

Chapter 1
OVERVIEW OF SPECIAL CIRCUMSTANCES

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Chapter 1 OVERVIEW OF SPECIAL CIRCUMSTANCES

1.01 Introduction

This chapter is an overview of M28R, Part V, Section D, which provides information on benefit changes for a Veteran with a special circumstance. It includes information on benefit changes regarding Servicemembers found entitled to Chapter 31 benefits and later determined fit to return to duty; Veterans participating in the Chapter 31 program recalled to active duty; incarcerated and fugitive felon Veterans; and deceased Veterans. The chapter also contains the statutory and regulatory provisions covering general information about these benefit changes.

1.02 References and Resources

Laws: 38 United States Code (U.S.C.) 3108

Regulations: 38 Code of Federal Regulations (CFR) 21.46
38 CFR 21.276

1.03 Types of Special Circumstances that Require Benefit Changes

a. Servicemembers Found Fit for Duty

A Servicemember who is determined fit for duty by a Physical Evaluation Board (PEB) while participating in the Chapter 31 program may not receive further services under Chapter 31, except for employment services to ensure adjustment to the military occupation. See M28R.V.D.2 for additional information on this issue.

b. Veterans Participating in the Chapter 31 Program Recalled to Active Duty

An individual who is recalled to active duty has Veterans Affairs (VA) disability compensation payments terminated. However, the VA service-connected disability rating is not severed. If the individual is able to continue participation in the vocational rehabilitation process, he/she may continue to receive the same Chapter 31 benefits and services as a Servicemember with a memorandum rating. The Vocational Rehabilitation Counselor (VRC) may need to re-evaluate the plan of services to ensure the suitability of the current military job. 38 CFR 21.46 provides the regulatory guidance on this issue. See M28R.V.D.2 for additional information.

c. Fugitive Felon and Incarcerated Veterans

Veterans who are considered to be fugitive felons, or who are incarcerated, have limited access to Chapter 31 services. 38 CFR 21.276 provides the regulatory guidance on this issue. See M28R.V.D.3 for additional information.

d. Deceased Veterans

It is imperative that the VRC process a benefit change as soon as the death of a Veteran who is participating in the Chapter 31 program is verified to ensure that the family of the Veteran does not experience further distress by dealing with an overpayment. See M28R.V.D.4 for additional information on how to process benefit changes following the Veteran's death.

1.04 Processing Benefit Changes

The following information describes the roles and responsibilities for each stakeholder in the rehabilitation process when benefit changes are necessary.

a. Office of Inspector General (OIG)

OIG enters into agreements with law enforcement officials to provide addresses for Veterans who are fugitive felons.

b. Vocational Rehabilitation and Employment Officer (VREO)

The VREO, and/or the Assistant VREO (AVREO), ensure that a record of names and file numbers of all Veterans recalled to active military service are maintained.

c. Vocational Rehabilitation Counselor (VRC)

The VRC:

- Identifies Servicemembers and Veterans in special circumstances who are receiving Chapter 31 benefits and services
- Disallows a request for benefits when appropriate
- Interrupts the Servicemember's or Veteran's case as appropriate
- Suspends awards, such as subsistence allowance awards or Employment Adjustment Allowance (EAA) awards, and other reimbursements when development is needed

- Notifies the Servicemember or Veteran when either his/her claim is disallowed, case is interrupted, and/or benefits are suspended and/or terminated

d. Veteran

The Veteran informs the VRC of any changes in his/her circumstances, and submits appropriate documentation as necessary.