

Chapter 10
POST EMPLOYMENT SERVICES AND CASE CLOSURES

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Chapter 10 POST-EMPLOYMENT SERVICES AND CASE CLOSURES

10.01 Introduction

Post-employment services and case closure are the final phases in the Department of Veterans Affairs (VA) Vocational Rehabilitation and Employment (VR&E) process. This chapter provides information and guidance on post-placement services, periods of employment services, and determining rehabilitation and discontinuance of cases in employment services.

10.02 References and Resources

- Laws: Public Law (Pub. L.) 112-154, Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012
Rehabilitation Act of 1973, as Amended
38 United States Code (U.S.C.) 3117
- Regulations: 38 Code of Federal Regulations (CFR) 21.190(d)
38 CFR 21.196
38 CFR 21.283
38 CFR 21.284
- VA Forms (VAF): VAF 4107, Your Rights to Appeal our Decision
VAF 28-1902b, Counseling Record – Narrative Report
VAF 28-1905d, Special Report of Training
VAF 28-0850, Checklist for Proposed Rehabilitation
VAF 28-0962, Checklist for Proposed Self-Employment Rehabilitation

10.03 Post-Employment Services

a. Purpose

Post-placement services are provided to ensure that the Veteran is able to maintain suitable employment. Suitability of employment means that the Veteran's employment is compatible with his/her disability condition(s), requires reasonably developed skills, and is consistent with his/her interests, aptitudes, and abilities.

b. Maintaining Suitable Employment

When a Veteran obtains employment, the case manager must obtain the necessary information that includes but is not limited to the following:

- Date of employment
- Name and contact information of employer
- Job title
- Essential duties or position description
- Monthly salary
- Type of employment (full-time, part-time, permanent, temporary, etc.)
- Employment benefits (health, vacation, etc.)

The case manager may obtain the employment information from the Veteran through direct communication by email, letter, or telephone, or from a third party as well. The third party may be the employer, a Disabled Veterans Outreach Program (DVOP) specialist, Local Veterans' Employment Representative (LVER), or a school employment coordinator.

The date of employment is the date the Veteran was hired for the position. The follow-up period for post-employment services begins from the date the case manager received notification of Veteran's employment.

The case manager must use VAF 28-1905d or Corporate WINRS (CWINRS) Notes to clearly document the Veteran's relevant contact and employment information. Documentation must be filed appropriately in the Veteran's Counseling/Evaluation/Rehabilitation (CER) folder.

See Appendix O, VA Forms, for information on how to access this form, as well as all forms referenced in this chapter.

c. Services

The case manager will provide post-employment assistance to a Veteran who has completed the vocational objectives outlined on his/her rehabilitation plan and who has obtained suitable employment. Services that may be authorized during this period may include but are not limited to the following:

1. Counseling

The first few months is the critical period for a Veteran starting a new position. Within this period a new employee is expected to:

- Become reasonably skilled in performing the work requirements.
- Effectively relate to supervisors and coworkers.
- Gain experience in the work environment.

Therefore, it is essential that counseling be provided to the Veteran to ensure that he/she is able to maintain employment. This is also useful in identifying and addressing potential problems such as time management, task management, following directions, job modification, or conflicts with coworkers, management, and/or customers. Some key factors that may also affect satisfactory work adjustment and therefore need to be addressed may include:

- Transportation
- Child and family care
- Personal budgeting and financial management
- Use of leisure time
- Family and marital relationships

2. Job Modification/Reasonable Accommodation

Job modification and reasonable accommodation provides a Veteran with disabilities with the necessary work conditions and tools to perform his/her job duties. The case manager is responsible for ensuring that the Veteran is provided with job modification or reasonable accommodation as soon as the need is established.

Generally, a job modification or reasonable accommodation may be identified while the Veteran is still participating in his/her training program. However, the need may not become evident until after a Veteran has begun working. In this instance, necessary modification or reasonable accommodation must be addressed as soon as possible.

In order to assist the Veteran, employers must be informed regarding provision of job modification and reasonable accommodation.

3. Payment of Employment Adjustment Allowance (EAA)

A Veteran who has completed a period of services while in Rehabilitation to the Point of Employability (RTE) Status, attended training at a VA approved facility, has been declared job ready, and is actively participating in employment services, may be provided an EAA. This includes a Veteran who received training in job readiness at a VA-approved facility, or one of the special programs identified in 38 CFR 21.268(c), to complete RTE and become job ready. This short-term training may include certification or training in resume preparation, job seeking and interview skills.

The EAA payment may be authorized after a determination that the Veteran has satisfactorily participated in post-placement services for at least 30 days and again after 60 days. If authorized, EAA will be processed at the full-time rate for the type of program the Veteran was last pursuing, even if the Veteran's rate of pursuit while in training was below the half-time rate. This includes authorization of EAA at the Post-9/11 Subsistence Allowance (P911SA) rate, if the Veteran elected that rate and attended training in RTE status after making the election (refer to Appendix AW, Calculating Rate of Pay for P911SA). If the rate is less than the previous year, determine whether the Veteran qualifies for continued payment at the previous year's rate. Veterans who had continuously attended the same facility with no more than a 6 month break in training must be grandfathered in at the higher rate of pay. Refer to M28R.V.A.3 for more information on rate protection when the BAH is reduced by the Department of Defense.

Additionally, as authorized by Pub. L. 112-154, a Veteran who resides in an area where a natural or other disaster is declared by the Governor and/or the President of the United States, and is displaced by the disaster, then he/she may qualify for up to two additional months of EAA payments. The Veteran must be receiving EAA payments at the time of the disaster and be successfully following a program of employment services to qualify for this additional benefit.

EAA may not be authorized when:

- (a) A Veteran is participating in a plan consisting solely of employment services as authorized under 38 U.S.C. 3117.
- (b) A Servicemember is still on active duty status.
- (c) A Veteran is not in active contact with the case manager, or is not actively participating in employment services outlined in the IWRP/IEAP.

d. Follow-Up Activities

The case manager must follow up with the Veteran at least monthly during the post-employment phase. The follow-up contacts may also be provided by a DVOP specialist or a VA contractor, under the supervision of the case manager. This monthly follow-up is intended to monitor the Veteran's progress in his/her job and to determine if further services are needed to ensure the Veteran's successful adjustment to his/her new employment position. These follow-up activities may be extended beyond the required 60-day period until the Veteran is declared rehabilitated.

1. Required Monthly Follow-Up

The case manager must monitor the Veteran's employment progress through a monthly contact, for a minimum of 60 days from the day the Veteran began his/her employment.

If the Veteran obtains suitable employment prior to completion of his/her vocational training, the monthly contact will begin after the Veteran has completed his/her vocational training objective, has been declared job ready, and an Individualized Employment Assistance Plan (IEAP) has been developed.

If the Veteran obtains suitable employment and the case manager discovers the employment at a later date, the monthly contact will begin after the date of the discovery of the Veteran's employment, the Veteran has been declared job ready, and an IEAP has been developed.

The follow-up activities must address but are not limited to the following:

- Is the Veteran adjusting well to the work environment?
- Is the Veteran able to perform his/her work duties without any difficulties?
- Is the Veteran able to maintain satisfactory relationships with his/her co-workers, supervisors, customers, etc.?
- Is there any impediment that may prevent the Veteran from maintaining employment?

2. Extended Follow-Up

Provision of the minimum 60-day post-placement follow-up does not necessarily indicate that the Veteran has satisfactorily adjusted to his/her employment. Some Veterans may need continued monitoring of their employment progress beyond this 60-day period, to ensure their successful adjustment.

Additionally, a Veteran may need services beyond those identified in his/her current employment plan. In this instance, the case manager must ensure the IEAP is updated to reflect the additional services. As necessary, the period of services outlined in the IEAP must also be extended to ensure validity of the services. However, the case manager should ensure that the employment services do not exceed the regulatory limit of 18 months.

3. Required Extended Follow-Up for Specific Employment

The case manager must ensure that an extended follow-up is provided for Veterans participating in the following employment services:

(a) Self-Employment

A minimum of one year extended follow-up must be provided while the case is in Job Ready (JR) status for self-employment cases.

(b) Temporary Employment

For temporary employment, a minimum of one year extended follow-up must be provided while the case is in JR status. If employment is converted to a permanent position, the case manager must make the 60-day follow-up from the date of the conversion of the employment. The case manager must ensure and verify that there are no impediments to the Veteran's ability to maintain employment.

(c) Volunteer Employment

For volunteer employment, a minimum of one year extended follow-up must be provided while the case is in JR status.

e. Documentation of Follow-Up Activities

Follow-up activities include face-to-face meetings or communications with the Veteran via telephone, fax, email, or other written correspondence.

The case manager must ensure that all follow-up activities and contacts made with the Veteran and/or a third party are documented on VAF 28-1905d or CWINRS Notes. Documentation must be filed on the middle flap of the Veteran's CER folder. Email communications between the Veteran and the case manager must be printed and filed in the CER file, or copied and pasted into CWINRS case notes. To capture an email message in a CWINRS note, cut and paste the information, making sure to include the "header" of the email, which captures the "envelope" information such as sender's name and email address and date the email was sent. Email messages that are copied into CWINRS notes do not need to be printed.

The documentation should clearly demonstrate that the Veteran is adjusting to his/her employment, and should outline all services provided to resolve issues encountered.

Follow-up activities specified in M28R.VI.A.10.03.d.1 must be documented as well.

10.04 Rehabilitation

a. Declaration of Rehabilitation

A case manager may declare a Veteran rehabilitated for employment only under the conditions outlined in 38 CFR 21.283 (a)-(d).

Rehabilitated status, as defined in 38 CFR 21.196, is the status in which the goals of a Veteran's Individualized Written Rehabilitation Plan (IWRP) or IEAP are substantially achieved. Therefore, a case manager cannot declare a Veteran rehabilitated until the Veteran has substantially achieved the goals of his/her rehabilitation program.

b. Progression to Rehabilitation

The conditions under which a case may be placed in Rehabilitated (REH) status from JR status are prescribed under 38 CFR 21.196. There is an expected sequence of actions, which follows completion of education or training under an IWRP that leads to the declaration of rehabilitation. This is described in the following order of progression:

1. The case manager determines that the Veteran has achieved rehabilitation to the point of employability under 38 CFR 21.190(d) and the Veteran has been declared job ready.

2. The Veteran receives the necessary services to assist in active search for employment as outlined in his/her IEAP.
 3. The Veteran obtains employment in either the same occupation as specified in the IEAP or in a closely related occupation. If the Veteran obtains employment in a closely related occupation, the case manager must determine that wages and benefits in the current employment are commensurate with those received by workers in the same occupation outlined in the original IWRP.
 4. Subsequent to the required post-employment follow-up, the case manager makes a determination of whether the employment is suitable and that the Veteran is well adjusted to the job.
- c. Determination of Nature of Employment

The case manager must make a determination of the nature of the Veteran's employment for suitability.

1. Permanent Employment

A case manager may declare a Veteran who has been hired in a suitable and permanent position as rehabilitated. A permanent position is one in which the Veteran can expect to maintain employment as long as his/her performance is satisfactory and the hiring organization continues as a viable enterprise.

Employment through a federal government special appointing authority, such as Veterans Recruitment Assistance (VRA), is considered a permanent position.

2. Temporary Employment

A case manager may declare a Veteran who has been hired in a suitable temporary position as rehabilitated, if one year of extended follow up has been provided and the Veteran does not have additional vocational rehabilitation needs. A placement is considered temporary if the Veteran is hired for a limited period and is not eligible for benefits.

If a Veteran hired for temporary employment is converted to permanent status during extended follow up, the Veteran must maintain this permanent status for at least 60 days before the case manager can declare him/her rehabilitated.

3. Term Employment

A case manager may declare a Veteran who has been hired in a suitable Term position as rehabilitated. Term employment is different than temporary employment. Term employment or appointments may last one to four years and employee benefits may be provided. Although term employees typically have a one year probationary period, the case manager is not required to follow the Veteran for 12 months before declaring rehabilitation. The Veteran must be satisfactorily adjusted to the job for a minimum of 60 days before the case manager can declare him/her rehabilitated.

4. Seasonal Employment

The case manager will consider seasonal employment, such as construction work, as permanent if this is the occupational pattern.

5. Self-employment

The case manager must defer declaration of a Veteran's rehabilitation for self-employment for one year. The one-year period for employment service will begin after the case manager has determined that the business is operational and the Veteran is successfully adjusted. The extended follow-up services will ensure stability of the Veteran's employment (see M28R.IV.A.9.09.c for further information).

6. Volunteer Employment

Although non-pay employment may contribute to declaring a Veteran to be suitably employed and rehabilitated, it cannot be the intended goal of a vocational rehabilitation program. Further, the case manager may consider non-pay employment as suitable employment and use it as the basis of a declaration of rehabilitation only if:

- (a) The Veteran has received maximum services and assistance to obtain gainful suitable employment; and
- (b) It is shown that non-pay employment is the maximum feasible attainment for the Veteran.

The case manager may declare a Veteran employed on a non-pay or volunteer basis as rehabilitated if the position is consistent with the Veteran's abilities, aptitudes, and interests and the criteria contained in paragraph (c)(1) or (2) of 38 CFR 21.283 are otherwise met. The case

manager must provide one year of extended follow up prior to the rehabilitation declaration. The case manager must clearly document the types of job search assistance provided to the Veteran in the CER folder, and the closure statement must support the conclusion that non-pay employment is the only appropriate rehabilitation outcome for the Veteran.

7. Veteran Employed in the Vocational Goal Outlined on His/Her IWRP

A case manager may declare a Veteran who has completed the vocational objectives of his/her rehabilitation plan rehabilitated if the Veteran has been employed in the same occupation as outlined in his/her IWRP and has maintained the employment for at least 60 continuous days or one year in self-employment.

8. Veteran's Employment Differs from the Planned Goal

When a Veteran obtains employment in a different field from the training he/she has received under the VA Vocational Rehabilitation and Employment (VR&E) Program, the case manager must make a determination if the employment is closely related to the occupational goal outlined in the IWRP. To make this determination, the case manager must examine both the content of training and the depth of training required for both occupations. A Veteran should be able to use the training he/she has received both in terms of content and depth of training to consider a particular field as closely related to the original vocational goal.

The Occupational Outlook Handbook (OOH) is generally the accepted source for occupational information and offers substantial assistance in making the determination for closely related occupations. It contains useful information, including nature of the work, working conditions, training, other qualifications, and advancement.

The handbook also provides information on related occupations. However, the case manager must review this section carefully since occupations listed under the "Related Occupations" does not necessarily mean that they meet the Chapter 31 requirements for determination of being closely related occupations. For example, the Related Occupations entry for "drafters" states: "Other workers who are required to prepare or understand detailed drawings, make accurate and precise calculations and measurements, and use various measuring devices. This occupational classification includes architects, engineering technicians, engineers, photogrammetrists, landscape architects, and surveyors." In

this example, a case manager should not consider the physically demanding occupation of a surveyor as closely related to the sedentary job of a drafter using the framework of the VA VR&E Program.

The case manager must keep in mind that for a determination of rehabilitation, a Veteran must be employed in a suitable occupation, meaning employment that is compatible with the Veteran's disability condition(s) and is consistent with the Veteran's interests, aptitudes, and abilities.

9. Veteran Does Not Complete the Vocational Objectives of the IWRP

A case manager may be able to declare a Veteran rehabilitated even if the Veteran has not completed the vocational objectives of the rehabilitation plan. However, the Veteran must substantially achieve the goals of his/her rehabilitation program and the case manager ensures the following:

- (a) The Veteran has obtained and retained employment significantly using the services provided under his/her IWRP or IEAP.
- (b) The Veteran's employment is consistent with his/her interests, aptitudes and abilities.
- (c) The Veteran has been provided the maximum services to assist in maintaining his/her employment.
- (d) The Veteran is employed for 60 continuous days, or one year for temporary employment or self-employment, in the same occupation outlined in his/her rehabilitation plan and is determined to have successfully adjusted to the occupation.

10. Veteran Received Employment Services Only

A Veteran who has been provided with employment services only under an IEAP and has failed to complete the objectives of the plan may still be declared rehabilitated under the same criteria used for a Veteran who failed to complete all of the objectives of his/her IWRP. The case manager may cite 38 CFR 21.283d for declaration of rehabilitation.

11. Veteran Employed in an Occupation Unrelated to the Vocational Goal Outlined in the Rehabilitation Plan

The Veteran may not be declared rehabilitated without developing a new IEAP and without a determination that the unrelated occupation meets the specified conditions below:

- (a) The Veteran has been employed for at least 60 continuous days or one year of self-employment.
- (b) By developing a new IEAP, the Veteran agrees to the change in his/her vocational goal, and the Veteran's employment meets all of the following conditions:
 - (1) Has been obtained after unsuccessful intensive efforts to secure employment in the occupation outlined in his/her IWRP or related occupation.
 - (2) Is consistent with the Veteran's aptitudes, interests, and abilities.
 - (3) Utilizes some of the academic, technical or professional knowledge and skills that were provided under VA's VR&E program.

Note: If the Veteran agrees and signs a new IEAP, then a notification of proposed rehabilitation is not required, since the Veteran will be declared rehabilitated in a vocational goal consistent with his/her written plan.

12. Veteran Elects to Pursue Further Education

A case manager may declare a Veteran rehabilitated if the Veteran pursues additional education or training instead of obtaining employment after completing his/her training under Chapter 31. However, the case manager must ensure that the following criteria are met:

- (a) The additional education or training that the Veteran is pursuing has been considered and is not approvable as part of his/her rehabilitation program.
- (b) The vocational goal that has been determined consistent with the Veteran's aptitudes, abilities, and interests will be enhanced by the Veteran's completion of the additional education or training.

10.05 Case Closures

- a. Discontinued

For specific guidelines for discontinuance case closures, follow procedures outlined in M28R.V.A.7.

b. Rehabilitated

1. Justification for Suitability of Employment

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, which supports the declaration of rehabilitation. In addition, the case manager must provide a summary of the case that includes but is not limited to the following items:

- The 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.
- Required employment data.

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, benefits, and the Veteran's abilities, limitations, and interests.

In cases where a Veteran chooses to maintain current employment that 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 another potential plan of services that may lead to the Veteran's successful rehabilitation.

2. 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.10.04. 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:

- 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 GPA
- Begin date of employment
- Place of employment
- Title of position
- Supervisor's name and contact information
- Work requirements

3. Other Required Documentation

The case manager must ensure that the following documentations are included in the Veteran's CER file:

- A copy of the Veteran's diploma/certificate or transcript of records
- Narrative for the required declaration of the Veteran's job readiness
- Current IEAP
- Verification of EAA payments (if applicable)

4. VR&E Officer's (VREO's) Concurrence for Closure

Prior to the actual closure of the case, the case manager must submit the VAF 28-0850, Checklist for Proposed Rehabilitation or VAF 28-0962, Checklist for Proposed Self-Employment Rehabilitation, with the Veteran's CER folder to the VREO or Assistant VREO 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 flap of the CER folder.

5. CWINRS and 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 (RC). 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.

The following chart provides guidance on possible rehabilitation outcomes, and how to process claims properly.

Possible Rehabilitation Outcomes	Required Case Manager Activity
<p>Veteran is suitably adjusted to the employment goal, or revised goal of IWRP and IEAP, or to a closely related employment goal for at least 60 days</p> <p>NOTE: Required follow up is a minimum of 12 months for Veterans who enter into self-employment or temporary employment. Follow up must occur in Job Ready (JR) status. VREO must concur with the case closure.</p>	<p>Close status with RC 22, select Detail Reason Code (DRC) 22A – Achieved Goals of Rehab Plan – Employed in Field, using date of the decision and open Rehabilitated (REH) status using the same date JR status is closed.</p> <p>Prior notice or due process is not required when the Rehabilitation is the result of successful completion of plan objectives and employment in the plan goal.</p>

Possible Rehabilitation Outcomes	Required Case Manager Activity
<p>Veteran is suitably employed and adjusted for at least 60 days in an occupation other than the employment goal that is outlined in his/her plan, with wages and benefits that correspond with the wages and benefits of employment for which he/she was training</p> <p>NOTE: VREO must concur with the case closure.</p>	<p>Close status with RC 22, select DRC 22B – Employed in Field Other than Plan, using date of the rehabilitation decision and open REH status using the same date JR status is closed.</p> <p>NOTE: Notify Veteran prior to taking the action and provide 30-day due process period. When the action is taken, notify Veteran of the rehabilitation and provide VAF 4107.</p>
<p>Veteran is recalled to active duty and services provided have helped the Veteran to remain in a suitable employment in the military by overcoming his/her impairment to employability</p> <p>NOTE: VREO must concur with the case closure.</p>	<p>Close status with RC 22, select DRC 22C – Return to Active Duty, using date of the rehabilitation decision and open REH status using the same date JR status is closed.</p> <p>NOTE: Notify Veteran prior to taking the action and provide 30-day due process period. When the action is taken, notify Veteran of the rehabilitation and provide VAF 4107.</p>

Possible Rehabilitation Outcomes	Required Case Manager Activity
<p>Veteran is suitably adjusted to employment goal, or revised goal of IEAP for at least 60 days, and the only program of services received is employment services</p> <p>Or, IEAP goal is not completed but the Veteran is suitably adjusted to employment for at least 60 days, which is compatible with the limiting effects of his/her service- and non-service-connected disabilities, is consistent with his/her abilities, aptitudes, and interests, and receives wages and benefits commensurate with the wages and benefits received by workers in the goal of the IEAP. If the Veteran is receiving nominal pay or is not being paid, the Veteran must concur that this is the employment he/she desires in lieu of employment with competitive wages.</p> <p>NOTE: Required follow up is a minimum of 12 months for Veterans who enter into self-employment. VREO must concur with the case closure.</p>	<p>Close status with RC 23 using date of the decision and open REH status using the same date JR status is closed.</p> <p>NOTE: This RC is reserved for rehabilitation of Veterans provided employment services only as specified under 38 U.S.C. 3117.</p>

Possible Rehabilitation Outcomes	Required Case Manager Activity
<p>Veteran pursues further education or training after completing IWRP objectives in lieu of obtaining employment, and additional training is not approvable as part of his/her rehabilitation program, but will enhance achievement of suitable employment. This includes when the Veteran elects to use his/her Chapter 33 or other VA educational benefits for this purpose.</p> <p>NOTE: VREO must concur with the case closure.</p>	<p>Close status with RC 25, select DRC 25B – Employable, but Elected to Pursue Further Education, using date of the rehabilitation decision and open REH status using the same date JR status is closed.</p> <p>NOTE: Notify Veteran prior to taking the action and provide 30-day due process period. When the action is taken, notify Veteran of the rehabilitation and provide VAF 4107.</p>

6. Required Notification Letters

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

(a) Notification of Proposed Rehabilitation

(1) Further Education

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 the occupational goal outlined in his/her rehabilitation plan, 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.” Refer to the table in M28R.V.A.7 for additional clarification on due process requirements for rehabilitation closures.

(2) Suitable Employment

A notification letter of the proposed rehabilitation is not required if rehabilitation of the Veteran is a result of completion of the vocational objectives outlined in his/her signed IWRP.

(3) Utilizing Third Party Employment Information

If rehabilitation is proposed for a Veteran based on employment information obtained from a third party when contact with the Veteran has been lost, a notification letter of the proposed rehabilitation is required. Refer to M28R.V.A.7 for detailed instructions for closing a case in rehabilitated status utilizing third party employment information.

(b) 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. If the reason for rehabilitation is any other than suitable employment in the occupation specified in the signed IWRP, the rehabilitation notification must be sent with VAF 4107, Your Rights to Appeal our Decision.

10.06 Re-entrance into a Rehabilitation Program

A Veteran who has been previously declared rehabilitated may receive additional vocational rehabilitation services under provisions of 38 CFR 21.284. The case manager must make a determination as to whether the previous rehabilitation decision must be overturned prior to re-opening a Veteran's claim for Chapter 31 benefits.

a. Rehabilitated

1. Criteria

A Veteran who has been declared rehabilitated under provisions of 38 CFR 21.283 may be provided additional period of training or services only if the Veteran has a compensable service-connected disability and either:

- (a) The Veteran's service-connected disability has worsened to the extent that it precludes him/her from performing the job requirements for which he/she was previously declared rehabilitated, or
- (b) The Veteran's previous employment for which he/she was previously declared rehabilitated is found to be unsuitable based on the Veteran's specific employment handicap and capabilities.

2. Determination

The case manager must make a determination for overturning the previous rehabilitation decision immediately upon receipt of the Veteran's reapplication for vocational rehabilitation. The Veteran will be scheduled for a comprehensive evaluation to determine if he/she meets the criteria for overturning the previous rehabilitation decision, as well as meeting the other basic entitlement criteria to receive Chapter 31 services. This determination must be documented on VAF 28-1902b and filed in the Veteran's CER folder.

(a) If the determination results in a negative decision, the Veteran must be informed in writing to explain the reason(s) for the decision, and be provided with his/her appellate rights via VAF 4107.

(b) If the determination results in a positive decision:

(1) The case manager must submit the case to the VREO for concurrence if the date stamp on the reapplication is less than one year from the date of rehabilitation. VREO concurrence is not required to reopen the case if the reapplication date is one year or more from the date of rehabilitation.

(2) Upon the VREO's concurrence, the Veteran's application will be processed immediately using the Auto-Generated Eligibility Determination (GED) processing.

(3) The Veteran will be scheduled for an appointment for further evaluation and planning of additional services.

b. Periods of Employment Services

A Veteran who has been receiving employment services may be provided an additional period of training and related services, if any of the following conditions is met:

1. The rehabilitation services originally provided to the Veteran are currently determined as inadequate to make the Veteran employable in the occupation for which he/she pursued rehabilitation.
2. The vocational goal or employment that was originally developed for the Veteran is no longer suitable, or

3. Due to technological changes that occurred after the Veteran has been declared job ready, the Veteran is no longer able to:

(a) Perform the duties of the occupation for which he/she trained, or those of a related occupation, or

(b) Obtain employment in the occupation for which he/she trained, or in a related occupation.

c. Multiple Periods of Employment Services

A Veteran may be eligible for employment assistance even if the Veteran has been provided employment services previously in either the VA VR&E program or a vocational rehabilitation program under the Rehabilitation Act of 1973, amended. The Veteran must have completed or participated in employment services for at least 90 days.

For eligibility criteria for employment services, refer to M28R.VI.A.2.