§ 21.5076 Entitlement charge—overpayment cases.

(a) Overpayment cases. VA will make a charge against an individual’s entitlement of an overpayment of educational assistance allowance only if:

(1) The overpayment is discharged in bankruptcy; or

(2) VA waives the overpayment and does not recover it; or

(3) The overpayment is compromised.

(b) Debt discharged in bankruptcy or is waived. If the overpayment is discharged in bankruptcy or is waived and is not recovered, the entitlement charge will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(c) Overpayment is compromised. If the overpayment is compromised and the compromise offer is less than the amount of interest, administrative costs of collection, court costs and marshal fees, the charge against entitlement will be at the appropriate rate for the elapsed period covered by the overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(ii) Subtracting the remaining amount of the overpayment balance determined in paragraph (c)(2)(i) of this section from the amount of the original overpayment (exclusive of interest, administrative costs of collection, court costs and marshal fees).

(iii) Dividing the result obtained in paragraph (c)(2)(ii) of this section by the amount of the original debt (exclusive of interest, administrative costs of collection, court costs and marshal fees), and

(iv) Multiplying the percentage obtained in paragraph (c)(2)(iii) of this section by the amount of the entitlement otherwise chargeable for the period of the original overpayment.

§ 21.5078 Interruption to conserve entitlement.

(a) Interruption to conserve entitlement generally prohibited. No one may interrupt a certified period of enrollment for the purpose of conserving entitlement. A school may not certify a period of enrollment for a fractional part of the normal term, quarter or semester if the individual actually is enrolled and is pursuing his or her program of education for the entire term, quarter or semester.

(b) Exceptions. The Department of Veterans Affairs will charge entitlement for the entire period of enrollment certified if the individual otherwise is eligible for benefits, except when benefits are interrupted under any of the following conditions:

(1) Enrollment actually is terminated.

(2) Enrollment is canceled and the individual has not negotiated an educational benefits check for any part of the certified period of enrollment.

(3) The individual:

(i) Intermits his or her enrollment at the scheduled end of any term, quarter, semester or school year within the certified period of enrollment; and

(ii) Has not negotiated any check for educational benefits for the succeeding term, quarter, semester or school year.
§ 21.5100 Counseling.

(a) Purpose. The purpose of counseling is:

(1) To assist in selecting an objective;
(2) To develop a suitable program of education or training; and
(3) To resolve any personal problems which are likely to interfere with the successful pursuit of a program.

(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.

(c) Optional counseling. VA shall provide counseling as needed for the purposes identified in paragraphs (a) and (b) of this section upon request of the individual. VA shall take appropriate steps (including individual notification where feasible) to acquaint all participants with the availability and advantages of counseling services.

(d) Required counseling. (1) In any case in which VA has rated the veteran as being incompetent, VA must provide counseling as described in 38 U.S.C. 3697A prior to selection of a program of education or training. The counseling will follow the veteran's initial application for benefits or any communication from the veteran or guardian indicating that the veteran wishes to change his or her program. This requirement that counseling be provided is met when—

(i) The veteran has had one or more personal interviews with the counselor;
(ii) The counselor has jointly developed with the veteran recommendations for selecting a program;
(iii) These recommendations have been reviewed with the veteran.

(2) The veteran may follow the recommendations developed in the course of counseling, but is not required to do so.

(3) VA will take no further action on a veteran's application for assistance under 38 U.S.C. chapter 32 unless he or she—

(i) Reports for counseling;
(ii) Cooperates in the counseling process; and
(iii) Completes counseling to the extent required under paragraph (d)(1) of this section.

§ 21.5103 Travel expenses.

(a) General. VA shall determine and pay the necessary expense of travel to and from the place of counseling for a veteran who is required to receive counseling as provided under 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 veteran.

§ 21.5130 Payments; educational assistance allowance.

VA will apply the following sections in administering benefits payable under 38 U.S.C. Chapter 32:

(a) Section 21.4131—Commencing dates (except paragraph (d)).