#### Department of Veterans Affairs M29-1, Part 1, Chapter 31

**Veterans Benefits Administration September 6, 2019**

**Washington, DC 20420**

#### Key Changes

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| Changes Included in This Revision | The table below describes the changes included in this revision of Veterans Benefits Insurance Manual M29-1, Part 1, Chapter 31.  ***Notes***:   * **M29-1, Part 1, Chapter 31** has been rewritten in its entirety for improving clarity and readability. Any substantive changes are itemized in the table below. * Minor editorial changes have also been made to * improve clarity and readability * add references * update incorrect or obsolete references * update obsolete terminology, where appropriate * reorganize/relocate content within **M29-1, Part 1, Chapter 31** so that it flows more logically * reassign alphabetical designations to individual blocks, where necessary, to account for new and/or deleted blocks within a topic * update the labels of individual blocks and the titles of sections and topics to more accurately reflect their content, and * bring the document into conformance with M29-1 standards. |

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| Reason(s) for Notable Change | Citation |
| Clarifies that the visual acuity standard is based on the VA Rating Schedule for Organs of Special Sense; eliminates language regarding a requirement that an audiology exam be conducted at a VA-authorized facility as no longer applicable to the insurance programs | Subchapter 31.02 |
| Eliminates language referencing total and permanent disability as applied to gratuitous insurance under the National Service Life Insurance Act of 1940 as no longer applicable to the insurance programs | Subchapter 31.03 |
| Adds Note explaining the background of the “average-person impairment standard” in the context of adjudicating disability for the award of compensation and pension or insurance benefits | Subchapter 31.04 |
| Clarifies that a person should be considered totally disabled if they cannot work and are hospitalized as an inpatient for treatment of disease or injury | Subchapter 31.05 |
| Explains that certain physical conditions may demonstrates periods of remission when the individual may be able to work; explains that certain mental conditions may improve when the individual is on medication or treatment; eliminates language regarding when certain diseases may be in remission; clarifies the standard of “relative good health” | Subchapter 31.07 |

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| Clarifies when a physical disease or illness may interfere with the ability to hold gainful employment (such as epilepsy or HIV/AIDS), either due to social stigma or inability to safely perform the job; eliminates references to diseases that formerly carried social stigma (such as leprosy) as no longer relevant | Subchapter 31.08 |
| Clarifies the circumstances under which an individual’s age should be considered when performing an evaluation for disability benefits | Subchapter 31.09 |
| Clarifies how the individual’s ability to perform in a substantially gainful occupation will be evaluated in the context of an application that claims total disability for purposes of insurance | Subchapter 31.10 |
| Adds definition of marginal employment; explains that it is not to be considered substantially gainful employment; and explains how to evaluate it in the context of an application for total disability benefits | Subchapter 31.11 |
| Adds language explaining the nature of sporadic employment, and how to evaluate such employment in an application for total disability benefits | Subchapter 31.12 |
| Explains the concepts of sheltered employment and working to one’s detriment in the context of an evaluation for total disability benefits | Subchapter 31.13 |
| Explains the purpose and goals of VA’s Compensated Work Therapy (CWT) Program; explains CWT is not considered substantially gainful employment in the context of an evaluation for total disability benefits | Subchapter 31.14 |
| Clarifies that to apply for premium waiver, the policy must have been in force on a premium-paying basis prior to age 65; explains that for the following policies (V, J, JR, JS, RS, W) the applicant must provide proof of either statutory disability or total disability in effect for at least 6 consecutive months; for S-DVI policies, the applicant must provide proof of either statutory disability or total disability in effect for at least 6 consecutive months prior to age 65 | Subchapter 31.16 |
| Explains the process by which a posthumous grant of waiver may be approved; clarifies that a posthumous grant of waiver does not confer entitlement to Supplemental S-DVI coverage; eliminates language regarding Public Law 86-497 and premium waiver on J, JR, or JS policies as no longer applicable to the insurance programs | Subchapter 31.16 |
| Clarifies that VA is on notice of all information either expressly given or implied, when making a decision on a case; provides examples illustrating concept in relation to insurance decision | Subchapter 31.39 |
| Explains criteria for applying principles clear and unmistakable error, equitable relief, and benefit of the doubt. | Subchapter 31.40 |

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| **Reason(s) for Change** | **Citation** |
| Eliminates language regarding amount of income earned from self-employment as no longer relevant to the insurance programs | Subchapter 31.15 |
| Explains the circumstances under which an informal waiver application for S-DVI coverage may be processed by the Insurance Center staff | Subchapter 31.16 |

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| Clarifies that the term premium-paying basis is applicable to all insurance policies; explains that premium waiver may be granted on S-DVI policies even if the total disability began prior to the policy’s effective date; eliminates language referencing insurance issued prior to August 1, 1946 and insurance on aviation students and cadets as no longer applicable to the insurance programs | Subchapter 31.17 |
| Explains that if a waiver application is not submitted at time of claim, it can still be submitted later by the beneficiary under the requirements in 31.16 | Subchapter 31.18 |
| Explains that the date of correspondence from the insured or his legal representative will be used to determine the timeless of a claim for disability benefits; adds Note that explains a valid application may also be submitted via email or the insurance web site; explains that a signature by either the applicant or his representative is not required if the intent to apply for the disability benefit is clear; adds Note that no signature is required for an application submitted via the web site; eliminates language regarding outdated disability application forms; explains that when an insured applies for disability benefits, it will apply to all in force policies, with the exception of Supplemental S-DVI policies | Subchapter 31.19 |
| Clarifies that the maximum amount of a premium refund—for both living and deceased insureds—cannot be greater than one year of back premiums from the date of the application for waiver | Subchapter 31.20 |
| Clarifies the definition of evidence that supports a claim for disability benefits | Subchapter 31.21 |
| Explains the type of documentation that would support a disability benefits application; explains the type of evidence needed to support an untimely application (such as circumstances beyond the insured’s control or adjudicated evidence of the insured’s incompetency); explains that entitlement to disability benefits can be supported by evidence of a statutory condition; explains that pertinent evidence means relevant or applicable evidence; explains the circumstances when lay evidence may be considered | Subchapter 31.22 |
| Clarifies that total disability for insurance purposes means that the applicant was unable to perform substantially gainful employment for at least 6 consecutive months | Subchapter 31.23 |
| Explains how to process an application in which the evidence indicates the applicant experienced multiple periods of total disability; defines unsuccessful work attempts and its impact on total disability determinations | Subchapter 31.25 |
| Explains that the starting date for a disability award is the date on which the first premium is due after the date of determination of total disability; eliminates language regarding effective date of disability award when failure to file was outside insured’s control; eliminates language regarding exchange of an RS insurance policy as no longer applicable to the insurance programs | Subchapter 31.26 |
| Explains that in cases of multiple policies the termination of the disability award date may not be the same date due to premium cycling | Subchapter 31.27 |

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| Explains the time limits under which an applicant will be considered as having failed to cooperate in providing the information needed to support his claim for disability benefits | Subchapter 31.28 |
| Explains the circumstances under which the disability award will remain in effect for insured’s who fail to cooperate with requests for evidence (for example, the insured’s VA record indicates he is unemployable, or adjudicated incompetent); explains that the appeal period is not extended in cases where a disability award is terminated due to failure to cooperate, the insured submits evidence, and a supplemental decision still results in termination of the award. | Subchapter 31.29 |
| Explains that new and relevant evidence submitted by the applicant either during or after the appeals period may result in a reconsideration of the decision on whether to approve an award of disability benefits | Subchapter 31.30 |
| Clarifies that all available VA systems and evidence will be examined during a routine review of an insured’s current medical status to determine whether to continue the disability award, and additional evidence will only be requested from the insured, if necessary; removes outdated language referring to a Medical Consultant | Subchapter 31.31 |
| Clarifies that in cases where the total disability award has existed for at least 20 years, that the starting date for the disability will begin on a date determined by either VA Compensation or Insurance Service, or federal court | Subchapter 31.32 |
| Eliminates prior subchapters referencing requirements pertaining to the approval of Total Disability Income Provision (TDIP) awards as no longer relevant to the insurance programs | Previous Subchapters 31.33—31.36 |
| Eliminates reference to TDIP under 38 USC 1981 as no longer applicable to the insurance program | New Subchapter 31.33 |
| Eliminates language referencing the in-service waiver of premiums as no longer applicable to the insurance programs; eliminates redundant language on claims for waiver after the death of the insured | Prior Subchapter 31.38 |
| Clarifies that a finding of incompetency by the insured primarily involves issues of financial competency (able to handle finances); a previous finding of incompetency will be considered valid in the absence of evidence that the insured has subsequently recovered | New Subchapter 31.34 |
| Eliminates reference to incontestability provisions regarding USGLI or War Risk Insurance policies as no longer applicable to the insurance programs | New Subchapter 31.35 |
| Eliminates language indicating that a finding of fraud should only be made if the government could assert a defense of fraud in a court of law | New Subchapter 31.37 |
| Eliminates the criteria of “detriment” for fraud determinations | New Subchapter 31.38 |
| Eliminates language allowing Insurance to not refer for fraud prosecution cases involving doctors or insureds with severe handicaps | New Subchapter 31.41 |
| Revises the language to address changes in the calculations, transfers, and accounting for extra hazards of military service | New Subchapter 31.42 |

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| Rescissions | None |

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| Authority | By Direction of the Under Secretary for Benefits |

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| Signature | Vincent E. Markey, Director  Insurance Service |

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