, the VRC must reactivate the case or retrieve the case from archive in CWINRS. This will allow the VRC to access the Finance tab and create Direct Reimbursement transactions.

The VRC must ensure that the case is not reopened or the IWRP is not redeveloped. In this instance, it is not required to include any authorized retroactive period of training in the IWRP, since the case is in closed status.

#### 5. Authorizing Ch33 Retroactive Reimbursement

The VRC must follow the applicable guidelines outlined in Section 2.06 of this chapter to authorize the Ch33 retroactive reimbursement.

### 2.07 Determining Program Participation Rates

38 CFR 21.310 provides detailed information on determining the rate of pursuit in a rehabilitation program and how to calculate rates for different types of programs.

#### a. Full-Time Participation

Participation in a rehabilitation plan should be full time, if possible.

#### b. Less than Full-Time Participation

The goal of full-time participation may not be possible based on the individual's circumstances. Pursuit at less than full time may be approved after careful consideration of all relevant factors, including, but not limited to the following:

- Effects of the disability(ies)
- Family responsibilities
- Economic circumstances
- Determination of reduced work tolerance
- Individual's employment status
- Other situational factors

#### c. Less than Half-Time Participation

Participation at less than half time may be approved on a temporary basis if it is specifically identified in the plan and/or a determination of reduced work tolerance has been made. The VRC must determine whether the rate of pursuit can be increased to at least half-time upon the completion of the

term. It is important to note that per 38 CFR 21.260, subsistence allowance is not payable when pursuing a plan at less than half time unless a determination of reduced work tolerance has been made or unless one-quarter time is allowable under an Individualized Extended Evaluation Plan (IEEP).

See M28R.V.B.8 for guidance on calculating entitlement use for less than half-time participation.

d. Participation for Working Individuals

The rehabilitation plan may be developed to enable the individual to pursue training on a part-time basis if the individual is working, or intends to work, on a full-time basis. The VRC must determine the rate of pursuit based on the following factors:

- Employment status, to include shift work and its impact on the individual's ability to participate in the plan.
- Financial needs.
- Remaining entitlement and eligibility termination date.
- Anticipated program completion date.

e. Reduced Work Tolerance (RWT)

Reduced work tolerance occurs when an individual's functional limitations, as a result of a disability(ies), impacts his/her ability to participate in a rehabilitation plan on a full-time basis. 38 CFR 21.312 provides regulatory guidance on reduced work tolerance.

1. Factors to Consider with Reduced Work Tolerance

- RWT must be determined by a VA physician based on the impact of the individual's service and non-service connected disabilities.
- RWT must be evaluated annually.
- Subsistence allowance is paid at the full-time rate for the type of program being pursued.
- The VRC must ensure that the rehabilitation plan provides for completion of the program within the individual's remaining entitlement or an extension of entitlement.

## 2. Referral for RWT Determination

The VRC must make a referral to a VA Medical Center (VAMC) for the determination of RWT. The referral is made on VAF 28-8861, Request for Medical Services. See Appendix BP, RWT Evaluation Job Aid, for an example of how to request and document RWT using VAF 28-8861. The referral must include a request for the following information:

- Does the individual qualify for RWT?
- What is the maximum amount of time per week the individual may devote to a rehabilitation program?

## 3. Documentation of RWT

Upon completion of an examination, assessment or review of the medical record, the VA physician documents the findings in the individual's electronic medical record and informs the VRC of his/her findings.

## 4. Communicating the Determination of RWT

Upon the determination of RWT, the VRC must discuss the determination and its impact on the rehabilitation plan with the individual. This communication should be done in person or via telephone, with a follow-up letter to the individual to ensure a complete understanding if the VRC determines this additional step would be helpful. The VRC must convey the following information to the individual:

- The amount of time the individual will be expected to participate per week to be considered full time, as indicated by the individual's physician. This amount of time includes the time the VRC and individual estimate it will take for travel to and from the training facility, as well as the time the individual will spend in preparation for, or practice of, training.
- An explanation that the subsistence allowance is payable at the full-time rate as long as the Veteran participates at the rate identified by the VA physician. Participation at a lower rate requires a redetermination of reduced work tolerance by a VA physician. For example, the VA physician determines the Veteran can participate in six credit hours per semester, which includes the amount of time to travel, prepare and practice for training. If the Veteran registers for six credit hours, then subsistence allowance is payable at the full-time rate. However, if the Veteran pursues any rate less than six credit

hours, subsistence allowance is not payable, and a redetermination of reduced work tolerance must be completed.

- An explanation that other activities, such as employment, are prohibited as a result of the determination of reduced work tolerance because it would further reduce the individual's ability to participate in training.

The VRC must document this communication in either a CWINRS case note or by filing a copy of the letter sent to the individual, which explains the determination of RWT, on the right side of the CER folder.

## 2.08 Case Management Appointments

The individual's rehabilitation plan must include an identified case management level and a schedule for frequency of case management visits.

### a. Definitions

#### 1. Case Management Appointments

Case management appointments are defined as face-to-face meetings with the Chapter 31 participant that cover vocational, medical, financial, academic and any other issues impacting progress.

It is preferred that case management appointments be conducted at the training facility. However, appointments may be scheduled at the VA or an alternate location under certain circumstances, such as when requested by the individual or when meeting space is not available at the facility. "No shows" will be re-scheduled at the VA's convenience. At the minimum, the case manager should conduct at least one site visit per year at the school facility to meet with the certifying official, bookstore officials, finance office, disability office and any other relevant staff.

#### 2. Contacts

Contacts are defined as follow-up on issues identified through the case management appointment or other case management activities. These contacts may be made by face-to-face interaction or other methods, such as:

- Telephone
- FAX

- Email
- Letter

b. Case Management Level

Each individual must be assigned a case management level in CWINRS under the Rehabilitation tab. The level must also be documented on VAF 28-1902n or in a CWINRS case note. The level is also noted on the rehabilitation plan.

The levels of case management and a description of each are provided in the chart below:

Level of Case Management	Description
Level 1	<p data-bbox="524 317 1344 499">One annual face-to-face case management visit is required. 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.</p> <p data-bbox="524 548 1239 695">The individual exhibits independent, goal-oriented behavior and needs minimal contact from the case manager to stay on track. The individual may demonstrate the following characteristics:</p> <ul data-bbox="524 737 1170 961" style="list-style-type: none"> <li data-bbox="524 737 930 768">• Stable medical conditions</li> <li data-bbox="524 774 1170 806">• Minimum requirement for support services</li> <li data-bbox="524 812 1109 844">• History of self-motivated achievement</li> <li data-bbox="524 850 1146 882">• Exceeds criteria for satisfactory progress</li> <li data-bbox="524 888 1040 919">• Independence in problem solving</li> <li data-bbox="524 926 1117 957">• Absence of Level 2 and Level 3 criteria</li> </ul>
Level 2	<p data-bbox="524 972 1308 1155">Face-to-face case management meetings are required once per term attended or at least three times per year for non-standard terms. For non-academic programs, required face-to-face meetings are conducted once per month for the first three months, then quarterly.</p> <p data-bbox="524 1203 1317 1350">The individual needs guidance and structure, but is able to follow through and stay on track. The individual may be recovering from recent setbacks and/or demonstrate the following characteristics:</p> <ul data-bbox="524 1392 1338 1612" style="list-style-type: none"> <li data-bbox="524 1392 1268 1465">• Requires remedial instruction to prepare for post-secondary educational placement tests</li> <li data-bbox="524 1472 1338 1612">• Circumstances that interfere with the individual's progress in completing the rehabilitation plan, such as personal, family, emotional, financial or medical concerns</li> </ul>

Level of Case Management	Description
Level 3	<p>Face-to-face case management visits are required once per month, with the exception of those individuals participating in an Individualized Employment Assistance Plan (IEAP) or Individual Independent Living Plan (IILP). See note in 2.07.c, below, on those types of plans.</p> <p>The individual requires an intensive level of services. Individual needs frequent contact and/or has multiple rehabilitation needs. Examples of circumstances that may require this level of service are:</p> <ul style="list-style-type: none"> <li>• IL, Rehabilitation Workshops, Special Rehabilitation Facilities or Chapter 35 Special Restorative Training</li> <li>• Chronic, inappropriate conduct and cooperation</li> <li>• Behavior in violation of training establishment policies</li> <li>• Severe impairments due to a medical or neuropsychological condition(s)</li> <li>• Substance abuse issues</li> <li>• Homelessness</li> <li>• Incarceration or threatened incarceration</li> </ul>

c. Frequency of Case Management Appointments

The frequency of appointments is determined by the type of program as indicated in the chart below.

Note: All programs, with the exception of those receiving training in an institution of higher learning or a non-college degree program, require an initial case management appointment within 30 days of plan development. For those individuals receiving training in an institution of higher learning or a non-college degree program, the initial case management appointment is required within 60 days.

Program Type	Level and Frequency of Case Management Appointment
Institution of Higher Learning or Non-College Degree Program	<p>Level 1, 2 or 3 as required by the individual's needs and circumstances</p> <p>Assigned level may be adjusted during the rehabilitation program and should be reviewed at least annually. Only highly achieving individuals or those in advanced degree programs should be Level 1. Individuals receiving non-punitive or punitive grades or experiencing any barriers to success should be provided active case management that is in accordance with his/her needs.</p>
On-the-Job Training (OJT), Apprenticeship, Federal Paid and Unpaid OJT, Non-Paid Work Experience	<p>Level 2 or 3 as required by the individual's needs and circumstances</p> <p>Due to the nature of OJT placements, on-site follow-up with the employer is required at the time the OJT is established and at least one time during the course of the training program.</p>
Farm Cooperative	<p>Level 2</p> <p>One of every three case management appointments with the individual must be made at the school, with at least one of the other two being made at the farm-training site.</p>
Homebound/ Independent Instructor	<p>Level 2 or 3 as required by the individual's needs and circumstances</p> <p>The independent instructor must be present at one of every three case management meetings.</p>

Program Type	Level and Frequency of Case Management Appointment
Employment	<p>Level 3 with allowance for monthly contacts in place of face-to-face visits if no special needs or barriers are identified. Contacts may be made by Disabled Veterans Outreach Program (DVOP) Specialists or by Local Veteran Employment Representatives (LVERs).</p> <p>Services must be tailored to the individual's needs and must be actively provided to assist the individual in obtaining and maintaining employment.</p> <p>After obtaining employment:</p> <ul style="list-style-type: none"> <li>• Contacts may be made by DVOP/LVER</li> <li>• Face-to-face is not needed if no special needs or barriers are identified</li> <li>• Telephone and email contacts that demonstrate active assistance in accordance with the Individual's needs are allowed</li> </ul>
Self-Employment	Level 2 or 3 as required by the individual's needs and circumstances.
<p>Special rehabilitation programs, including</p> <ul style="list-style-type: none"> <li>• Special Rehabilitation Facilities</li> <li>• IL</li> <li>• Rehabilitation Workshop</li> <li>• Chapter 35</li> </ul>	<p>Level 3 with allowance for monthly contacts in place of face-to-face visits for periods of up to three months while waiting for cost approvals, coordination of construction or other administrative delays in active service provision.</p> <p>Case management meetings should be conducted at individual's home or a location most convenient in accordance with type of program.</p> <p>Supplemental contacts between required visits may be by telephone if most convenient for the individual.</p>
<p>Other, including:</p> <ul style="list-style-type: none"> <li>• Extended Evaluation</li> <li>• Chapter 18</li> <li>• Independent Study</li> </ul>	Level 2 or 3 as required by the individual's needs and circumstances

#### d. TeleCounseling

TeleCounseling is integrated into the required case management activities for individuals participating in a specified plan of services. It serves as an alternative or complement to the currently required face-to-face case management appointments that provide the means for individuals to communicate progress, concerns, and rehabilitation needs, and consequently to obtain assistance and guidance from their assigned case manager.

The use of TeleCounseling is voluntary and may not be required as part of the individual's rehabilitation program. In addition, case managers' use of Telecounseling is at the discretion of the VREO. All staff approved to use Telecounseling must complete the Telecounseling training requirements.

##### 1. Prerequisites for Using TeleCounseling

When establishing an individual's level of case management during the planning phase, the VRC must determine whether the individual meets the TeleCounseling participation requisites. All requisites must be met prior to approval for participation in TeleCounseling.

- The individual must be actively participating in a plan of services under an IWRP, IEAP, and IILP. For IILP cases, TeleCounseling sessions may not take the place of required face-to-face home visits in which the plan objective requires assessing independent living in the home and/or access to the home.
- TeleCounseling may not be provided for individuals participating in an IEEP and individuals whose cases are assigned in Interrupted status.
- The individual must have the ability to utilize and operate the secured video-teleconferencing (VTC) equipment.

Note: Individuals who are determined ineligible to participate in TeleCounseling during the evaluation phase may be reassessed for participation during ongoing case-management appointments.

##### 2. Required Technology and Equipment

TeleCounseling uses the Video-Teleconferencing (VTC) Technology. Internet access is required to use the VTC Technology.

The following equipment is required for an individual to participate in TeleCounseling:

- Computer
- Webcam
- Internet access
- Email address
- Valid phone number

Refer to M28R.IV.A.4.07.e, for guidelines on provision of Video-Teleconferencing (VTC) equipment to individuals.

### 3. Inclusion in the Rehabilitation Plan

An individual's approved use of TeleCounseling must be notated as one of the vocational objectives in his/her rehabilitation plan.

## 2.09 Service Types, Service Detail Types and Progress Status

VR&E staff must add service types and service detail types to every rehabilitation plan objective in order to capture comprehensive information on the types of services that VR&E participants receive. In addition, it is necessary for VR&E staff to update the progress toward completion of each objective during the course of case management. This information will be required when any of the following actions occur:

- A new rehabilitation plan is developed.
- A new objective is added to an existing rehabilitation plan.
- The rehabilitation plan is amended.
- Case status is changed, to include when a case is moved to Rehabilitated (REH) or Discontinued (DIS) status.

See Appendix F, Instructions for Adding and Updating Service Types, Service Details, and Progress Status, for detailed procedural guidance.

### a. Service Types

There are several different service type indicators, to include the following:

- Education and Training
- Independent Living

- Counseling/Case Management
- Medical Management
- Employment Services
- Self-Employment (separated into Category I and Category II)

b. Service Detail Types

Each service type has several associated service detail types:

Service Type	Detail Type
Education and Training	High School Diploma/GED Vocational/Technical Degree Technical/Professional Certification College Credits – non degree Associates Degree Baccalaureate Degree Post-degree Certification Graduate Degree Post-Graduate/Doctoral Degree Farm Cooperative Training Training in Home/Special Rehab Facility On-the-job Training/Apprenticeship Nonpaid Work Experience (NPWE) Internship/Work-study/Volunteer work Compensated Work Therapy (CWT) Other Job-related Training
Independent Living	Referral to community resources Assistive Technology Short Term Training Home Modifications Coordination with/referral to VHA
Counseling/Case Management	Personal Adjustment Counseling Referral to Community Supports Career Counseling Referral for Financial Counseling Reader Service Other Rehab Services

Service Type	Detail Type
Medical Management	Health Stability and Maintenance Specialty Medical/Mental Health Referral Feasibility Analysis
Employment Services	Job Accommodation Employment Exploration/Labor Market Research Interview Coaching Resume Development State Agency Referral Direct Job Development Job Readiness Evaluation Re-Employment Service Post-Employment Services
Self-Employment: Category I	Comprehensive Training Essential Equipment Minimal Inventory/Expendable Supplies Incidental Services
Self-Employment: Category II	Comprehensive Training Incidental Training in Business Management Required Fees and Licenses Required Personal Tools/Supplies

c. Progress Status

There are four "Progress Statuses" to choose from:

- In Progress
- Achieved
- Suspended
- Closed/Uncompleted

It is important to note that the date must be input in MM/DD/YYYY format, i.e. 02/01/2015.