

- (4) Amount billed,
- (5) Determined allowable amount,
- (6) To whom payment, if any, was made, and
- (7) Reasons for denial (if applicable).

(Paperwork requirements were approved by the Office of Management and Budget under control number 2900-0577.)

(Authority: 38 U.S.C. 101(2), 1801-1806)

§ 17.904 Review and appeal process.

If a health care provider, Vietnam veteran's child or representative disagrees with a determination concerning provision of health care or a health care provider disagrees with a determination concerning payment, the person or entity may request reconsideration. Such request must be submitted in writing within one year of the date of the initial determination to the Chief, Administrative Division, Health Administration Center, P.O. Box 65025, Denver, CO 80206-9025. The request must state why it is concluded that the decision is in error and must include any new and relevant information not previously considered. Any request for reconsideration that does not identify the reason for dispute will be returned to the sender without further consideration. After reviewing the matter, including any relevant supporting documentation, a benefits advisor will issue a written determination (with a statement of findings and reasons) to the person or entity seeking reconsideration that affirms, reverses or modifies the previous decision. If the person or entity seeking reconsideration is still dissatisfied, within 90 days of the date of the decision he or she may make a written request for review by the Director, Health Administration Center, P.O. Box 65025, Denver, CO 80206-9025. The Director will review the claim and any relevant supporting documentation and issue a decision in writing (with a statement of findings and reasons) that affirms, reverses or modifies the previous decision. An appeal under this section would be considered as filed the time it was delivered to the VA or at the time it was released for submission to the VA (for example, this could be evidenced by the postmark, if mailed).

Note to § 17.904: The final decision of the Director will inform the claimant of further appellate rights for an appeal to the Board of Veterans Appeals.

(Paperwork requirements were approved by the Office of Management and Budget under control number 2900-0577.)

(Authority: 38 U.S.C. 101(2), 1801-1806)

§ 17.905 Medical records.

Copies of medical records generated outside VA that relate to activities for which VA is asked to provide payment, and that VA determines are necessary to adjudicate claims under §§ 17.900 through 17.905, must be provided to VA at no cost.

(Authority: 38 U.S.C. 101(2), 1801-1806)

[FR Doc. 97-25664 Filed 9-29-97; 8:45 am]

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DEPARTMENT OF VETERANS AFFAIRS

38 CFR Part 21

RIN 2900-A172

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

AGENCY: Department of Veterans Affairs.

ACTION: Final rule.

SUMMARY: This document establishes 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.

EFFECTIVE DATE: October 1, 1997.

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: In a document published in the **Federal Register** on July 1, 1997 (62 FR 35454), we proposed to amend the Vocational Rehabilitation and Education regulations (38 U.S.C. part 21) to add 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.

The provisions of 38 U.S.C. chapter 18 (Public Law 104-204, sections 421 and 422, 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 that is associated with such

condition, and (3) provision of vocational training and rehabilitation.

This document establishes a final rule to set forth a mechanism regarding provision of vocational training and rehabilitation to Vietnam veterans' children with spina bifida.

We requested that comments on the proposed rule be submitted on or before September 2, 1997. We received five comments. VA appreciates the comments submitted in response to the proposed rule. Based on the rationale set forth in the proposed rule and this document, the provisions of the proposed rule are adopted with the changes discussed below.

Comments regarding issues concerning monthly monetary allowances for Vietnam veterans' children who suffer from spina bifida and provision of health care for such children are addressed in separate final rules that specifically concern these issues.

Commenters recommended that we reimburse children for vocational training received prior to October 1, 1997; pay for the purchase and ongoing expenses of owning and operating a vehicle; provide automobile adaptive equipment; provide for specially adapted housing; pay a subsistence allowance to individuals receiving vocational training; allow concurrent receipt of benefits under 38 U.S.C. chapter 35 and the vocational training program; provide comprehensive medical and dental care for conditions unrelated to spina bifida; provide a work-study program; and provide vocational training for children of certain individuals who do not meet the statutory definition of the term "veteran." No changes are made based on these comments since VA has no legal authority to do so.

Commenters asserted that benefits should be provided to grandchildren and other direct descendants of Vietnam veterans. No changes are made based on these comments. Under the provisions of 38 U.S.C. 1801, benefits are limited to natural children of a Vietnam veteran. In our view, this includes only the immediate offspring of a Vietnam veteran and does not include grandchildren or other descendants.

One commenter asserted that all Vietnam veterans' children suffering from spina bifida should receive vocational training and that there should be a gradation of vocational training benefits based on disability so that the most in need would receive the maximum benefit. No changes are made based on this comment. The vocational training regulations are designed to provide for training based on the

individual capabilities of those who suffer from spina bifida. Thus, each child will receive only those services needed and the level of services will accord with the needs of the individual child. Even so, not all Vietnam veterans' children who suffer from spina bifida will be eligible for vocational training. The statutory authority limits vocational training to children for whom VA has found that achievement of a vocational goal is reasonably feasible.

The provisions of proposed § 21.8050 stated that VA may provide to vocational training program participants vocationally oriented independent living services, but 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. Commenters asserted that VA should provide a full range of independent living services for children seeking vocational training. In this regard, one commenter asserted that the terms "indispensable" and "significant portion" are not sufficiently precise and would not allow for adequate independent living services. More specifically the commenter asserted that the regulation should allow independent living services as long as they do not constitute a majority of the vocational rehabilitation services provided.

No changes are made based on these comments. We believe that the current language should be retained. Under the provisions of 38 U.S.C. 1804(c)(1)(A), a child's program is to consist of vocationally oriented services and training. Thus, the focus of a child's program must be on vocational training. Taking extensive time for independent living services would hamper the ability to achieve a vocational goal. Further, it is unlikely that a child who requires a significant amount of independent living services would meet the criteria for entrance into a vocational training program; i.e., it must be reasonably feasible for the child to achieve a vocational goal.

Two commenters questioned whether the vocational training could include professional training. Under the provisions of 38 U.S.C. 1804, the training may include a program of education at an institution of higher education if the program of education is predominantly vocational in content and the vocational goal can be achieved within 24 months.

Commenters asserted that the final rule should allow for further training after the initial training. Proposed § 21.8072(b) already provided for additional training. It provided that a child who has previously achieved a

vocational goal in a vocational training program may not receive additional training unless a counseling psychologist or a vocational rehabilitation counselor sets aside the child's achievement of that vocational goal based on a finding under § 21.8284(a) 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" or under § 21.8284(b) that "[t]he occupation that was the child's vocational goal * * * is now unsuitable."

A commenter asserted that additional training should be allowed for the other reasons stated in § 21.8284(c) through (e); i.e.:

"(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."

We agree that the provisions of paragraphs (c) through (e) in § 21.8284 set forth appropriate bases for allowing additional vocational training. The final rule in § 21.8072 is changed accordingly.

Proposed § 21.8370 provided for VA to reimburse certain children for the actual cost of transportation necessary for the child to pursue a vocational training program (and for a limited period thereafter), not to exceed \$70 per month. Three commenters asserted that the maximum amount should be increased. Two of them suggested an amount, \$200 per month. We agree that that the maximum amount should be increased to \$200 per month and a corresponding change is made to the final rule. This amount would more closely compare to maximum amounts paid veterans for costs of transportation under the vocational rehabilitation program authorized under 38 U.S.C. chapter 31.

The provisions of § 21.8080 state that a counseling psychologist or vocational rehabilitation counselor will work in consultation with each eligible child to develop an individualized written plan of services and assistance to meet the child's vocational training needs. One commenter asserted that this would limit the child's freedom of choice for training opportunities. No changes are made based on this comment. Under the provisions of the regulations, the child will be an active participant in the decisionmaking. However, the determination of the counseling psychologist or vocational rehabilitation counselor is essential to ensure that the vocational training is reasonable and appropriate for the child's condition.

One comment asserted that the final rule should require VA to utilize vocational rehabilitation specialists, vocational rehabilitation counselors, and counseling psychologists who have substantial experience in serving persons with developmental disabilities. The comment further asserted that the final rule should state that VA will contract for such services if they are unavailable within VA. No changes are made based on this comment. VA is committed to providing competent and comprehensive services. The regulations provide for certain determinations to be made by counseling psychologists, vocation rehabilitation counselors, or vocational rehabilitation specialists. When VA determines that it is necessary to contract for services of individuals to gain additional expertise in developmental disabilities, VA intends to exercise its authority to do so. However, there is no need to address these internal issues in the regulations.

One commenter stated that insofar as authorized by the child, the evaluation for vocational training should include all pertinent records that have been developed outside VA; e.g., school transcripts, counseling records, personal assessments. No changes are made based on this comment. VA uses all available resources in evaluating claimants, including non-VA records authorized by affected individuals.

Commenters asserted that the vocational training regulations should specifically set forth the appeal rights for adverse decisions. Commenters further asserted that the appeal rights should be the same as for other VA claimants. No changes are made based on these comments. The provisions of § 21.8380 make applicable the informal appeal rights of § 21.420. Also, §§ 21.420(d) and 21.59 inform claimants of additional appeal rights to the Board of Veterans' Appeals. These appeal

rights are comparable to appeal rights in other VA programs.

One commenter objected to the establishment of regulations that separately address: (1) Monthly monetary allowances, (2) provision of health care needed for the spina bifida or any disability that is associated with such condition, and (3) provision of vocational training and rehabilitation. The commenter asserted that this approach ignored "internal coordination." No changes are made based on this comment. The regulations are consistent with the provisions of 38 U.S.C. chapter 18 which specify three separate types of benefits for Vietnam veterans' children who suffer from spina bifida.

For the sake of clarity, we have made some nonsubstantive editorial changes to the proposed language.

Administrative Procedure Act

There is good cause for making this final rule effective without regard to a 30-day delay. This final rule does not adversely affect anyone and the affected children need the benefits from the rule as soon as possible.

Paperwork Reduction Act

Information collection and recordkeeping requirements associated with this final rule (38 CFR 21.8014, 21.8016, and 21.8370) have been approved by the Office of Management and Budget (OMB) under the provisions of the Paperwork Reduction Act (44 U.S.C. 3501–3520) and have been assigned OMB control numbers 2900–0579, 2900–0581, and 2900–0580; respectively.

Section 21.8014 will 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. It will establish a requirement that a child with spina bifida submit an application for vocational training to be considered for this benefit. 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.

Section 21.8016 will 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. 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.

Section 21.8370 will permit a child receiving vocational training to request VA reimbursement for certain transportation costs and will require submission of supporting documentation to receive reimbursement. VA must determine that the child would be unable to pursue training or employment without this assistance. 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.

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. The valid OMB control number assigned to each collection of information in this final rule is displayed at the end of the affected sections of the regulations.

Interested persons were invited to submit comments on the collections of information. However, no comments were received.

Executive Order 12866

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

Regulatory Flexibility Act

The Secretary of Veterans Affairs hereby certifies that this final rule will 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 will 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 generally are large capitalization facilities. Therefore, pursuant to 5 U.S.C. 605(b), this final

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: September 16, 1997.

Hershel W. Gober,

Acting Secretary of Veterans Affairs.

For the reasons set forth in the preamble, 38 CFR part 21 is 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

Sec.

General

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, services, and assistance 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.

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

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

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.

(Paperwork requirements were approved by the Office of Management and Budget under control number 2900–0579.)

(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.

(Paperwork requirements were approved by the Office of Management and Budget under control number 2900-0581.)

(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; and

(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 § 21.8020(e)(1) and (e)(2) 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.

(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 individualized employment assistance plan IEAP 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 (a) 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 (except that assurance that the child meets all basic requirements for induction into training will be determined without regard to the provisions of § 21.282) and interregional travel under § 21.372;
- (3) Special transportation allowance under § 21.154; and
- (4) Commuting to and from training and while seeking employment, subject to 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) *Payment for commuting expenses for training and seeking employment.* 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, not to exceed \$200 per month, 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; or
- (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 under paragraph (a)(4) of this section 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) *Documentation.* 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.

(Paperwork requirements were approved by the Office of Management and Budget under control number 2900-0580.)

(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 paragraphs (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))

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