

**§ 21.3100**

**38 CFR Ch. I (7-1-10 Edition)**

shall be for the length of time that the individual was prevented from initiating or completing his or her chosen program of education. This shall be determined as follows:

(1) If the eligible spouse or surviving spouse is in training in a course organized on a term, quarter, or semester basis, his or her extended period of eligibility shall contain the same number of days as the number of days from the date during the eligible spouse's or surviving spouse's original period of eligibility that his or her training became medically infeasible to the earliest of the following dates:

(i) The commencing date of the ordinary term, quarter, or semester following the day the eligible spouse's or surviving spouse's training became medically feasible;

(ii) The ending date of the eligible spouse's or surviving spouse's period of eligibility as determined by § 21.3046(c); or

(iii) The date the eligible spouse or surviving spouse resumed training.

(2) If the eligible spouse or surviving spouse is training in a course not organized on a term, quarter, or semester basis, his or her extended period of eligibility shall contain the same number of days from the date during the eligible spouse's or surviving spouse's original period of eligibility that his or her training became medically infeasible to the earlier of the following dates:

(i) The date the eligible spouse's or surviving spouse's training became medically feasible; or

(ii) The ending date of the eligible spouse's or surviving spouse's period of eligibility as determined by § 21.3046.

(Paperwork requirements were approved by the Office of Management and Budget under control number 2900-0573)

(Authority: 38 U.S.C. 3512(b))

[62 FR 51784, Oct. 3, 1997]

**COUNSELING**

SOURCE: 61 FR 26109, May 24, 1996, unless otherwise noted.

**§ 21.3100 Counseling.**

(a) *Purpose of counseling.* The purpose of counseling is to assist:

(1) In selecting an educational or training objective;

(Authority: 38 U.S.C. 3520)

(2) In developing a suitable program of education or training;

(Authority: 38 U.S.C. 3520)

(3) In selecting an educational institution or training establishment appropriate for the attainment of the educational or training objective;

(Authority: 38 U.S.C. 3561(a))

(4) In resolving any personal problems which are likely to interfere with successful pursuit of a program;

(Authority: 38 U.S.C. 3561(a))

(5) In selecting an employment objective for the eligible person that would be likely to provide the eligible person with satisfactory employment opportunities in light of his or her circumstances.

(Authority: 38 U.S.C. 3520, 3561(a))

(b) *Availability of counseling.* Counseling assistance is available for—

(1) Identifying and removing reasons for academic difficulties which may result in interruption or discontinuance of training; or

(2) In considering changes in career plans, and making sound decisions about the changes.

(Authority: 38 U.S.C. 3520, 3561(a))

(c) *Provision of counseling.* VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (b) of this section upon the request of the eligible person.

(Authority: 38 U.S.C. 3520, 3561(a))

**§ 21.3102 Required counseling.**

(a) *Child.* The VA counseling psychologist will provide counseling and assist in preparing the educational plan only if the eligible child or his or her parent or guardian requests assistance, except that counseling is required for an eligible child if—

(1) The eligible child may require specialized vocational training or special restorative training; or

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(2) The eligible child has reached the compulsory school attendance age under State law, but has neither reached his or her 18th birthday, nor completed secondary schooling. See § 21.3040(a).

(b) *Spouse or surviving spouse.* Counseling is required for a spouse or surviving spouse only if he or she desires specialized vocational training.

(Authority: 38 U.S.C. 3520, 3536, 3541, 3561)

### § 21.3103 Failure to cooperate.

VA will not act further on an eligible person's application for assistance under 38 U.S.C. chapter 35 when counseling is required for him or her and the eligible person—

(a) Fails to report;

(b) Fails to cooperate in the counseling process; or

(c) Does not complete counseling to the extent required under § 21.3102.

(Authority: 38 U.S.C. 3536, 3541, 3561(a))

### § 21.3104 Special training.

(a) *Initial counseling.* A counseling psychologist or vocational rehabilitation counselor in the Vocational Rehabilitation and Employment Division will counsel an eligible person with a disability who is a child, spouse, or surviving spouse before referring the case to the Vocational Rehabilitation Panel (established under § 21.60) for consideration as to the child's, spouse's or surviving spouse's need for a course of specialized vocational training or special restorative training. After consulting with the panel, and considering the panel's report, the counseling psychologist or vocational rehabilitation counselor will determine if the child, spouse, or surviving spouse needs a course of specialized vocational training or special restorative training, and where need is found to exist will prescribe a course which is suitable to accomplish the goals of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3536, 3540-3543, 3561(a))

(b) *Counseling after special restorative training.* When an eligible person completes or discontinues a course of special restorative training without having selected an objective and a program of education, a counseling psy-

chologist or vocational rehabilitation counselor in the Vocational Rehabilitation and Employment Division will provide additional counseling to assist him or her in selecting a program of education suitable to accomplish the purposes of 38 U.S.C. chapter 35.

(Authority: 38 U.S.C. 3561)

[61 FR 26109, May 24, 1996, as amended at 73 FR 2424, Jan. 15, 2008]

### § 21.3105 Travel expenses.

(a) *General.* VA shall determine and pay the necessary expense of travel to and from the place of counseling for an eligible person who is required to receive counseling as provided under 38 U.S.C. 111 (a), (d), (e), and (g).

(Authority: 38 U.S.C. 111 (a), (d), (e), and (g))

(b) *Restriction.* VA will not pay the necessary cost of travel to and from the place of counseling when counseling is not required, but is provided as a result of a voluntary request by the eligible person.

(Authority: 38 U.S.C. 111)

## PAYMENTS

### § 21.3130 Educational assistance.

(a) *Approval of a program of education.* VA will approve a program of education selected by an eligible person if:

(1) The program is described in § 21.3021 (h) and (i) or (j);

(2) The individual is not already qualified for the objective of the program of education;

(3) The proposed educational institution or training establishment is in compliance with all the requirements of 38 U.S.C. chapters 35 and 36; and

(4) It does not appear that the enrollment in or pursuit of such person's program of education would violate any provision of 38 U.S.C. chapters 35 and 36.

(Authority: 38 U.S.C. 3521)

(b) *Payments.* VA will pay educational assistance at the rate specified in § 21.3131 (subject to the reductions required by § 21.3132) while the eligible