§ 21.283  Rehabilitated.

(a) General. For purposes of chapter 31 a veteran shall be declared rehabilitated when he or she has overcome the employment handicap to the maximum extent feasible as described in paragraph (c), (d) or (e) of this section.

(b) Definition. The term “suitably employed” includes employment in the competitive labor market, sheltered situations, or on a nonpay basis which is consistent with the veteran’s abilities, aptitudes and interests if the criteria contained in paragraph (c) (1) or (2) of this section are otherwise met.

(c) Rehabilitation to the point of employability has been achieved. The veteran who has been found rehabilitated to the point of employability shall be declared rehabilitated if he or she:

(1) Is employed in the occupational objective for which a program of services was provided or in a closely related occupation for at least 60 continuous days;

(2) Is employed in an occupation unrelated to the occupational objective of the veteran’s rehabilitation plan for at least 60 continuous days if the veteran concurs in the change and such employment:

(i) Follows intensive, yet unsuccessful, efforts to secure employment for the veteran in the occupation objective of a rehabilitation plan for a closely related occupation contained in the veteran’s rehabilitation plan;

(ii) Is consistent with the veteran’s aptitudes, interests, and abilities; and

(iii) Utilizes some of the academic, technical or professional knowledge and skills obtained under the rehabilitation plan;

(3) Pursues additional education or training, in lieu of obtaining employment, after completing his or her prescribed program of training and rehabilitation services if:

(i) The additional education or training is not approvable as part of the veteran’s rehabilitation program under this chapter; and

(ii) Achievement of employment consistent with the veteran’s aptitudes, interests, and abilities will be enhanced by the completion of the additional education or training.

(Authority: 38 U.S.C. 3101 (1), 3107 and 3117)

(d) Rehabilitation to the point of employability has not been completed. A veteran under a rehabilitation plan who obtains employment without being declared rehabilitated to the point of employability as contemplated by the plan, including a veteran in a rehabilitation program consisting solely of employment services, is considered to be rehabilitated if the following conditions exist:

(1) The veteran obtains and retains employment substantially using the services and assistance provided under the plan for rehabilitation;

(2) The employment obtained is consistent with the veteran’s abilities, aptitudes and interests.

(Authority: 38 U.S.C. 3101 (1), 3107 and 3117)
§ 21.284 Reentrance into a rehabilitation program.

(a) Reentrance into rehabilitation to the point of employability following a determination of rehabilitation. A veteran who has been found rehabilitated under provisions of §21.283 may be provided an additional period of training or services only if the following conditions are met:

1. The veteran has a compensable service-connected disability and either:
   a. Current facts, including any relevant medical findings, establish that the veteran's service-connected disability has worsened to the extent that the effects of the service-connected disability considered in relation to other facts precludes him or her from performing the duties of the occupation for which the veteran previously was found rehabilitated; or
   b. Experience during the period of employment services has demonstrated that employment in the objective or field for which the veteran was rehabilitated to the point of employability should not reasonably have been expected at the time the program was originally developed; or
   c. The veteran, because of technological change which occurred subsequent to the declaration of rehabilitation to the point of employability, is no longer able:
      i. To perform the duties of the occupation for which he or she trained, or in a related occupation; or