

at all other times. The Coast Guard believes that these proposed changes will relieve highway traffic congestion and not cause an undue hardship on navigation.

The text of the current regulation, Section 117.833 would be redesignated as paragraph (a) and a new paragraph (b) would be added for the new regulation.

### Regulatory Evaluation

This proposed rule is not a significant regulatory action under section 3(f) of Executive Order 12866 and does not require an assessment of potential costs and benefits under section 6(a)(3) of that order. It has been exempted from review by the Office of Management and Budget under that order. It is not significant under the regulatory policies and procedures of the Department of Transportation (DOT) (44 FR 11040; February 26, 1979). The Coast Guard expects the economic impact of this proposed rule to be so minimal that a full Regulatory Evaluation under paragraph 10e of the regulatory policies and procedures of DOT is unnecessary.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Coast Guard must consider whether this proposed rule will have a significant economic impact on a substantial number of small entities. "Small entities" include independently owned and operated small businesses that are not dominant in their field and that otherwise qualify as "small business concerns" under section 3 of the Small Business Act (15 U.S.C. 632). Because it expects the impact of this proposed rule to be minimal, the Coast Guard certifies under 5 U.S.C. 605(b) that this proposal, if adopted, will not have a significant economic impact on a substantial number of small entities.

### Collection of Information

This proposal contains no collection of information requirements under the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*).

### Federalism

The Coast Guard has analyzed this proposal under the principles and criteria contained in Executive Order 12612, and has determined that this proposed rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

### Environment

The Coast Guard considered the environmental impact of this proposal and concluded that under section 2.B.2.e(32)(e) of Commandant

Instruction M16475.1B (as amended, 59 FR 38654, 29 July 1994), this proposed rule is categorically excluded from further environmental documentation. A Categorical Exclusion Determination statement has been prepared and placed in the rulemaking docket.

### List of Subjects in 33 CFR Part 117

Bridges.

### Regulations

In consideration of the foregoing, the Coast Guard proposes to amend Part 117 of Title 33, Code of Federal Regulations as follows:

#### PART 117—DRAWBRIDGE OPERATION REGULATIONS

1. The authority citation for Part 117 continues to read as follows:

**Authority:** 33 U.S.C. 499; 49 CFR 1.46; 33 CFR 1.05–1(g); section 117.255 also issued under the authority of Pub. L. 102–587, 106 Stat. 5039.

2. The text of Section 117.833 is redesignated as paragraph (a) and a new paragraph (b) is added to read as follows:

#### § 117.833 Pasquotank river.

(a) \* \* \*

(b) The draw of the US 158 Highway Bridge, mile 50.7, at Elizabeth City, shall open on signal; except that between 7 a.m. and 9 a.m., and 4 p.m. and 6 p.m., Monday through Friday, the draw need open only at 7:30 a.m., 8:30 a.m., 4:30 p.m., and 5:30 p.m. for any pleasure vessels waiting to pass.

Dated: June 13, 1997.

**Roger T. Rufe, Jr.,**

*Vice Admiral, U.S. Coast Guard Commander, Fifth Coast Guard District.*

[FR Doc. 97–17072 Filed 6–30–97; 8:45 am]

BILLING CODE 4910–14–M

### DEPARTMENT OF VETERANS AFFAIRS

#### 38 CFR Part 21

RIN 2900–AI72

#### Provision of Vocational Training and Rehabilitation to Vietnam Veterans' Children With Spina Bifida

**AGENCY:** Department of Veterans Affairs.  
**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to establish Department of Veterans Affairs (VA) regulations for providing vocational training and rehabilitation to Vietnam veterans' children with spina bifida. This is necessary for providing vocational training and rehabilitation to

these children under recently enacted legislation that authorizes this benefit. This document also requests Paperwork Reduction Act comments concerning the proposed collections of information contained in this document.

**DATES:** Comments must be received on or before September 2, 1997.

**ADDRESSES:** Mail or hand deliver written comments to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900–AI72." All written comments received will be available for public inspection at the above address in the Office of Regulations Management, Room 1158, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday (except holidays).

**FOR FURTHER INFORMATION CONTACT:** Charles A. Graffam, Veterans Claims Examiner, Vocational Rehabilitation and Counseling Service (28), Department of Veterans Affairs, 810 Vermont Ave., NW, Washington, DC 20420; (202) 273–7410.

**SUPPLEMENTARY INFORMATION:** This document proposes to amend 38 U.S.C. part 21, Vocational Rehabilitation and Education, to set forth a new subpart M regarding the provision of vocational training, services, and assistance to Vietnam veterans' children with spina bifida. Spina bifida is a congenital birth defect, characterized by defective closure of the bones surrounding the spinal cord. The spinal cord and its covering (the meninges) may protrude through the defect. A 1996 study by the National Academy of Sciences found limited or suggestive evidence that associated parental exposure to herbicides in Vietnam and increased risk of spina bifida in their children.

The provisions of 38 U.S.C. chapter 18 (section 421, Pub. L. 104–204, September 26, 1996) provide for three separate types of benefits for Vietnam veterans' children who suffer from spina bifida: (1) Monthly monetary allowances; (2) provision of health care needed for the spina bifida or any disability associated with the spina bifida; and (3) provision of vocational training and rehabilitation. In the **Federal Register** of May 1, 1997, VA published companion documents to this one, setting forth proposed rules concerning the first two of these benefits: Monetary Allowance Under 38 U.S.C. 1805 for a Child Born with Spina Bifida Who Is a Child of a Vietnam Veteran (62 FR 23724) and Provision of Health Care to Vietnam Veterans'

### Children With Spina Bifida (62 FR 23731).

As a condition of eligibility for vocational training and rehabilitation, it is proposed that a child must be eligible for a monetary allowance under the provisions setting forth a mechanism for monthly monetary payments relating to spina bifida. This would ensure that VA has determined that each child is a Vietnam veteran's child suffering from spina bifida and would obviate the need for duplicate medical determinations.

This proposed rule sets forth a mechanism for providing vocational training and rehabilitation to Vietnam veterans' children with spina bifida. In part, the proposed rule restates statutory provisions in Public Law 104-204.

For a child to be eligible for vocational training and employment assistance and services under Public Law 104-204, VA must determine that:

- The child's natural parent is a veteran who performed active military, naval, or air service in the Republic of Vietnam during the Vietnam era (the period from February 28, 1961 through May 7, 1975) and who, as provided in 38 U.S.C. 101(2), was not dishonorably discharged;
- The child was conceived after the veteran first entered Vietnam during the Vietnam era; and
- The child has a form or manifestation of spina bifida other than spina bifida occulta.

It is proposed that a Vietnam veteran's child with spina bifida receive testing and evaluative services, as needed, similar to the testing and services that VA offers a veteran for the purposes of evaluation for eligibility and entitlement under a vocational rehabilitation program under 38 U.S.C. chapter 31. These testing and evaluative services are appropriate for determining whether it is reasonably feasible for the child to achieve a vocational goal and to guide the child, parent, or guardian in choosing a vocational training program for the child.

It is proposed that an eligible child with spina bifida would receive vocational training program services and assistance under provisions that, under the 38 U.S.C. chapter 31 program, already apply to vocational training program services and assistance for eligible veterans with service-connected disabilities. In this regard, it is proposed that the following provisions of 38 CFR part 21, subpart A, would apply as set forth in the text portion of this document:

- Section 21.35 concerning certain definitions and explanations (see proposed § 21.8012).

- Section 21.250 (a) and (b)(2), concerning provision of employment services, including the definition of job development; § 21.252 concerning job development and placement services; § 21.254 concerning supportive services; § 21.256 concerning incentives for employers; and §§ 21.257 and 21.258 concerning rehabilitation through self-employment, including special assistance for persons engaged in self-employment programs (see proposed § 21.8020).

- Sections 21.50(b)(5) and 21.53 (b) and (d) concerning the scope and nature of an evaluation of the reasonable feasibility of achieving a vocational goal (see proposed § 21.8032).

- Sections 21.80, 21.84, and 21.88 concerning the requirements for an individualized written plan of vocational rehabilitation and its purposes, to include employment assistance; and §§ 21.92, 21.94 (a) through (d), and 21.96 concerning preparation of, changes to, and review of an individualized written plan of vocational rehabilitation (see proposed §§ 21.8080 and 21.8082).

- Sections 21.100 and 21.380 concerning counseling (see proposed § 21.8100).

- Section 21.120 concerning vocational training; §§ 21.122 through 21.132 concerning types of allowable vocational training; and § 21.146 concerning independent instructor courses (see proposed § 21.8120).

- Sections 21.290 through 21.298 concerning course approval and facility selection (except that the provisions pertaining to use of facilities offering independent living services to evaluate independent living potential (see § 21.294(b)(1)(i)) and to provide a program of independent living services to individuals for whom an Individualized Independent Living Plan (IILP) has been developed (see § 21.294(b)(1)(ii)) do not apply, and provisions concerning authorization of independent living services as an incidental part of a plan (see § 21.294(b)(1)(iii)) apply, in a comparable manner as for veterans under the 38 U.S.C. chapter 31 program, only to the extent allowable under proposed § 21.8050 for an individualized written plan of vocational rehabilitation) (see proposed §§ 21.8120 and 21.8286).

- Sections 21.142 (a) and (b); § 21.144; § 21.146; § 21.148 (a) and (c); § 21.150, other than paragraph (b); § 21.152, other than paragraph (b); § 21.154, other than paragraph (b); and § 21.156 concerning special rehabilitative services of the following types: adult basic education, vocational

course in a sheltered workshop or rehabilitation facility, independent instructor course, tutorial assistance, reader service, interpreter service for the hearing impaired, special transportation assistance, and other vocationally oriented incidental services (see proposed § 21.8140).

- Sections 21.212 through 21.224 concerning supplies (however, the following provisions do not apply to this subpart: section 21.216(a)(3) concerning special modifications, including automobile adaptive equipment; § 21.220(a)(1) concerning advancements from the 38 U.S.C. chapter 31 program revolving loan fund; and § 21.222(b)(x) concerning release or repayment for independent living services program supplies) (see proposed § 21.8210).

- Section 21.262 concerning reimbursement for costs of training and rehabilitation facilities, supplies, and services (see proposed § 21.8260).

- Sections 21.60 and 21.62 concerning a medical consultant and the Vocational Rehabilitation Panel and § 21.310 concerning rate of pursuit measurement (see proposed § 21.8310).

- Section 21.326 concerning the commencement and termination dates of a period of employment services (see proposed § 21.8320).

- Sections 21.362 and 21.364 concerning satisfactory conduct and cooperation (see proposed § 21.8360).

- Section 21.154 concerning special transportation allowance; § 21.370 (however, the words "under § 21.282" in § 21.370(b)(2)(iii)(B) do not apply) and § 21.372 concerning intraregional and interregional travel at government expense; and § 21.376 concerning authorization of transportation services for evaluation or counseling (see proposed § 21.8370).

- Section 21.380 concerning personnel qualification standards; §§ 21.412 and 21.414 (except § 21.414(c), (d), and (e)) concerning finality and revision of decisions; § 21.420 concerning notification that VA will provide as to findings, decisions, and appeal rights; and § 21.430 concerning accountability for authorization and payment of program costs for training and rehabilitation services (see proposed § 21.8380).

As set forth in the text portion of this document, these provisions appear to be appropriate to apply to the provision of vocational training and rehabilitation to Vietnam veterans' children with spina bifida.

It is also proposed to allow Veterans Benefits Administration officials to inform children who have spina bifida, as well as parents or guardians of

children with spina bifida, about any vocational training and rehabilitation that may be available at not-for-profit charitable entities or under other governmental and nongovernmental programs to either substitute for or supplement services and assistance available under this subpart.

It is proposed that VA provide case management to assist the eligible child throughout a planned vocational training program. This would help to ensure that the child achieves the maximum vocational benefit from the program.

#### **Paperwork Reduction Act**

Under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520), collections of information are set forth in the provisions of the proposed §§ 21.8014, 21.8016, and 21.8370. Proposed § 21.8014 would prescribe the information to be submitted for an application for a Vietnam veteran's child suffering from spina bifida to participate in a VA vocational training program. Proposed § 21.8016 would require a written election of benefits, and would permit reelections between the benefits under this subpart and those under 38 U.S.C. chapter 35 by a child eligible for both benefits. Proposed § 21.8370 would permit a request for reimbursement for certain transportation costs and would require submission of supporting documentation to receive reimbursement. As required under section 3507(d) of the Act, VA has submitted a copy of this rulemaking action to the Office of Management and Budget (OMB) for its review of the proposed collections of information.

OMB assigns a control number for each collection of information it approves. VA may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Comments on the proposed collections of information should be submitted to the Office of Management and Budget, Attention: Desk Officer for the Department of Veterans Affairs, Office of Information and Regulatory Affairs, Washington, DC 20503, with copies mailed or hand-delivered to: Director, Office of Regulations Management (02D), Department of Veterans Affairs, 810 Vermont Ave., NW, Room 1154, Washington, DC 20420. Comments should indicate that they are submitted in response to "RIN 2900-AI72".

*Title:* Application for Spina Bifida Vocational Training Benefits.

*Summary of collection of information:* The provisions of the proposed 38 CFR 21.8014 would establish a requirement that a child with spina bifida submit an application for vocational training to be considered for this benefit.

*Description of need for information and proposed use of information:* VA needs to know sufficient identifying information about the applicant and the applicant's natural parent who was a Vietnam veteran to be able to relate the claim to other existing VA records. The information collected allows the Vocational Rehabilitation and Counseling (VR&C) Division to review the existing records and to set up an appointment for an applicant to meet with a VR&C staff member to evaluate the claim.

*Description of likely respondents:* Adult children with spina bifida, parents or guardians of minor or incompetent children with spina bifida, authorized representatives, or Members of Congress.

*Estimated number of respondents:* 500.

*Estimated frequency of responses:* Once.

*Estimated total annual reporting and recordkeeping burden:* 125 reporting burden hours. The total annual reporting burden is based on each respondent taking 15 minutes to write to VA indicating a desire to take part in a vocational training program and providing the necessary identifying information. Although there is no set format for this application, the applicant must provide certain information to perfect the claim. There are no recordkeeping requirements.

*Estimated average burden per collection:* 15 minutes.

*Title:* Election of Benefits Between Benefits Under 38 U.S.C. Chapter 35 and Vocational Training Benefits for Vietnam Veterans' Children Suffering from Spina Bifida.

*Summary of collection of information:* The provisions of the proposed 38 CFR 21.8016 would require a written election, and permit a written reelection, of which benefit a child with spina bifida wants to receive if the child is eligible for training under both 38 U.S.C. chapter 35 and Vocational Training Benefits for Vietnam Veterans' Children for Spina Bifida.

*Description of need for information and proposed use of information:* 38 U.S.C. 1804(e)(1) specifically bars the concurrent receipt of benefits under these two programs. VA will use the collected information to provide the benefit the child wants to receive.

*Description of likely respondents:* Children with spina bifida who have at

least one parent who either died as a result of a service-connected condition or who is rated as 100 percent disabled for a service-connected condition, thus qualifying the child 38 U.S.C. chapter 35 benefits.

*Estimated number of respondents:* 25. Very few of the eligible children will have a parent who qualifies the child for 38 U.S.C. chapter 35 benefits.

*Estimated frequency of responses:* Once.

*Estimated total annual reporting and recordkeeping burden:* 2.5 reporting burden hours. The total annual reporting burden is based on each respondent taking 5 minutes to write out and sign an election statement. There is no set format for this election. There are no recordkeeping requirements.

*Estimated average burden per collection:* 5 minutes.

*Title:* Request for Transportation Expense Reimbursement.

*Summary of collection of information:* The provisions of the proposed 38 CFR 21.8370 would require a child receiving vocational training to request VA payment for travel expenses. VA must determine that the child would be unable to pursue training or employment or employment without this assistance. To obtain payment, the child must submit documentation showing the expenses of transportation.

*Description of need for information and proposed use of information:* A child must specifically request VA assistance with transportation expenses. This allows VA to investigate the child's situation to establish that the child would be unable to pursue training or employment without VA travel assistance. To receive payment, the child must provide supportive documentation of actual expenses incurred for the travel. This prevents VA from making payment erroneously or for fraudulently claimed travel.

*Description of likely respondents:* Children with spina bifida.

*Estimated number of respondents:* 100. Approximately half of the children who plan and enter a program (200) will need VA financial support for their transportation expenses while in a program.

*Estimated frequency of responses:* Once for the initial request; monthly to obtain the travel reimbursement.

*Estimated total annual reporting and recordkeeping burden:* 125 reporting burden hours. Each respondent will require 15 minutes to prepare and submit the initial request. (100×1/4 hour=25 hours.) Each respondent will then require 5 minutes to copy and

submit receipts for transportation expenses to obtain reimbursement. (100×12×1/12 hour=100 hours.)

*Estimated average burden per collection:* 1 hour and 15 minutes.

The Department considers comments by the public on proposed collections of information in—

- Evaluating whether the proposed collections of information are necessary for the proper performance of the functions of the Department, including whether the information will have practical utility;

- Evaluating the accuracy of the Department's estimate of the burden of the proposed collections of information, including the validity of the methodology and assumptions used;

- Enhancing the quality, usefulness, and clarity of the information to be collected; and

- Minimizing the burden of the collections of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

OMB is required to make a decision concerning the collections of information contained in this proposed rule between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment on the proposed regulations.

#### **Executive Order 12866**

This proposed rule has been reviewed by OMB under Executive Order 12866.

#### **Regulatory Flexibility Act**

The Secretary of Veterans Affairs hereby certifies that the adoption of the proposed rule would not have a significant economic impact on a substantial number of small entities as they are defined in the Regulatory Flexibility Act, 5 U.S.C. 601–612. It is estimated that there are only between 600–2,000 Vietnam veterans' children who suffer from spina bifida. They are widely dispersed geographically, and the services provided to them would not have a significant impact on any small businesses. Moreover, the institutions capable of providing appropriate services and vocational training to children with spina bifida are generally large capitalization facilities. Therefore, pursuant to 5 U.S.C. 605(b), this proposed rule is exempt from the initial and final regulatory flexibility analyses requirements of sections 603 and 604.

There is no Catalog of Federal Domestic Assistance program number for this benefit.

#### **List of Subjects in 38 CFR Part 21**

Administrative practice and procedure, Armed forces, Civil rights, Claims, Colleges and universities, Conflicts of interest, Defense Department, Education, Employment, Government contracts, Grant programs—education, Grant programs—veterans, Health care, Loan programs—education, Loan programs—veterans, Manpower training programs, Personnel training programs, Reporting and recordkeeping requirements, Schools, Travel and transportation expenses, Veterans, Vocational education, Vocational rehabilitation.

Approved: May 27, 1997.

**Jesse Brown,**

*Secretary of Veterans Affairs.*

For the reasons set forth in the preamble, 38 CFR part 21 is proposed to be amended as set forth below:

### **PART 21—VOCATIONAL REHABILITATION AND EDUCATION**

In part 21, subpart M is added to read as follows:

#### **Subpart M—Vocational Training and Rehabilitation for Vietnam Veterans' Children With Spina Bifida**

##### **General**

Sec.

21.8010 Vocational training program for certain Vietnam veterans' children with spina bifida.

21.8012 Definitions and abbreviations.

21.8014 Application.

21.8016 Nonduplication of benefits.

##### **Basic Entitlement Requirements**

21.8020 Entitlement to vocational training and employment assistance.

21.8022 Entry and reentry.

##### **Evaluation**

21.8030 Requirement for evaluation of child.

21.8032 Evaluations.

##### **Services and Assistance to Program Participants**

21.8050 Scope of training, services, and assistance.

##### **Duration of Training**

21.8070 Basic duration of a vocational training program.

21.8072 Authorizing training, services, and assistance beyond the initial individualized written plan of vocational rehabilitation.

21.8074 Computing the period for vocational training program participation.

##### **Individualized Written Plan of Vocational Rehabilitation**

21.8080 Requirement for an individualized written plan of vocational rehabilitation.

21.8082 Inability of child to complete individualized written plan of vocational rehabilitation or achieve vocational goal.

##### **Counseling**

21.8100 Counseling.

##### **Vocational Training, Services, and Assistance**

21.8120 Vocational training, services, and assistance.

##### **Evaluation and Improvement of Vocational Potential**

21.8140 Evaluation and improvement of vocational potential.

##### **Supplies**

21.8210 Supplies.

##### **Program Costs**

21.8260 Training and rehabilitation costs.

##### **Vocational Training Program Entrance, Termination, and Resources**

21.8280 Effective date of induction into a vocational training program.

21.8282 Termination of a vocational training program.

21.8284 Additional vocational training.

21.8286 Training resources.

##### **Rate of Pursuit**

21.8310 Rate of pursuit.

##### **Authorization of Services**

21.8320 Authorization of services.

##### **Leaves of Absence**

21.8340 Leaves of absence.

##### **Satisfactory Conduct and Cooperation**

21.8360 Satisfactory conduct and cooperation.

##### **Transportation Services**

21.8370 Authorization of transportation services.

##### **Additional Applicable Regulations**

21.8380 Additional applicable regulations.

##### **Delegation of Authority**

21.8410 Delegation of authority.

**Authority:** 38 U.S.C. 101, 501, 512, 1151 note, 1801–1806, 5112, unless otherwise noted.

#### **Subpart M—Vocational Training and Rehabilitation for Vietnam Veterans' Children With Spina Bifida**

##### **General**

**§ 21.8010 Vocational training program for certain Vietnam veterans' children with spina bifida.**

VA will provide an evaluation to a Vietnam veteran's child who VA has determined under § 3.814 of this title suffers from spina bifida. If this evaluation establishes that it is feasible

for the child to achieve a vocational goal, VA will provide the child with the vocational training, employment assistance, and other related rehabilitation services authorized by this subpart that VA finds the child needs to enable the child to achieve a vocational goal, including employment.

(Authority: 38 U.S.C. 1804)

#### **§ 21.8012 Definitions and abbreviations.**

(a) *Program-specific definitions and abbreviations.* For the purposes of this subpart:

*Child* has the same meaning as § 3.814(c) of this title provides.

*Employment assistance* means employment counseling, placement and post-placement services, and personal and work adjustment training.

*Institution of higher education* has the same meaning that § 21.4200 provides for the term *institution of higher learning*.

*Program of employment services* means the services a child may receive if the child's entire program consists only of employment assistance.

*Program participant* means a child who, following an evaluation in which VA finds the child's achievement of a vocational goal is reasonably feasible, elects to participate in a vocational training program under this subpart.

*Spina bifida* means any form and manifestation of spina bifida except spina bifida occulta.

*Vietnam veteran* has the same meaning as § 3.814(c) of this title provides.

*Vocational training program* means the vocationally oriented training services, and assistance, including placement and post-placement services, and personal and work-adjustment training that VA finds necessary to enable the child to prepare for and participate in vocational training or employment. A vocational training program may include a program of education offered by an institution of higher education only if the program is predominantly vocational in content.

*VR&C* refers to the Vocational Rehabilitation and Counseling activity (usually a division) in a Veterans Benefits Administration regional office, the staff members of that activity in the regional office or in outbased locations, and the services that activity provides.

(Authority: 38 U.S.C. 101, 1801, 1802, 1804)

(b) *Other terms and abbreviations.* The following terms and abbreviations have the same meaning or explanation that § 21.35 provides:

- (1) CP (Counseling psychologist);
- (2) Program of education;
- (3) Rehabilitation facility;

(4) School, educational institution, or institution;

(5) Training establishment;

(6) Vocational goal;

(7) VRC (Vocational rehabilitation counselor);

(8) VRS (Vocational rehabilitation specialist); and

(9) Workshop.

(Authority: 38 U.S.C. 1801, 1804)

#### **§ 21.8014 Application.**

(a) *Filing an application.* To participate in a vocational training program, the child (or the child's parent or guardian, an authorized representative, or a Member of Congress acting on behalf of the child) must file an application. An application is a request for an evaluation of the feasibility of the child's achievement of a vocational goal and, if a CP or VRC determines that achievement of a vocational goal is feasible, for participation in a vocational training program. The application may be in any form, but it must:

(1) Be in writing over the signature of the applicant or the individual applying on the child's behalf;

(2) Provide the child's full name, address, and VA claim number, if any, and the Vietnam veteran's full name and Social Security number or VA claim number, if any; and

(3) Clearly identify the benefit sought.

(Authority: 38 U.S.C. 1804(a))

(b) *Time for filing.* An application under this subpart may be filed at any time after September 30, 1997.

(Authority: 38 U.S.C. 1801, 1804)

#### **§ 21.8016 Nonduplication of benefits.**

(a) *Election of benefits—chapter 35.* A child may not receive benefits concurrently under 38 U.S.C. chapter 35 and under this subpart. If the child is eligible for both benefits, he or she must elect in writing which benefit to receive.

(Authority: 38 U.S.C. 1804(e)(1))

(b) *Reelections of benefits—chapter 35.* A child receiving benefits under this subpart or under 38 U.S.C. chapter 35 may change his or her election at any time. A reelection between benefits under this subpart and under 38 U.S.C. chapter 35 must be prospective, however, and may not result in a child receiving benefits under both programs for the same period of training.

(Authority: 38 U.S.C. 1804(e)(1))

(c) *Length of benefits under multiple programs—chapter 35.* The aggregate period for which a child may receive assistance under this subpart and under 38 U.S.C. chapter 35 together may not

exceed 48 months of full-time training or the part-time equivalent.

(Authority: 38 U.S.C. 1804(e)(2))

#### **Basic Entitlement Requirements**

##### **§ 21.8020 Entitlement to vocational training and employment assistance.**

(a) *Basic entitlement requirements.* Under this subpart, for a child to receive vocational training, employment assistance, and related rehabilitation services and assistance to achieve a vocational goal (to include employment), the following requirements must be met:

(1) A CP or VRC must determine that achievement of a vocational goal by the child is reasonably feasible; and

(2) The child and VR&C staff members must work together to develop and then agree to an individualized written plan of vocational rehabilitation identifying the vocational goal and the means to achieve this goal.

(Authority: 38 U.S.C. 1804(b))

(b) *Services and assistance.* A child found eligible and entitled to be a vocational training program participant may receive the services and assistance described in § 21.8050(a). The following sections in subpart A of this part apply to the provision of these services and assistance in a manner comparable to their application for a veteran under that subpart:

(1) Section 21.250 (a) and (b)(2);

(2) Section 21.252;

(3) Section 21.254;

(4) Section 21.256 (not including paragraph (e)(2));

(5) Section 21.257; and

(6) Section 21.258.

(Authority: 38 U.S.C. 1804)

(c) *Requirements to receive employment services and assistance.* VA will provide employment services and assistance under paragraph (b) of this section only if the child:

(1) Has achieved a vocational objective;

(2) Has voluntarily ceased vocational training under this subpart, but the case manager finds the child has attained sufficient skills to be employable; or

(3) VA determines during evaluation that the child already has the skills necessary for suitable employment and does not need additional training, but to secure suitable employment the child does need the employment assistance that paragraph (b) of this section describes.

(Authority: 38 U.S.C. 1804)

(d) *Additional employment services and assistance.* If a child has received employment assistance and obtains a

suitable job, but VA later finds the child needs additional employment services and assistance, VA may provide the child with these services and assistance if, and to the extent, the child has remaining program entitlement.

(Authority: 38 U.S.C. 1804)

(e) *Program entitlement usage.* (1) *Basic entitlement period.* A child will be entitled to receive 24 months of full-time training, services, and assistance (including employment assistance) or the part-time equivalent, as part of a vocational training program.

(2) *Extension of basic entitlement period.* The child may receive an extension of the basic 24-month entitlement period, not to exceed another 24 months of full-time program participation or the part-time equivalent. VA may authorize an extension only if VA first determines that:

(i) The extension is necessary for the child to achieve a vocational goal identified before the end of the basic 24-month entitlement period; and

(ii) The child can achieve the vocational goal within the extended period.

(3) *Principles for charging entitlement.* VA will charge entitlement usage for training, services, or assistance (but not the initial evaluation, as described in § 21.8032) on the same basis as VA would charge entitlement usage for providing the same training, services, or assistance to a veteran in a vocational rehabilitation program under 38 U.S.C. chapter 31. VA may charge entitlement at a half-time, three-quarter-time, or full-time rate based upon the child's training time using the rate of pursuit criteria in § 21.8310. The provisions concerning reduced work tolerance under § 21.312 or less than half-time training under § 21.314 do not apply under this subpart.

(Authority: 38 U.S.C. 1804)

#### **§ 21.8022 Entry and reentry.**

(a) *Dates of entry.* VA may not evaluate a child for a vocational training program before the later of the following dates:

(1) The date VA first receives an application for a vocational training program for the child; or

(2) October 1, 1997.

(Authority: 38 U.S.C. 1151 note, 1804, 1806)

(b) *Reentry.* If a child interrupts or ends pursuit of a vocational training program and VA subsequently allows the child to reenter the program, the date of reentrance will accord with the facts, but may not precede the date VA

receives an application for the reentrance.

(Authority: 38 U.S.C. 1804)

#### **Evaluation**

##### **§ 21.8030 Requirement for evaluation of child.**

(a) *Children to be evaluated.* The VR&C Division will evaluate each child who:

(1) Applies for a vocational training program; and

(2) Has been determined under § 3.814 of this title to suffer from spina bifida.

(Authority: 38 U.S.C. 1804(a))

(b) *Purpose of evaluation.* The evaluation has two purposes:

(1) To ascertain whether achievement of a vocational goal by the child is reasonably feasible; and

(2) If a vocational goal is reasonably feasible, to develop an individualized plan of integrated training, services, and assistance that the child needs to prepare for and participate in vocational training or employment.

(Authority: 38 U.S.C. 1804)

##### **§ 21.8032 Evaluations.**

(a) *Scope and nature of evaluation.* The scope and nature of the evaluation under this program will be comparable to an evaluation of the reasonable feasibility of achieving a vocational goal for a veteran under 38 U.S.C. chapter 31 and §§ 21.50(b)(5) and 21.53 (b) and (d).

(Authority: 38 U.S.C. 1804(a))

(b) *Specific services to determine the reasonable feasibility of achieving a vocational goal.* As a part of the evaluation of reasonable feasibility of achieving a vocational goal, VA may provide the following specific services, as appropriate:

(1) Assessment of feasibility by a CP or VRC;

(2) Review of feasibility assessment and of need for special services by the Vocational Rehabilitation Panel;

(3) Provision of medical, testing, and other diagnostic services to ascertain the child's capacity for training and employment; and

(4) Evaluation of employability by professional staff of an educational or rehabilitation facility, for a period not to exceed 30 days.

(Authority: 38 U.S.C. 1804(a))

(c) *Responsibility for evaluation.* A CP or VRC will make all determinations as to the reasonable feasibility of achieving a vocational goal.

(Authority: 38 U.S.C. 1804(a), (b))

#### **Services and Assistance to Program Participants**

##### **§ 21.8050 Scope of training, services, and assistance.**

(a) *Allowable training, services, and assistance.* VA may provide to vocational training program participants:

(1) Vocationally oriented training, services, and assistance, to include:

(i) Training in an institution of higher education if the program is predominantly vocational; and

(ii) Tuition, fees, books, equipment, supplies, and handling charges.

(2) Employment assistance including:

(i) Vocational, psychological, employment, and personal adjustment counseling;

(ii) Services to place the individual in suitable employment and post-placement services necessary to ensure satisfactory adjustment in employment;

(iii) Personal adjustment and work adjustment training.

(3) Vocationally oriented independent living services only to the extent that the services are indispensable to the achievement of the vocational goal and do not constitute a significant portion of the services to be provided.

(4) Other vocationally oriented services and assistance of the kind VA provides veterans under the 38 U.S.C. chapter 31 program, except as paragraph (c) of this section provides, that VA determines the program participant needs to prepare for and take part in vocational training or in employment.

(Authority: 38 U.S.C. 1804(c))

(b) *Vocational training program.* VA will provide either directly or by contract, agreement, or arrangement with another entity, and at no cost to the beneficiary, the vocationally oriented training, other services, and assistance that VA approves for the individual child's program under this subpart. Authorization and payment for approved services will be made in a comparable manner to that VA provides for veterans under the 38 U.S.C. chapter 31 program.

(Authority: 38 U.S.C. 1804(c))

(c) *Prohibited services and assistance.* VA may not provide to a vocational training program participant any:

(1) Loan;

(2) Subsistence allowance;

(3) Automobile adaptive equipment;

(4) Training at an institution of higher education in a program of education that is not predominantly vocational in content;

(5) Employment adjustment allowance;

(6) Room and board in a special rehabilitation facility for a period in excess of 30 days; or

(7) Independent living services, except those that are incidental to the pursuit of the vocational training program.

(Authority: 38 U.S.C. 1804(c))

### Duration of Vocational Training

#### § 21.8070 Basic duration of a vocational training program.

(a) *Basic duration of a vocational training program.* The duration of a vocational training program, as paragraphs (e)(1) and (e)(2) of § 21.8020 provide, may not exceed 24 months of full-time training, services, and assistance or the part-time equivalent, except as § 21.8072 allows.

(Authority: 38 U.S.C. 1804(d))

(b) *Responsibility for estimating the duration of a vocational training program.* While preparing the individualized written plan of vocational rehabilitation, the CP or VRC will estimate the time the child needs to complete a vocational training program.

(Authority: 38 U.S.C. 1804(c))

(c) *Duration and scope of training must meet general requirements for entry into the selected occupation.* The child will receive training, services, and assistance, as § 21.8120 describes, for a period that VA determines the child needs to reach the level employers generally recognize as necessary for entry into employment in a suitable occupational objective.

(Authority: 38 U.S.C. 1804(c))

(d) *Approval of training beyond the entry level.* To qualify for employment in a particular occupation, the child may need training that exceeds the amount a person generally needs for employment in that occupation. VA will provide the necessary additional training under one or more of the following conditions:

(1) Training requirements for employment in the child's vocational goal in the area where the child lives or will seek employment exceed those job seekers generally need for that type of employment;

(2) The child is preparing for a type of employment in which he or she will be at a definite disadvantage in competing with nondisabled persons and the additional training will offset the competitive disadvantage;

(3) The choice of a feasible occupation is limited, and additional training will enhance the child's employability in one of the feasible occupations; or

(4) The number of employment opportunities within a feasible occupation is restricted.

(Authority: 38 U.S.C. 1804(c))

(e) *Estimating the duration of the training period.* In estimating the length of the training period the child needs, the CP or VRC must determine that:

(1) The proposed vocational training would not normally require a person without a disability more than 24 months of full-time pursuit, or the part-time equivalent, for successful completion; and

(2) The program of training and other services the child needs, based upon VA's evaluation, will not exceed 24 months or the part-time equivalent. In calculating the proposed program's length, the CP or VRC will follow the procedures in § 21.8074(a).

(Authority: 38 U.S.C. 1804(d))

(f) *Required selection of an appropriate vocational goal.* If the total period the child would require for completion of an initial vocational training program in paragraph (e) of this section is more than 24 months, or the part-time equivalent, the CP or VRC must work with the child to select another suitable initial vocational goal.

(Authority: 38 U.S.C. 1804(d)(2))

#### § 21.8072 Authorizing training, services, and assistance beyond the initial individualized written plan of vocational rehabilitation.

(a) *Extension of the duration of a vocational training program.* VA may authorize an extension of a vocational training program when necessary to provide additional training, services, and assistance to enable the child to achieve the vocational or employment goal identified before the end of the child's basic entitlement period, as stated in the individualized written plan of vocational rehabilitation under § 21.8080. A change from one occupational objective to another in the same field or occupational family meets the criterion for prior identification in the individualized written plan of vocational rehabilitation.

(Authority: 38 U.S.C. 1804 (d)(2), (e)(2))

(b) *Extensions for prior participants in the program.* (1) Except as paragraph (b)(2) of this section provides, VA may authorize additional training, limited to the use of remaining program entitlement including any allowable extension, for a child who previously participated in vocational training under this subpart. The additional training must:

(i) Be designed to enable the child to complete the prior vocational goal or a different vocational goal; and

(ii) Meet the same provisions as apply to training for new participants.

(2) A child who has previously achieved a vocational goal in a vocational training program under this subpart may not receive additional training under paragraph (b)(1) of this section unless a CP or VRC sets aside the child's achievement of that vocational goal under § 21.8284 (a) or (b).

(Authority: 38 U.S.C. 1804 (b) through (e))

(c) *Responsibility for authorizing a program extension.* A CP or VRC may approve extensions of the vocational training program the child is pursuing up to the maximum program limit of 48 months if the CP or VRC determines that the child needs the additional time to successfully complete training and obtain employment, and the following conditions are met:

(1) The child has completed more than half of the planned training; and

(2) The child is making satisfactory progress.

(Authority: 38 U.S.C. 1804(d)(2))

#### § 21.8074 Computing the period for vocational training program participation.

(a) *Computing the participation period.* To compute the number of months and days of a child's participation in a vocational training program:

(1) Count the number of actual months and days of the child's:

(i) Pursuit of vocational education or training;

(ii) Receipt of extended evaluation-type services and training, or services and training to enable the child to prepare for vocational training or employment, if a veteran in a 38 U.S.C. chapter 31 program would have received a subsistence allowance while receiving the same type of services and training; and

(iii) Receipt of employment and post-employment services (any period of employment or post-employment services is considered full-time program pursuit).

(2) Do not count:

(i) The initial evaluation period;

(ii) Any period before the child enters a vocational training program under this subpart;

(iii) Days of authorized leave; and

(iv) Other periods during which the child will not pursue training, such as periods between terms.

(3) Convert part-time training periods to full-time equivalents.

(4) Total the months and days under paragraphs (a)(1) through (a)(3) of this



section. This sum is the period of the child's participation in the program.

(Authority: 38 U.S.C. 1804(d))

(b) *Consistency with principles for charging entitlement.* Computation of the program participation period under this section will be consistent with the principles for charging entitlement under § 21.8020.

(Authority: 38 U.S.C. 1804(d))

### **Individualized Written Plan of Vocational Rehabilitation**

#### **§ 21.8080 Requirement for an individualized written plan of vocational rehabilitation.**

(a) *General.* A CP or VRC will work in consultation with each child for whom a vocational goal is feasible to develop an individualized written plan of vocational rehabilitation services and assistance to meet the child's vocational training needs. The CP or VRC will develop this individualized written plan of vocational rehabilitation in a manner comparable to the rules governing the development of an individualized written rehabilitation plan (IWRP) for a veteran for 38 U.S.C. chapter 31 purposes, as §§ 21.80, 21.84, 21.88, 21.90, 21.92, 21.94 (a) through (d), and 21.96 provide.

(Authority: 38 U.S.C. 1804(b))

(b) *Selecting the type of training to include in the individualized written plan of vocational rehabilitation.* If training is necessary, the CP or VRC will explore a range of possibilities, to include paid and unpaid on-job training, institutional training, and a combination of on-job and institutional training to accomplish the goals of the program. Generally, a child's program should include on-job training, or a combination of on-job and institutional training, when this training:

- (1) Is available;
- (2) Is as suitable as using only institutional training for accomplishing the goals of the program; and
- (3) Will meet the child's vocational training program needs.

(Authority: 38 U.S.C. 1804 (b), (c))

#### **§ 21.8082 Inability of child to complete individualized written plan of vocational rehabilitation or achieve vocational goal.**

(a) *Inability to timely complete an individualized written plan of vocational rehabilitation or achieve identified goal.* After a vocational training program has begun, the VR&C case manager may determine that the child cannot complete the vocational training program described in the child's individualized written plan of vocational rehabilitation within the time

limits of the individualized written plan of vocational rehabilitation or cannot achieve the child's identified vocational goal. Subject to paragraph (b) of this section, VR&C may assist the child in revising or selecting a new individualized written plan of vocational rehabilitation or goal.

(b) *Allowable changes in the individualized written plan of vocational rehabilitation or goal.* Any change in the child's individualized written plan of vocational rehabilitation or vocational goal is subject to the child's continuing eligibility under the vocational training program and the provisions governing duration of a vocational training program in §§ 21.8020(c) and 21.8070 through 21.8074.

(Authority: 38 U.S.C. 1804(d), 1804(e))

(c) *Change in the individualized written plan of vocational rehabilitation or vocational goal.* (1) The individualized written plan of vocational rehabilitation or vocational goal may be changed under the same conditions as provided for a veteran under § 21.94 (a) through (d), and subject to § 21.8070 (d) through (f), if:

- (i) The CP or VRC determines that achievement of a vocational goal is still reasonably feasible and that the new individualized written plan of vocational rehabilitation or goal is necessary to enable the child to prepare for and participate in vocational training or employment; and
- (ii) Reentrance is authorized under § 21.8284 in a case when the child has completed a vocational training program under this subpart.

(2) A CP or VRC may approve a change of vocational goal from one field or occupational family to another field or occupational family if the child can achieve the new goal:

- (i) Before the end of the basic 24-month entitlement period that § 21.8020(c)(1) describes; or
- (ii) Before the end of any allowable extension under §§ 21.8020(c)(2) and 21.8072 if the new vocational goal in another field or occupational family was identified during the basic 24-month entitlement period.

(3) A change from one occupational objective to another in the same field or occupational family does not change the planned vocational goal.

(4) The child must have sufficient remaining entitlement to pursue the new individualized written plan of vocational rehabilitation or goal, as § 21.8020 provides.

(Authority: 38 U.S.C. 1804(d))

(d) *Assistance if child terminates planned program before completion.* If

the child elects to terminate the planned vocational training program, he or she will receive the assistance that § 21.80(d) provides in identifying other resources through which to secure the desired training or employment.

(Authority: 38 U.S.C. 1804(c))

### **Counseling**

#### **§ 21.8100 Counseling.**

A child requesting or receiving services and assistance under this subpart will receive professional counseling by VR&C and other qualified VA staff members, and by contract counseling providers, as necessary, in a manner comparable to VA's provision of these services to veterans under the 38 U.S.C. chapter 31 program, as §§ 21.100 and 21.380 provide.

(Authority: 38 U.S.C. 1803(c)(8), 1804(c))

### **Vocational Training, Services, and Assistance**

#### **§ 21.8120 Vocational training, services, and assistance.**

(a) *Purposes.* A child eligible for a vocational training program may receive training, services, and assistance to enable the child to prepare for and participate in vocational training or employment.

(Authority: 38 U.S.C. 1804 (b), (c))

(b) *Training permitted.* VA and the child will select vocationally oriented courses of study and training, completion of which usually results in a diploma, certificate, degree, qualification for licensure, or direct placement in employment. The educational and training services to be provided include:

- (1) Remedial, deficiency, and refresher training; and
- (2) Training that leads to an identifiable vocational goal. Under this program, VA may authorize all forms of programs that §§ 21.122 through 21.132 describe. This includes education and training programs in institutions of higher education. VA may authorize the education and training at an undergraduate or graduate degree level, only if the degree program is predominantly vocational in nature. For a child to participate in a graduate degree program, the graduate degree must be a requirement for entry into the child's vocational goal. For example, a master's degree is required to engage in social work. The program of training is predominantly vocational in content if the majority of the instruction provides the technical skills and knowledge employers generally regard as specific to, and required for, entry into the child's vocational goal.



(c) *Cost of education and training services.* The CP or VRC will consider the cost of training in selecting a facility when:

(1) There is more than one facility in the area in which the child resides that:

(i) Meets the requirements for approval under §§ 21.290 through 21.298 (except as provided by § 21.8286(b)),

(ii) Can provide the training, services and other supportive assistance the child's individualized written plan of vocational rehabilitation specifies, and

(iii) Is within reasonable commuting distance; or

(2) The child wishes to train at a suitable facility in another area, even though a suitable facility in the area where the child lives can provide the training. In considering the costs of providing training in this case, VA will use the provisions of § 21.120 (except 21.120(a)(3)), § 21.370 (however, the words "under § 21.282" in § 21.370(b)(2)(iii)(B) do not apply), and § 21.372 in a manner comparable to that for veterans under the 38 U.S.C. chapter 31 program.

(Authority: 38 U.S.C. 1804 (b), (c))

(d) *Accessible courses not locally available.* If suitable vocational training courses are not available in the area in which the child lives, or if they are available but not accessible to the child, VA may make other arrangements. These arrangements may include, but are not limited to:

(1) Transportation of the child, but not the child's family, personal effects, or household belongings, to another area where necessary services are available; or

(2) Use of an individual instructor to provide necessary training in a manner comparable to that for veterans under the 38 U.S.C. chapter 31 program, as § 21.146 describes.

(Authority: 38 U.S.C. 1804 (b), (c))

### **Evaluation and Improvement of Vocational Potential**

#### **§ 21.8140 Evaluation and improvement of vocational potential.**

(a) *General.* A CP or VRC may use the services that paragraph (d) of this section describes to:

(1) Evaluate vocational training and employment potential;

(2) Provide a basis for planning:

(i) A program of services and assistance to improve the child's preparation for vocational training and employment; or

(ii) A vocational training program;

(3) Reevaluate the vocational training feasibility of a child participating in a vocational training program; and

(4) Remediate deficiencies in the child's basic capabilities, skills, or knowledge to give the child the ability to participate in vocational training or employment.

(Authority: 38 U.S.C. 1804(b))

(b) *Periods when evaluation and improvement services may be provided.* A CP or VRC may authorize the services described in paragraph (d) of this section, except those in paragraph (d)(4) of this section, for delivery during:

(1) An initial evaluation; or

(2) Pursuit of a vocational training program.

(Authority: 38 U.S.C. 1804(c))

(c) *Duration of services.* The duration of services needed to improve vocational training and employment potential, furnished on a full-time basis either as a preliminary part or all of a vocational training program, may not exceed 9 months. If VA furnishes these services on a less than full-time basis, the duration will be for the period necessary, but may not exceed the equivalent of 9 months of full-time training.

(Authority: 38 U.S.C. 1804(c))

(d) *Scope of services.* Evaluation and improvement services include:

(1) Diagnostic services;

(2) Personal and work adjustment training;

(3) Referral for medical care and treatment for the spina bifida or related conditions;

(4) Vocationally oriented independent living services indispensable to pursuing a vocational training program;

(5) Language training, speech and voice correction, training in ambulation, and one-hand typewriting;

(6) Orientation, adjustment, mobility and related services; and

(7) Other appropriate services to assist the child in functioning in the proposed training or work environment.

(Authority: 38 U.S.C. 1804(c))

(e) *Applicability of chapter 31 rules on special rehabilitation services.* The provisions of § 21.140 do not apply to this subpart. Subject to the provisions of this subpart, the following provisions apply to the vocational training program under this subpart in a manner comparable to that for veterans under the 38 U.S.C. chapter 31 program: § 21.142 (a) and (b); § 21.144; § 21.146; § 21.148 (a) and (c); § 21.150 other than paragraph (b); § 21.152 other than

paragraph (b); § 21.154 other than paragraph (b); and § 21.156.

(Authority: 38 U.S.C. 1804(c))

### **Supplies**

#### **§ 21.8210 Supplies.**

(a) *Purpose of furnishing supplies.* VA will provide the child with the supplies that the child needs to pursue training, to obtain and maintain employment, and otherwise to achieve the goal of his or her vocational training program.

(Authority: 38 U.S.C. 1804(c))

(b) *Types of supplies.* VA may provide books, tools, and other supplies and equipment that VA determines are necessary for the child's vocational training program and are required by similarly circumstanced veterans pursuing such training under 38 U.S.C. chapter 31.

(Authority: 38 U.S.C. 1804(c))

(c) *Periods during which VA may furnish supplies.* VA may provide supplies to a child receiving:

(1) An evaluation;

(2) Vocational training, services, and assistance to reach the point of employability; or

(3) Employment services.

(Authority: 38 U.S.C. 1804(c))

(d) *Other rules.* The provisions of §§ 21.212 through 21.224 apply to children pursuing a vocational training program under this subpart in a comparable manner as VA provides supplies to veterans under 38 U.S.C. chapter 31, except the following portions:

(1) Section 21.216(a)(3) pertaining to special modifications, including automobile adaptive equipment;

(2) Section 21.220(a)(1) pertaining to advancements from the revolving fund loan;

(3) Section 21.222(b)(x) pertaining to discontinuance from an independent living services program.

(Authority: 38 U.S.C. 1804(c))

### **Program Costs**

#### **§ 21.8260 Training, services, and assistance costs.**

The provisions of § 21.262 pertaining to reimbursement for training and other program costs apply, in a comparable manner as provided under the 38 U.S.C. chapter 31 program for veterans, to payments to facilities, vendors, and other providers for training, supplies, and other services they deliver under this subpart.

(Authority: 38 U.S.C. 1804(c))

**Vocational Training Program Entrance, Termination, and Resources****§ 21.8280 Effective date of induction into a vocational training program.**

Subject to the limitations in § 21.8022, the date a child is inducted into a vocational training program will be the date the child first begins to receive training, services, or assistance under an individualized written plan of vocational rehabilitation.

(Authority: 38 U.S.C. 1804 (c), (d))

**§ 21.8282 Termination of a vocational training program.**

A case manager may terminate a child's vocational training program for cause, including lack of cooperation, failure to pursue the individualized written plan of vocational rehabilitation, fraud, or administrative error. A child for whom a vocational goal is reasonably feasible remains eligible for the program subject to the rules of this subpart unless the child's eligibility for or entitlement to a vocational training program under this subpart resulted from fraud or administrative error.

(a) *Fraud.* If a child establishes eligibility for or entitlement to benefits under this subpart through fraud, VA will terminate the award of vocational training and rehabilitation as of the date VA first began to pay benefits.

(b) *Administrative error.* If a child who is not entitled to benefits under this subpart receives those benefits through VA administrative error, VA will terminate the award of benefits as of the first day of the calendar month beginning at least 60 days after notifying the child of the proposed termination. This 60-day period may not result in the entrance of the child into a new quarter, semester, or other term of training unless VA has already obligated payment for the training.

(c) *Lack of cooperation or failure to pursue individualized written plan of vocational rehabilitation.* If reasonable VR&C efforts to motivate a child do not resolve a lack of cooperation or failure to pursue an individualized written plan of vocational rehabilitation, VA will terminate the award of benefits as of the first day of the calendar month beginning at least 60 days after notifying the child of the proposed termination. This 60-day period may not result in the entrance of the child into a new quarter, semester, or other term of training. VA will deobligate payment for training in the new quarter, semester, or other term of training.

(Authority: 38 U.S.C. 1804)

**§ 21.8284 Additional vocational training.**

VA may provide an additional period of training or services under a vocational training program to a child who has completed training for a vocational goal and/or been suitably employed under this subpart, if the child is otherwise eligible and has remaining program entitlement as provided in § 21.8072(b), only under one of the following conditions:

(a) Current facts, including any relevant medical findings, establish that the child's disability has worsened to the extent that he or she can no longer perform the duties of the occupation which was the child's vocational goal under this subpart;

(b) The occupation that was the child's vocational goal under this subpart is now unsuitable;

(c) The vocational training program services and assistance the child originally received are now inadequate to make the child employable in the occupation which he or she sought to achieve;

(d) Experience has demonstrated that VA should not reasonably have expected employment in the objective or field for which the child received vocational training program services and assistance; or

(e) Technological change that occurred after the child achieved a vocational goal under this subpart now prevents the child from:

(1) Performing the duties of the occupation for which VA provided training, services, or assistance, or in a related occupation; or

(2) Securing employment in the occupation for which VA provided training, services, or assistance, or in a related occupation.

(Authority: 38 U.S.C. 1804(c))

**§ 21.8286 Training resources.**

(a) *Applicable 38 U.S.C. chapter 31 resource provisions.* The provisions of § 21.146 and §§ 21.290 through 21.298 apply to children pursuing a vocational training program under this subpart in a comparable manner as for veterans under the 38 U.S.C. chapter 31 program, except as paragraph (b) of this section specifies.

(Authority: 38 U.S.C. 1804(c))

(b) *Limitations.* The provisions of § 21.294(b)(1)(i) and (b)(1)(ii) pertaining to independent living services do not apply to this subpart. The provisions of § 21.294(b)(1)(iii) pertaining to authorization of independent living services as a part of an individualized written plan of vocational rehabilitation apply to children under this subpart in a comparable manner as for veterans

under the 38 U.S.C. chapter 31 program only to the extent § 21.8050 allows.

(Authority: 38 U.S.C. 1804(c))

**Rate of Pursuit****§ 21.8310 Rate of pursuit.**

(a) *General requirements.* VA will approve a child's pursuit of a vocational training program at a rate consistent with his or her ability to successfully pursue training, considering:

- (1) Effects of his or her disability;
  - (2) Family responsibilities;
  - (3) Travel;
  - (4) Reasonable adjustment to training;
- and
- (5) Other circumstances affecting the child's ability to pursue training.

(Authority: 38 U.S.C. 1804(c))

(b) *Continuous pursuit.* A child should pursue a program of vocational training with as little interruption as necessary, considering the factors in paragraph (a) of this section.

(Authority: 38 U.S.C. 1804(c))

(c) *Responsibility for determining the rate of pursuit.* VR&C staff members will consult with the child when determining the rate and continuity of pursuit of a vocational training program. These staff members will also confer with the medical consultant and the Vocational Rehabilitation Panel described in §§ 21.60 and 21.62, as necessary. This rate and continuity of pursuit determination will occur during development of the individualized written plan of vocational rehabilitation, but may change later, as necessary to enable the child to complete training.

(Authority: 38 U.S.C. 1804(c))

(d) *Measurement of training time used.* VA will measure the rate of pursuit in a comparable manner to rate of pursuit measurement under § 21.310 for veterans under the 38 U.S.C. chapter 31 program.

(Authority: 38 U.S.C. 1804(c))

**Authorization of Services****§ 21.8320 Authorization of services.**

The provisions of § 21.326, pertaining to the commencement and termination dates of a period of employment services, apply to children under this subpart in a manner comparable to that provided for veterans under the 38 U.S.C. chapter 31 program. References in that section to an IEAP (individualized employment assistance plan) should be considered as referring to the child's individualized written plan of vocational rehabilitation under this subpart.

(Authority: 38 U.S.C. 1804(c))

**Leaves of Absence****§ 21.8340 Leaves of absence.**

(a) *Purpose of leave of absence.* The purpose of the leave system is to enable the child to maintain his or her status as an active program participant.

(Authority: 38 U.S.C. 1804(c))

(b) *Basis for leave of absence.* The VR&C case manager may grant the child leaves of absence for periods during which the child fails to pursue a vocational training program. For prolonged periods of absence, the VR&C case manager may approve leaves of absence only if the case manager determines the child is unable to pursue a vocational training program through no fault of the child.

(Authority: 38 U.S.C. 1804(c))

(c) *Effect on entitlement.* During a leave of absence, the running of the basic 24-month period of entitlement, plus any extensions thereto, shall be suspended until the child resumes the program.

(Authority: 38 U.S.C. 1804(c))

**Satisfactory Conduct and Cooperation****§ 21.8360 Satisfactory conduct and cooperation.**

The provisions for satisfactory conduct and cooperation in §§ 21.362 and 21.364, except as otherwise provided in this section, apply to children under this subpart in a manner comparable to the way they apply to veterans under the 38 U.S.C. chapter 31 program. If a child fails to meet these requirements for satisfactory conduct or cooperation, the VR&C case manager will terminate the child's vocational training program. VA will not grant a child reentrance to a vocational training program unless the reasons for unsatisfactory conduct or cooperation have been removed.

(Authority: 38 U.S.C. 1804(c))

**Transportation Services****§ 21.8370 Authorization of transportation services.**

(a) *General.* VA shall authorize transportation services necessary for a child to pursue a vocational training program. The sections in subpart A of this part that are referred to in this paragraph shall apply to children under this subpart in a manner comparable to the way they apply to veterans under the 38 U.S.C. chapter 31 program. Transportation services include:

- (1) Transportation for evaluation or counseling under § 21.376;
- (2) Intraregional travel under § 21.370 (however, the words "under § 21.282"

in § 21.370(b)(2)(iii)(B) do not apply) and interregional travel under § 21.372;

(3) Special transportation allowance under § 21.154; and

(4) Commuting to and from training and while seeking employment under paragraphs (c) and (d) of this section.

(Authority: 38 U.S.C. 1804(c))

(b) *Reimbursement.* For transportation services that VA authorizes, VA will normally pay in arrears and in the same manner as tuition, fees, and other services under this program.

(Authority: 38 U.S.C. 1804(c))

(c) *Transportation payment.* VA may pay for transportation during the period of vocational training and the first 3 months the child receives employment services. VA may reimburse the child's costs of commuting to and from training and seeking employment if he or she requests this assistance and VA determines, after careful examination of the child's situation and subject to the limitations in paragraph (d) of this section, that the child would be unable to pursue training or employment without this assistance. VA may:

(1) Reimburse the facility at which the child is training if the facility provided transportation or related services;

(2) Reimburse the child for his or her actual commuting expense if the child paid for the transportation.

(Authority: 38 U.S.C. 1804(c))

(d) *Limitations.* Payment of commuting expenses may not be made for any period when the child:

- (1) Is gainfully employed;
- (2) Is eligible for, and entitled to, payment of commuting costs through other VA and non-VA programs; or
- (3) Can commute to school with family, friends, or fellow students.

(Authority: 38 U.S.C. 1804(c))

(e) *Amount that VA may pay.* VA will reimburse the child for his or her actual cost of transportation, not to exceed \$70 per month. VA must receive supportive documentation with each request for reimbursement. The individualized written plan of vocational rehabilitation will specify whether VA will pay monthly or at a longer interval.

(Authority: 38 U.S.C. 1804(c))

(f) *Nonduplication.* A child eligible for reimbursement of transportation services both under this section and under § 21.154 will receive only the benefit under § 21.154.

(Authority: 38 U.S.C. 1804(c))

**Additional Applicable Regulations****§ 21.8380 Additional applicable regulations.**

The following regulations are applicable to children in this program in a manner comparable to that provided for veterans under the 38 U.S.C. chapter 31 program: § 21.380, 21.412, 21.414 (except (c), (d), and (e)), 21.420, and 21.430.

(Authority: 38 U.S.C. 1804, 5112)

**Delegation of Authority****§ 21.8410 Delegation of authority.**

The Secretary delegates authority for making findings and decisions under 38 U.S.C. 1804 and the applicable regulations, precedents, and instructions for the program under this subpart to the Under Secretary for Benefits and to VR&C supervisory or non-supervisory staff members.

(Authority: 38 U.S.C. 512(a))

[FR Doc. 97-17225 Filed 6-30-97; 8:45 am]

BILLING CODE 3810-01-P

**DEPARTMENT OF VETERANS AFFAIRS****38 CFR Part 21**

RIN 2900-AH91

**Veterans Education: Approval of Correspondence Programs or Courses**

**AGENCY:** Department of Veterans Affairs.

**ACTION:** Proposed rule.

**SUMMARY:** This document proposes to amend the VA-administered educational assistance and educational benefits regulations concerning approval of programs of education pursued exclusively by correspondence and the correspondence portion of correspondence-residence courses for Department of Veterans Affairs (VA) training. A number of changes would be made to conform to statutory changes. Also, it is proposed to require that the educational institution offering a correspondence program or course certify to the State approving agency (SAA) that at least 50 percent of those pursuing the program or course require 6 months or more to complete it based on the 6-month period immediately preceding the educational institution's application for approval. The certification is to enable the SAA to determine whether the program or course meets the statutory requirement that at least 50 percent of those pursuing the program or course require 6 months or more to complete it. The regulations would also be amended to expressly