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## Chapter 7 CASE CLOSURES

### 7.01 Introduction

This chapter provides instructions for processing Chapter 31 case closures. It includes information on how to close a case in Rehabilitated status or in Discontinued status from an Individualized Written Rehabilitation Plan (IWRP), from a self-employment plan, from an Individual Independent Living Plan (IILP) and as a Maximum Rehabilitation Gain (MRG) closure. This chapter also includes the statutory and regulatory references used when closing a Chapter 31 case.

### 7.02 References and Resources

Laws: 38 United States Code (U.S.C.) 3111  
38 U.S.C. 3861

Regulations: 38 Code of Federal Regulations (CFR) 21.197  
38 CFR 21.283  
38 CFR 21.362  
38 CFR 21.364  
38 CFR 21.4022

VA Forms (VAF): VAF 4107, Your Rights to Appeal our Decision  
VAF 5655, Financial Status Report  
VAF 28-0791, Preliminary Independent Living Assessment  
VAF 28-0850, Checklist for Proposed Rehabilitation  
VAF 28-0853, Checklist for Proposed Discontinuance  
VAF 28-0962, Checklist for Proposed Self-Employment  
Rehabilitation

### 7.03 Closing a Case in Rehabilitated Status

#### a. Justification for Closure in Rehabilitated Status

When a Veteran is declared rehabilitated, the case manager must clearly explain the rehabilitation decision in a closure statement. The closure statement must cite the applicable paragraph in 38 CFR 21.283 that supports the declaration of rehabilitation. In addition, the case manager must provide a summary of the case, which includes, but is not limited to:

- Veteran's impairments to employability.
- Vocational rehabilitation services provided to the Veteran.
- Explanation as to how the rehabilitation services contributed to the

Veteran's ability to overcome his/her impairments through suitable employment or increased independence.

- Required employment data.
- Additional information required to justify rehabilitation when IL goals are achieved or the Veteran has attained a substantial increase in his/her level of independence with the program assistance provided.

b. Suitable Employment Determination

There are instances when a determination of suitability of a Veteran's employment is necessary to validate the rehabilitation decision. This may include occasions when a Veteran accepts employment that is not the same as the vocational goal in his/her rehabilitation plan. The case manager must explain the rehabilitation decision in terms of wages and benefits, as well as the Veteran's abilities, limitations and interests.

In cases where a Veteran chooses to maintain current employment, which the case manager determines to be unsuitable, the case manager may not declare the Veteran rehabilitated. However, the case manager must re-evaluate the Veteran's rehabilitation program for other potential plan of services that may lead to the Veteran's successful rehabilitation.

Employment within the medical marijuana industry will never be considered suitable, even if the industry is legal within the state where the Veteran secures employment. VR&E will not support a vocational goal within the medical marijuana industry, as cultivating, selling, or distributing marijuana is in violation of federal law. Placement services must not focus on employment within the medical marijuana industry. If a Veteran secures employment within this industry, VR&E will not consider this a successful rehabilitation since employment in this industry violates federal law.

c. Rehabilitation Closure Without Achieving All Independent Living (IL) Goals

An IL case can be closed as rehabilitated when all goals have not been achieved. However, the case manager must provide documentation that the Veteran:

- Achieved a substantial increase in independence as a result of the services provided by Vocational Rehabilitation and Employment (VR&E).
- Has maintained the increased independence for at least 60 days.
- Will likely not demonstrate a significant increase in independence with further assistance.

d. Utilizing Third Party Employment Information When Closing a Case in Rehabilitated Status

The case manager may utilize employment information from a third party for case closure when contact with the Veteran has been lost. The third party may be a contract counselor, employer, a Disabled Veterans Outreach Program (DVOP) specialist, Local Veterans' Employment Representative (LVER), or a school employment coordinator. Third party employment information must include the following information, at a minimum, in order to be considered valid when closing cases in Rehabilitated status:

- Date of employment
- Job title
- Employer name
- Monthly salary (can use wage information from the Department of Labor as verification)

The date of employment is the date the Veteran actually reports for work. The 60 day follow-up period for post-employment services begins from the date the case manager received notification of Veteran's employment. For example, on 10/01/12, the case manager learns that the Veteran began employment on 09/15/12. In this case the case manager will attempt follow-up with the Veteran on 11/01/12 and on 12/01/12. If there is no response from the Veteran, the case manager can then proceed with closing the case in Rehabilitated status on 12/01/2012, 60 days from the date the employment was discovered.

The case manager must use VAF 28-1905d, Special Report of Training or a Corporate WINRS (CWINRS) note to clearly document relevant employment information and attempts to contact the Veteran by letter, phone and email before proposing rehabilitation of the case based on third party employment information. The file must also be documented with efforts to locate alternate contact information for the Veteran through Compensation and Pension Records Interchange (CAPRI). The CWINRS placement tab must be filled out. Third party employment information must not be older than 120 days when rehabilitation is proposed.

When using third party employment information to close a case in Rehabilitated status, due process must be provided prior to closure. The case manager must send a notice of proposed adverse action that clearly outlines the third party employment information to include, at a minimum, the following:

- Date of employment
- Job title
- Employer name
- Monthly salary

The due process letter, which includes the above stated information, serves as notification of the intent to rehabilitate the Veteran's case and gives the Veteran an opportunity to dispute the employment information. Due process must be provided at least 30 days, but not more than 60 days, prior to closure. The case manager may use a pre-rehab letter for this purpose.

If the Veteran responds to the pre-rehab letter during the due process period to dispute the third party employment information, the case manager must use VAF 28-1905d or a CWINRS note to document the Veteran's employment information. The Veteran's concerns must be addressed and documented. If the employment is not suitable, employment services should continue. If the employment is suitable, and the Veteran's concerns are resolved, case closure in rehabilitation status can then proceed if the requirements in M28R.VI.A.10 are met.

If the Veteran does not respond during the due process period, follow the guidance in M28R.VI.A.10. The closure report must clearly document the efforts made by the case manager to re-establish contact and verify the suitability of the employment. After receiving the Vocational Rehabilitation and Employment Officer's (VREO) or Assistant Vocational Rehabilitation and Employment Officer's (AVREO) approval to close the case, send a written notice explaining the reasons for rehabilitation, along with appellate rights. If the case manager is unable to close the case within the required due process period, he/she must send another notification of proposed adverse action and provide another period of due process.

In a case where the rehabilitation was not done in a timely manner, the pre-rehab letter can be used to confirm that the Veteran is still employed after contact is lost, but the date of employment verification cannot be older than 120 days. It is important to remember that the date of employment must be verified as accurate within 120 days prior to the date of closure to be considered current. For example, if the due process period expires before closing the case and the pre-rehab letter is sent to the Veteran again, closure of the case in Rehabilitated status could proceed as long as the 120-day period has not expired. If the 120-day period has expired, then the employment information would need to be verified as accurate again, either by direct contact with the Veteran or with the third party.

## e. Closure Statement

The case manager must provide a written justification for the rehabilitation decision in a closure statement. Guidelines for justification of rehabilitation decisions are provided in M28R.VI.A.10. The case manager is required to explain clearly the basis of the rehabilitation decision in terms of suitability and nature of the Veteran's employment.

The closure narrative should also include, but is not limited to the following information, as applicable:

- Date of closure statement
- Remaining entitlement
- Current service-connected disability conditions and rating
- Serious Employment Handicap (SEH) determination
- Vocational goal
- Training objective
- Type and description of degree
- Dates training began and completed
- Cumulative Grade Point Average (GPA)
- Begin date of employment
- Place of employment
- Title of position
- Supervisor's name and contact information
- Work requirements
- Services provided
- Employment wage information

## f. Other Required Documentation

The case manager must ensure that the following documents are included in the Veteran's Counseling/Evaluation/Rehabilitation (CER) folder:

- A copy of Veteran's diploma/certificate or a copy of his/her official transcript of records.
- Narrative for the required declaration of the Veteran's job readiness (for rehabilitation from employment services).
- Current Individualized Employment Assistance Plan (IEAP) or IILP.
- Verification of Employment Assistance Allowance (EAA) payments, if applicable.

g. Concurrence for Closure

Prior to the actual closure of the case, the case manager must submit a VAF 28-0850, Checklist for Proposed Rehabilitation, and the Veteran's CER folder to the VREO or AVREO for review and concurrence. The checklist must be completed and properly signed and dated by the reviewing officer. The checklist must be filed on top of the middle section in the CER folder.

VAF 28-0850 cannot be used to close a self-employment rehabilitation plan. To close a self-employment rehabilitation plan, use VAF 28-0962, Checklist for Proposed Self-Employment Rehabilitation.

h. CWINRS and Benefits Delivery Network (BDN) Update

The case manager must ensure that the Veteran's employment data are correctly entered in CWINRS and BDN. The closure in BDN and CWINRS must reflect the accurate reason code. The effective date of a case closed as Rehabilitated in CWINRS and BDN should not be earlier than the date of the VREO's concurrence with the rehabilitation decision, and should match the date of the Rehabilitation notification letter sent to the Veteran.

i. Required Notification Letters

The case manager must inform the Veteran of any actions taken during his/her rehabilitation program:

1. Notification of Proposed Rehabilitation

(a) Required

If rehabilitation is proposed for a Veteran as a result of his/her pursuit of further education, or the Veteran obtains suitable employment that is not the same as, or closely related to, the occupational goal outlined in his/her rehabilitation plan, or if all objectives of the IILP have not been achieved, the case manager must provide the Veteran a



notification letter informing him/her of the proposed declaration of rehabilitation. If the Veteran does not respond after 30 days from the date of the proposed rehabilitation notification letter, the case manager may proceed to close the case as Rehabilitated.

(b) Not Required

A notification letter of the proposed rehabilitation is not required if rehabilitation of a Veteran is a result of completion of the vocational objectives outlined in his/her signed IWRP/IEAP or IILP. This includes when a Veteran accepts suitable employment unrelated to the IWRP/IEAP goal, and the plan is subsequently redeveloped to reflect the new employment goal (see M28R.VI.A.10 for additional requirements). The Veteran must be in agreement with plan redevelopment.

2. Notification of Rehabilitation Decision

Upon receipt of the VREO's approval for the rehabilitation closure, the case manager must provide the Veteran a notification letter informing him/her of the rehabilitation decision. The letter must include the effective date of the closure and clear explanation or justification of the decision. VAF 4107, Your Rights to Appeal Our Decision (see Appendix O, VA Forms) must be sent to Veterans when a case is being rehabilitated as a result of pursuit of further education or suitable employment that is not the same as the occupational goal outlined in the rehabilitation plan, or when all objectives of the IILP have not been achieved.

7.04 Closing a Case in Discontinued Status

a. General

The purpose of Discontinued status is to identify situations in which termination of all services and benefits received under Chapter 31 is necessary. The case manager will discontinue the Veteran's case and assign the case to Discontinued status following assignment to Interrupted status as provided in 38 CFR 21.197 for reasons including, but not limited to the following:

1. Veteran Declines to Initiate or Continue Rehabilitation Process

If a Veteran does not initiate or continue the rehabilitation process and does not furnish an acceptable reason for his/her failure to do so following assignment to Interrupted status, the Veteran's case will be discontinued.

2. Unsatisfactory Conduct and Cooperation

When a Veteran's conduct or cooperation becomes unsatisfactory, services and assistance may be discontinued and assigned to Discontinued status as determined under provisions of 38 CFR 21.362 and 38 CFR 21.364.

### 3. Eligibility and Entitlement

Unless the Veteran desires employment assistance, the Veteran's case will be discontinued and assigned to Discontinued status when:

- The Veteran reaches the basic twelve-year termination date, and there is no basis for extension of entitlement, or
- The Veteran has used 48 months of entitlement under one or more Department of Veteran Affairs (VA) programs and there is no basis for extension of entitlement.

### 4. Medical and Related Problems

A Veteran's case will be discontinued and assigned to Discontinued status when:

- The Veteran is unable to participate in a rehabilitation program because of a serious physical or emotional problem for an extended period, and
- VA medical staff is unable to estimate an approximate date by which the Veteran will be able to begin or return to the program.

### 5. Withdrawal

A Veteran's case will be discontinued and assigned to Discontinued status when he/she voluntarily withdraws from the program.

### 6. Failure to Progress

The Veteran's case will be discontinued and assigned to Discontinued status if his/her failure to progress in a program is due to:

- Continuing lack of application by the Veteran unrelated to any personal or other problems, or
- Inability of the Veteran to benefit from rehabilitation services despite the best efforts of VA and the Veteran (38 U.S.C. 3111).

## b. Procedural Guidance

When a Veteran is unable or unwilling to continue services toward completion of a vocational goal, proper procedures for interruption, follow-up and due process must be followed. The guidelines and procedures for justifying, documenting and closing cases in Discontinued status are described below:

### 1. Interruption and Due Process

Follow procedures outlined in M28R.III.A.2 to move the case to Interrupted status and provide written notification to the Veteran of the reason(s) for this action, as well as what next steps are required to continue services under Chapter 31. Clearly state what actions you will take if the Veteran does not respond within a specified period of time. Discontinuing the Veteran's program is considered an adverse action and requires due process. Due process requires that VA provide prior notification of an adverse action and a period of time to respond to this notification before taking an adverse action. The Interruption letter may be used to provide notification of the intent to discontinue Chapter 31 benefits. The period of due process that allows the Veteran the opportunity to respond to the notification must be at least 30 days but not more than 60 days.

If the Veteran responds to the Interruption letter during the due process period by indicating a desire to re-enter services, the case manager should schedule a meeting to discuss next steps that must occur to continue or redevelop a plan of services.

If the Veteran does not respond during the due process period, or responds by indicating that he/she is unable or unwilling to re-enter services, the case manager should close the case within the due process period.

If it is not possible to close the case within the required due process period, the case manager should send another notification of proposed adverse action and provide another period of due process.

### 2. Closure Statement

When a case manager determines a case needs to be discontinued, the case manager must clearly explain the decision in a closure statement. The closure statement must provide a summary of the case, which includes, but is not limited to:

- Date of closure statement

- Reason(s) for the discontinuance
  - Current Service-Connected Disability (SCD) conditions and rating
3. VA Form (VAF) 28-0853, Checklist for Proposed Discontinuance

Prior to discontinuance of a case from Independent Living, Rehabilitation to Employment, Job Ready or Self-Employment status, the case manager must submit VAF 28-0853 and the Veteran's CER folder to the VREO or AVREO for review and concurrence. The checklist must be completed and properly signed and dated by the case manager and reviewing officer. CWINRS notes cannot be used in place of this form since it requires signatures from the case manager and the VREO or AVREO.

4. Concurrence for Closure

An outcome case is a case for which a plan of vocational rehabilitation services has been developed for a Veteran and that the case manager intends to close in either a Discontinued or Rehabilitated status. The VREO and/or AVREO need to ensure the accuracy of these decisions. Additionally, with the increased focus on individual accountability on Veterans Benefits Administration (VBA) employees as they provide services to Veterans, VR&E Service requires that case managers and VREO/AVREOs be accountable for decisions made on Veterans' cases.

The VREO or AVREO must review and sign off on all outcome cases prior to processing the outcome. The VREO or AVREO must review the CER file and sign the VAF 28-0853 before the case manager closes the case and takes appropriate action in CWINRS and BDN. For offices where there is no VREO or AVREO, this activity may be delegated to a Supervisor or Counselor in Charge (CIC) who has supervisory authority. Existing resources to assist in the review may be utilized, including referral to the Vocational Rehabilitation Panel (VRP). For more information on the VRP, see M28R.II.A.4.

The declaration must be filed on the top of the center section of the CER folder. The checklist addresses the items relating to the outcome determination that are reviewed during the Review of Quality (ROQ). (Refer to Appendix AL, QA Review Worksheets for access to the ROQ worksheet.) All ROQ of outcome cases will verify that both the case manager and the VREO/AVREO have signed the appropriate declaration.

5. CWINRS and BDN Update

The case manager must ensure that the closure information is correctly entered in CWINRS and BDN. The closure in BDN and CWINRS must

reflect the accurate reason code (see M28R.III.A.2). The effective date of a case closed as Discontinued in CWINRS and BDN should not be earlier than the date of the VREO's concurrence with the decision, and should match the date of the Discontinuance notification letter sent to the Veteran.

#### 6. Notification of Discontinuance Decision

Upon receipt of the VREO's approval for the discontinuance closure, the case manager must provide the Veteran a notification letter informing him/her of the decision. The letter must include the effective date of the closure, clear explanation or justification of the decision, and VAF 4107, Your Rights to Appeal Our Decision (see Appendix O, VA Forms).

### 7.05 Closing a Case Using Maximum Rehabilitation Gain (MRG)

#### a. General

The concept of MRG provides a comprehensive representation of the positive impact of the rehabilitation process for Veterans who are unable or unwilling to complete planned services and achieve a fully successful outcome as defined by VA regulations. A Veteran has reached MRG when VR&E is able to measure substantial improvement in the Veteran's circumstances that is directly attributable to services provided by VR&E.

MRG must not be used to discontinue a case when the Veteran secures employment within the medical marijuana industry.

MRG may be used when one of the following occurs:

- Services contributed to a Veteran obtaining or maintaining employment that does not meet the criteria for rehabilitation, or
- Services substantially improved the circumstances of a Veteran who is not currently employable in a suitable job.

The type and duration of services provided are not, in themselves, sufficient to close a case as an MRG unless the criteria outlined below are clearly met. The benefit of services provided must be clearly explained and documented. It is also important that the MRG determination is based on information about the Veteran's current circumstances.

#### b. Criteria for MRG

A determination that a Veteran has reached maximum rehabilitation gain can only be made when all of the following criteria are met:

- The Veteran has received services under an IWRP or an IEAP.
- The Veteran is unable or unwilling to continue services toward completion of a vocational goal despite VR&E efforts to motivate or provide further services.
- The Veteran has received written notification of interruption and pending discontinuance.
- Direct contact has been established with the Veteran within 90 days prior to closure or information about the Veteran's current circumstances has been verified within 120 days prior to closure.
- The Veteran has received significant and measurable gain from the services provided under Chapter 31 as described within categories MRG-1 and MRG-2.

c. MRG Categories

1. MRG-1, Reason Code 35

The use of MRG-1 (reason code 35) is appropriate in cases where all of the following circumstances are present:

- Veteran is employed.
- VR&E services contributed to the Veteran obtaining or maintaining current employment.
- Current employment is advantageous to the Veteran but does not meet the criteria for closure as "rehabilitated" in accordance with 38 CFR 21.283.

2. MRG-2, Reason Code 34

The use of MRG-2 (reason code 34) is appropriate in cases where one of the following circumstances is present:

(a) The Veteran is Employable in a Suitable Occupation

The Veteran is currently employable in a suitable job. He/she has gained enough rehabilitative benefit from VR&E services to qualify for suitable employment, yet the case does not meet the criteria for closure as "rehabilitated" in accordance with 38 CFR 21.283.

## (b) The Veteran is Not Employable in a Suitable Occupation

The Veteran is not currently employable in a suitable job, but:

- (1) The Veteran had been receiving services toward a vocationally oriented goal
- (2) The services provided by VR&E substantially improved the Veteran's circumstances through measurable gains in such areas as:
  - Self-management
  - Self-advocacy
  - Independence in daily living
- (3) An assessment indicates either that the Veteran:
  - Does not currently need IL services, or
  - May need IL services, but is unable or unwilling to participate.

## d. MRG Documentation

Current information must be verified and direct contact must be established prior to closure of a case in Discontinued status using an MRG reason code.

Current information is defined as information that justifies the MRG and is substantiated by direct contact with the Veteran within 90 days prior to closure or, without direct contact, is verified as accurate within 120 days prior to the date of closure.

Direct contact is defined as two-way communication in person, by telephone, traditional mail or by electronic means, such as email. When it is not possible to complete this direct contact, the file should be clearly documented to show that efforts were made by all available methods (i.e., traditional mail, phone, or email).

The VR&E case manager must ensure that accurate and current information to substantiate the decision to close the case with an MRG reason code is documented in the CER folder. VR&E staff, a contract counselor, a DVOP specialist, a LVER, or another Veteran-focused entity such as a Veterans Service Officer (VSO) or VA certifying official may also establish the contact or obtain the necessary documentation. The purpose of this requirement is to ensure that current information about the Veteran's circumstances was considered in the decision to close the case.

## e. Vocational Rehabilitation and Employment (VR&amp;E) Staff Responsibilities

## 1. Case Manager Responsibilities

The VR&E case manager must make every effort to assist the Veteran toward a rehabilitation outcome. However, when the Veteran is unable or unwilling to continue receiving services toward that goal, the VR&E case manager is responsible for:

- Reviewing information obtained,
- Developing further information as needed, and
- Preparing a closure statement that clearly explains the use of a particular MRG or other reason code.

## 2. VREO Responsibilities

The VREO must ensure that the:

- Required procedures were followed,
- Current information was used, and
- Required criteria were met before a case is closed using an MRG reason code.

When discontinuing a case using an MRG reason code, VR&E case managers must provide thorough justification of the MRG in the closure statement. Only cases of Veterans who have derived significant rehabilitative benefits through services provided by VR&E under an IWRP or IEAP may be closed in Discontinued status using an MRG reason code. VREO certification must be indicated in writing on VAF 28-0853.

## f. Procedural Guidance

When a Veteran is unable or unwilling to continue services toward completion of a vocational goal, proper procedures for interruption, follow-up, and due process must be followed. The guidelines and procedures for justifying, documenting and closing cases in Discontinued status using an MRG reason code are described below.

Follow procedures outlined in M28R.III.A.2 to move the case to Interrupted status and provide written notification to the Veteran of the reason(s) for this action, as well as what next steps are required to continue services under Chapter 31. Clearly state what actions you will take if the Veteran does not respond within a specified period of time. Discontinuing the Veteran's



program is considered an adverse action and requires due process. Due process requires that VA provide prior notification of an adverse action and a period of time to respond to this notification before taking an adverse action. The Interruption letter may be used to provide notification of the intent to discontinue Chapter 31 benefits. The period of due process that allows the Veteran the opportunity to respond to the notification must be at least 30 days but not more than 60 days.

If it is determined that case closure using an MRG reason code is appropriate, use the pre-MRG Letter (see Appendix AF, VA Letters) when moving the case to Interrupted status; otherwise, select and print the Interruption letter from the CWINRS database.

If the Veteran responds to the Interruption letter during the due process period by indicating a desire to re-enter services, the case manager should schedule a meeting to discuss next steps that must occur to continue or redevelop a plan of services.

If the Veteran does not respond during the due process period, or responds by indicating that he/she is unable or unwilling to re-enter services, the case manager should close the case within the due process period and send the MRG Discontinue Letter (see Appendix AF, VA Letters).

If it is not possible to close the case within the required due process period, the case manager should send another notification of proposed adverse action and provide another period of due process. The pre-MRG letter should be used for this purpose.

g. MRG Decision Tree

The following questions will assist the case manager in determining if a MRG closure is appropriate, and if so, which MRG classification and reason code to use.

1. Is the Use of MRG Appropriate?

If the answer to each of the following questions is "Yes", then the use of MRG is appropriate:

- Has the Veteran received services under an IWRP or IEAP?
- Is the Veteran unable or unwilling to continue services toward completion of a vocational goal despite efforts to motivate or provide further services?
- Has the Veteran received notification of interruption and pending

discontinuance?

- Has direct contact been established with the Veteran within 90 days prior to closure or has information about the Veteran's current circumstances been verified within 120 days prior to closure?

2. Is the Use of MRG-1 Appropriate?

If the answer to each of the following questions is "Yes", then the use of MRG-1, reason code 35, is appropriate:

- Is the Veteran currently employed?
- Did the services provided by VR&E contribute to the Veteran obtaining and maintaining the current job?
- Is the job advantageous to the Veteran?

3. Is the Use of MRG-2 Appropriate?

If the answer to each of the following questions is "Yes", then the use of MRG-2, reason code 34, is appropriate:

- Is the Veteran currently qualified and capable of obtaining employment in a suitable occupation, defined as employment that is consistent with the Veteran's interests, aptitudes and abilities and does not aggravate his/her disability condition(s)?
- Did the services provided by VR&E contribute to the Veteran's employability?
- Has the Veteran overcome the impairments to employment noted during the initial evaluation?
- Has the Veteran's circumstances in the period following application for chapter 31 services improved?
- Did the services provided by VR&E contribute to the improvement in the Veteran's circumstance?

h. Achievement of a Vocational Goal Is Not Currently Reasonably Feasible

If the answer to each of the following questions is "Yes", then the use of MRG-2, reason code 34, is appropriate:

- Has VAF 28-0791, Preliminary Independent Living Assessment, been completed?

- Were independent living needs identified?
- Is the Veteran unwilling or unable to participate in IL services?
- Has the VREO concurred with the determination not to provide IL services?

Note: If the case manager determines that a vocational goal is not currently reasonably feasible and the Veteran has a SCD rating of less than 100%, the case manager must notify the Veteran Service Center of the Veteran's status.

i. Closure Statement

A closure statement must be completed and submitted with VAF 28-0853. Copies of information used to establish that the criteria for MRG have been met must be attached to the closure statement. The statement must include the following information:

- A summary of the need for services that was based on the initial evaluation of the Veteran's impairment of employability.
- Services that were planned and how they related to overcoming the impairment.
- Services that were actually provided, with note on whether objectives were completed.
- Current circumstances including information about employment, feasibility of achieving a vocational goal, and the need for, or ability to participate in IL services.
- Synthesis of the above information to explain how specific VR&E services have contributed to current employment, employability in a suitable job, or improvement in the Veteran's circumstances in areas such as self-management, self-advocacy, or increased independence in daily living.
- The statement, "Based on recent contact with (the Veteran) on (date of contact), the attached information, and a review of the CER folder, I have determined that (the Veteran) has attained maximum rehabilitation gain. (The Veteran)'s case will be discontinued using MRG reason code (appropriate reason code)", or
- The statement, "Based on the attached information from (source of information) verified on (date verified) and a review of the CER folder, I have determined that (the Veteran) has attained maximum rehabilitation gain. (The Veteran)'s case will be discontinued using MRG reason code

(appropriate reason code)."

Complete all appropriate items on VAF 28-0853. When all required signatures have been obtained, complete processing through CWINRS and BDN.

Note: The signatures in item 10 on VAF 28-0853 signify responsibility for reviewing and approving the required elements prior to the decision to discontinue the case. The declaration must be filed on the top of the center section of the CER folder.

j. Closure Actions

1. Change Case Status to Discontinued

The case manager must change case status in CWINRS and BDN to Discontinued status using the appropriate reason code.

When using RC 35, employment data must be entered in the CWINRS placement tab and in BDN on the 320 screen using the "CAST" command.

When using RC 34, select the appropriate detail reason code in CWINRS to reflect "employable" or "unemployable."

2. Inform the Veteran

The Veteran must be informed of the closure. The case manager must send CWINRS letter and VAF 4107 to the Veteran and the Veteran's power of attorney, if applicable, informing them of the reasons for the closure and the right to appeal the decision.

k. Overturning Maximum Rehabilitation Gain (MRG) Closures

An MRG closure may be categorized as a "positive outcome" in that maximum rehabilitation gains have been achieved. In cases where the discontinuance was classified as an MRG closure, the GED will not be processed unless the case manager finds that the reasons for discontinuance have been removed and additional rehabilitative services are needed. For cases closed less than one year at the time of reapplication, VR&E Officer concurrence is required to reopen the case. M28R.IV.A.2 provides procedural guidance for processing applications from prior participants declared to have achieved maximum rehabilitation gain.

7.06 Closing a Deceased Veteran's Case

a. Sources to Verify a Veteran's Death

The Veteran's death must be verified prior to closure. There are several

sources the case manager can use to verify the death, to include:

1. BDN

The date of the Veteran's death may be noted on the M32 screen.

2. Share

The date of the Veteran's death may be noted on the Veteran Identification Data screen.

3. Compensation and Pension Record Interchange (CAPRI)

The date of the Veteran's death may be noted in the Veteran's medical records if he/she died while under the care of the VA. The case manager should always check CAPRI prior to closing a deceased Veteran's case.

4. Veterans Next of Kin (NOK)

The case manager may contact the Veteran's NOK telephonically if the case manager suspects a Veteran on his/her caseload has died. The case manager should never email the NOK in regard to inquiring about the Veteran's death.

5. Veterans Service Center (VSC) Records

The VSC may be able to provide records indicating the date of the Veteran's death.

- b. Termination of Benefits

No notice of termination of benefits is required when VA receives evidence that a Veteran has died. Once a notice of death is received, the case manager will immediately terminate the award effective the date of death and send the Veteran's NOK a subsistence allowance reduction – course withdrawal letter to explain that payments are being stopped and include information on requesting a debt waiver from Finance or Debt Management (if needed due to an overpayment or Revolving Fund Loan [RFL] debt).

- c. Overpayment of Subsistence Allowance

1. Station Debts

The Regional Office (RO) Finance division is responsible for debts that the Debt Management Center (DMC) cannot service, to include Chapter 31 RFLs and Chapter 31 subsistence allowance debts on active records. These debts are entered into BDN or Veterans Services Network

(VETSNET) Finance and Accounting System (FAS). VR&E staff should be aware of the local RO procedures for handling these debts, including the process for requesting a waiver or consideration for a compromise offer from the appropriate Committee on Waivers and Compromises (COWC) at the RO of jurisdiction.

## 2. Debt Management Center (DMC) Debts

The DMC is responsible for Chapter 31 debts on inactive records. When the Veteran's account is established with the DMC, he/she (in the case of a deceased Veteran, the NOK) will receive a notice explaining what a waiver is and what VA needs to process it.

It is important for VR&E staff to note that for the NOK to apply for a waiver for the overpayment, he/she must submit the following items:

- A letter from the NOK explaining why the Veteran should not be held responsible for payment of the debt or why collection of the debt would be unfair and create a financial hardship.
- Completed and signed VAF 5655, Financial Status Report (see Appendix O, VA Forms).

The NOK must mail the letter and VAF 5655 to:

US Department of Veterans Affairs  
Debt Management Center  
P.O. Box 11930  
St. Paul, MN 55111

### 7.07 Closing a Self-Employment Case

#### a. VAF 28-0962, Checklist for Proposed Self-Employment Rehabilitation

Prior to rehabilitation of a self-employment case, the case manager must submit VAF 28-0962, Checklist for Proposed Self-Employment Rehabilitation with the Veteran's CER folder to the VREO or AVREO for review and concurrence. The checklist must be completed and properly signed and dated by the case manager and reviewing officer. CWINRS notes cannot be used in place of this form since it requires signatures from the case manager and the VREO or AVREO.

VAF 28-0962 documents that the following items have been completed prior to submitting to the VREO or AVREO for concurrence:

- Veteran's file was moved into Job Ready status in BDN and CWINRS.

- Placement information, etc., has been updated in BDN and CWINRS.
- All financial transactions in the CER folder are captured in the CWINRS financial tab.
- Veteran has maintained self-employment for at least 12 months.
- After successful start of the business, follow-up contacts were conducted for a minimum of 12 months.
- The frequency of case management appointments were adequately conducted based on applicable policy and guidelines.
- There is a rehabilitation closure statement, written in accordance with manual guidelines, filed in the center section of the CER folder.
- Rehabilitated letter has been drafted with due process/appeal rights.
- All award actions have been properly processed.

It is the case manager's responsibility to ensure that the items needed for rehabilitation are documented appropriately in accordance with procedures outlined in M28R.VI.A.9 and M28R.VI.A.10.

b. Proposed Rehabilitation Denied

If the VREO or AVREO does not concur with the proposed rehabilitation, he/she must explain the reasoning behind the decision in a CWINRS note for the case manager's review. If the VREO or AVREO does not approve the proposed rehabilitation, the case manager must perform one of the following tasks:

- Take the recommended corrective action(s) for approval of the proposed rehabilitation.
- Consider alternative rehabilitation options if revision will not result in approval.

7.08 Closing a Case When a Veteran Transfers from Chapter 31 to Chapter 33

In accordance with 38 CFR 21.4022, a Veteran eligible under both Chapter 31 and Chapter 33 may transfer to Chapter 33 benefits at any time but not more than once in a certified term, quarter, or semester. A Veteran may subsequently re-apply for Chapter 31 benefits; however, the effective date of re-entrance must be after completion of a term, quarter, or semester unless it would create a hardship for the Veteran to postpone re-entrance to Chapter 31 until the end of the term.

When a Veteran entitled to benefits under Chapter 31 decides to transfer to Chapter 33, the VR&E case manager should work closely with the Veteran to ensure a smooth transition. As soon as the effective date of Chapter 33 benefits is known, the No Pay Date of any running award for Chapter 31 subsistence allowance should be adjusted to be on or before the date Chapter 33 benefits will begin, as appropriate.

a. Rehabilitated Status

Veterans who have completed training under Chapter 31 or who are already in Job Ready status may elect to transfer to Chapter 33 benefits. The case of a Veteran who transfers to Chapter 33 after completing Rehabilitation to the Point of Employability (RTE), or after being placed in Job Ready status should be reviewed for possible closure as Rehabilitated. The criteria for moving the case to Rehabilitated status is that the further education being pursued under Chapter 33 would not have been approved under Chapter 31 and it will enhance the Veteran's ability to achieve employment consistent with his or her interests, aptitudes, and abilities (38 CFR 21.283).

If Rehabilitation action is appropriate, the case manager must provide a letter informing the Veteran that his/her case will be placed in Rehabilitated status because the Veteran chose to pursue further education instead of seeking employment. Not less than 30 days after providing the letter informing the Veteran of this pending action, the case manager must move a case that was in RTE status to Job Ready status using Reason Code 18, and move it to Rehabilitated status using Reason Code 25B on the same day. A case that was already in Job Ready status must be moved to Rehabilitated status using Reason Code 25B. A letter including due process rights, VAF 4107, should be provided to inform the Veteran of the closure in Rehabilitated status. The Veteran cannot be provided employment services and EAA must not be paid once benefits have begun under Chapter 33.

b. Discontinued Status

If the criteria for moving the case to Rehabilitated status are not met, a letter of interruption must be provided on the date Chapter 31 benefits are suspended. Do not include VAF 4107 with the interruption letter. Since concurrent receipt of benefits under different education programs is prohibited (see 38 USC 3861), there are no grounds for appealing the decision to close the Chapter 31 case. Advise the Veteran that his/her case will be placed in Discontinued status in 30 days due to the transfer to Chapter 33 benefits. When moving the case to Interrupted status, use Reason Code 16. When moving the case from Interrupted to Discontinued status, use Reason Code 36.



7.09 Adverse Action and Due Process

Generally, VA must send the Veteran and his/her designated representative (if any), a notice of proposed adverse action prior to taking any unfavorable action affecting the Veteran’s benefit, including discontinuance and alternative rehabilitation from planned services. It is important to note that rehabilitation is not considered an adverse action if the rehabilitation is a result of scheduled completion of the goals outlined in the Veteran’s signed rehabilitation plan.

The following table clarifies procedures regarding adverse actions and due process when moving a case to Rehabilitated status:

Action Taken	Clarification of Procedure
Moving any case to Rehabilitated status.	A written notice to the Veteran at the time of closure is required to explain the reasons for rehabilitation.
Moving a case to Rehabilitated status as a result of the scheduled completion of the goals of a signed rehabilitation plan (Reason Codes 17, 22A and 23).	This is not considered an adverse action. Therefore, prior notification of rehabilitation closure is not required. A rehabilitation letter will be sufficient to inform the Veteran of the decision.
Moving a case to Rehabilitated status as a result of the Veteran’s: <ul style="list-style-type: none"> <li>• Employment in a suitable occupation other than the planned goal (Reason Code 22B)</li> <li>• Recall to active duty, for a suitable military occupation (Reason Code 22C), or</li> <li>• Pursuit of further education (Reason Code 25B)</li> </ul>	Due process must be provided prior to closure in these instances: <ul style="list-style-type: none"> <li>• Send a notice of proposed adverse action describing the reason(s) for the proposed rehabilitation and allow a minimum of 30 days for the Veteran to respond.</li> <li>• At the time of closure, include appellate rights with the written notice explaining the reasons for rehabilitation.</li> </ul>