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SPECIAL EMPLOYER INCENTIVE PROGRAM

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## Chapter 7 SPECIAL EMPLOYER INCENTIVE PROGRAM

### 7.01 Introduction

The Special Employer Incentive (SEI) program is an initiative that connects job-seeking Veterans requiring special assistance with employment opportunities in the private sector, including On-the-Job Training (OJT), if necessary. This chapter provides an overview of the SEI program, steps required to arrange SEI opportunities, information on direct benefit payments to Veterans, as well as the duration and limitations of payments to employers. Statutory and regulatory provisions are also contained in this chapter.

### 7.02 References and Resources

- Laws:** Public Law (Pub. L.) 112-56  
Rehabilitation Act of 1973, as Amended 38 United States Code (U.S.C.) 4211(1)  
38 U.S.C. 4212
- Regulations:** 38 Code of Federal Regulations (CFR) 21.256 (superseded by Pub. L. 112-56)  
38 CFR 21.290  
38 CFR 21.190  
38 CFR 21.292  
38 CFR 21.294  
38 CFR 21.7136
- VA Forms (VAF):** VAF 28-1904, Arrangement to Train on the Job Disabled Veterans  
VAF 28-1905c, Monthly Record of Training and Wages  
VAF 28-1905d, Special Report of Training  
VAF 28-1905m, Request for Supplies  
VAF 20-8206, VA Statement of Assurance of Compliance with Equal Opportunity Laws  
VAF 22-8794, Designation of Certifying Official(s) VAF 119, Report of Contact
- Standard Form (SF)** SF 3881, Automated Clearing House (ACH) Vendor/  
Miscellaneous Payment Enrollment Form

### 7.03 Program Overview

#### a. General Information

The SEI program helps Veterans who face extraordinary obstacles to

obtaining employment find jobs in the private sector. Some Veterans may not be able to locate suitable employment opportunities in their local commuting areas; other Veterans may face additional challenges due to their disabilities. Veterans who are generally qualified for employment, but may lack some specific training or work experience, can be placed in an OJT experience to gain the skills necessary to maintain that employment.

The advantage to private-sector employers is that Vocational Rehabilitation & Employment (VR&E) will reimburse a portion of the expenses incurred as a result of either providing direct employment or on-the-job training opportunities to Veterans. VR&E cannot make payments to government employers, including federal, state, or local agencies, as a part of this initiative.

## b. Program Requirements

### 1. Veterans' Eligibility Requirements

Veterans may participate if the following occurs:

- The Veteran has been determined generally qualified for employment.
- The Veteran has been declared job ready.

NOTE: Public Law 112-56 (VOW to Hire Heroes Act of 2011) removed the requirement that the Veteran must first complete rehabilitation to the point of employability to qualify for SEI. However, in accordance with M28R.III.A.1, the Veteran must receive services in RTE status under an IWRP or IWRP/IEAP prior to being declared "job ready." 38 CFR 21.256 will be also be updated to indicate that any Veteran who has been declared "job ready" may qualify for SEI.

### 2. Employers' Eligibility Requirements

#### (a) Course and Facility Approval

Case managers must establish that potential employers comply with the course and facility approval provisions. These provisions are outlined under 38 CFR 21.290 and 21.292.

#### (b) Equal Employment Opportunity Requirements

Case managers must ensure that employers comply with the Rehabilitation Act of 1973, as Amended, and with 38 U.S.C. 4212 regarding equal employment opportunity requirements for Veterans with disabilities (as defined in 38 U.S.C. 4211(1)). Department of

Labor (DOL) publishes a list of non-complying employers. Unless a question arises regarding an employer's compliance, the case manager will consider that an employer not on this list meets these compliance requirements.

VR&E staff members should direct questions concerning compliance to the local DOL representative or to the Education Liaison Representative (ELR) at the VA Regional Office.

c. Program Benefits

1. Benefits for Veterans

The benefits for Veterans include:

- Assistance with overcoming barriers to employment.
- Increased opportunities for permanent placement.

2. Benefits for Employers

The benefits for employers include:

(a) Reimbursement of up to 50 percent of the Veteran's salary during the SEI opportunity to compensate the employer for the following:

- Additional expenses incurred for cost of instruction or increased supervision
- Loss of production
- Additional supply and equipment costs

(b) Minimal paperwork.

(c) Case manager support to enable a successful employer/employee match.

(d) Employee training at employer's standards.

7.04 How to Set Up SEI Opportunities

a. General Information

SEI should be arranged whenever the case manager determines that this service is needed for the Veteran to obtain employment. All case managers

should be familiar with the process and requirements. Setting up an SEI opportunity should be a streamlined process, which requires the following steps:

1. Determine the need for SEI.
2. Locate an employer and conduct a site visit survey (38 CFR 21.294). The site visit must be documented on VAF 28-1905d. See Appendix O, VA Forms, for information on how to access this, as well as all forms referenced in this chapter. See M28R.V.B.2 for further guidance on site visit requirements.
3. Amend the Individualized Written Rehabilitation Plan/Individualized Employment Assistance Plan (IWRP/IEAP) to include completion of the SEI as an intermediate objective included as part of employment assistance.
4. Coordinate the SEI Employer Arrangement (see Appendix Q) and the SEI payment schedule (see Appendix R) with the employer and VR&E Officer.
5. Complete the following forms and justification:
  - VAF 22-8794, Designation of Certifying Official(s)
  - VAF 20-8206, VA Statement of Assurance of Compliance with Equal Opportunity Laws
  - VAF 28-1904, Arrangement to Train On The Job Disabled Veterans
  - VAF 28-1905m, Request for Supplies (if applicable)
  - SF 3881, Automated Clearing House (ACH) Vendor/ Miscellaneous Payment Enrollment Form
6. Obtain facility code from ELR for an "OJT, for Chapter 31 only." See M28R.V.B.2 for more information on obtaining a facility code from the ELR.
7. Follow procedures in M28R.V.B.3 and coordinate with the Vendorizing Unit of the Financial Servicing Center in Austin to arrange for the employer to receive electronic fund transfer payments through the Financial Management System (FMS) using SF 3881.
8. Set up employer in CWINRS as a facility. See CWINRS User Guide, Chapter 8 for more information on establishing facility providers in

CWINRS.

9. Perform follow-up efforts.

b. Determining Need for and Type of SEI Opportunities

1. Case managers must identify whether eligible Veterans need SEI opportunities.
2. Case managers will determine whether SEI opportunities are necessary to overcome obstacles such as age, disability(ies), work history, a limited number of employers in the commuting area and/or adjustment problems. If local employers will only offer OJT or employment if VA agrees to reimburse them for direct expenses, an arrangement may be made to the degree permitted under this program. (38 CFR 21.256 (b))
3. The case manager must work closely with the Veteran to determine the most appropriate SEI placement. Some Veterans will benefit from a focus on the development of an advanced or specific set of skills, whereas other Veterans may need the opportunity to develop and/or improve basic employment skills.

c. Search for Placement Opportunities

The search process for SEI opportunities involves two important steps. Case managers will perform the following tasks:

1. Locate potential employers (a state vocational rehabilitation placement specialist, local DOL Disabled Veterans' Outreach Program (DVOP) specialist, or state employment representative may be able to assist in this effort). Cold calls are another way to identify potential employers. A Veteran may also identify an employer that is willing to consider participating in the SEI program.
2. Inform employers that the paperwork involved is minimal and that the case manager will assist the employer with voucher preparation and with completion of other forms, if necessary.

d. Amend IEAPs

The case manager will amend the Veteran's IEAP after the employer and the Veteran agree to participate in the program. The amended IEAP should list the steps necessary for the Veteran to maintain employment.

## e. Coordinate Employer Arrangement

Once the case manager determines that the employer meets the qualifications of the SEI program, he/she will coordinate the signing of the arrangement. Additionally, the case manager must ensure that the Veteran's Counseling, Evaluation and Rehabilitation (CER) folder contains the following:

- SEI Employer Arrangement (See Appendix Q, SEI Employer Arrangement for a sample of an SEI Employer Arrangement)
- SEI Payment Schedule (see Appendix R, SEI Payment Schedule)

The case manager should ensure that a Veteran does not start work before the arrangement is signed. If an employer hires a Veteran prior to signing the SEI Employer Arrangement, an SEI cannot be set up after the fact. The SEI is designed to encourage the employer to hire the Veteran.

## f. Conduct Case Management

The Employment Services case manager must provide the same level of supervision provided to other Veterans receiving employment services. The Veteran will be provided an initial "face-to-face" supervision within 30 days of beginning the SEI opportunity and each month thereafter.

The case manager shall provide the level of support necessary to ensure the successful completion of the SEI program. Early intervention, should problems arise, will help to stabilize the Veteran during and after participation in the SEI program. The case manager must perform follow-up efforts to address the employer's feedback regarding the Veteran's progress.

## g. Complete Documentation

For all SEI programs, the case manager will maintain progress notes. Progress notes will be kept on VAF 28-1905d or in CWINRS notes and VAF 28-1905c, Monthly Record of Training and Wages, which is completed by the employer and submitted to the case manager for review.

## h. Reimburse Employers

VR&E can reimburse an employer up to a maximum of one-half the wages the employer pays the Veteran for the period of the SEI Arrangement. These wages must be agreed upon before the arrangement is signed, but cannot be less than the wages other employees receive in the same or similar jobs for that period of time.

### 1. Reimbursement Limited to Direct Expenses

Employers may receive reimbursement only for direct expenses. Direct expenses include:

- Instructional costs (paying supervisors to instruct the Veteran and purchasing instructional aids)
- Training materials and supplies
- Modification of equipment or working areas to permit the Veteran to be as productive as other workers
- Any significant loss of company productivity

Employers should base all of these expenses on objective data and cannot approximate the data. For example, employers may show that workers in the same occupational classification as a Veteran are more productive than the Veteran, but the workers and Veteran are paid a similar salary. The employer can then charge VR&E a percentage of the wages the Veteran received during the SEI opportunity, not to exceed 50 percent.

### 2. Employer Responsible for Productivity Determination

The employer is solely responsible for making the decision regarding loss of productivity. VR&E staff members may NOT review productivity or similar records beyond the brief justification, which the employer submits to VR&E in claiming reimbursement for the loss of productivity.

### 3. Limitations on Amounts an Employer can Claim

The employer may NOT claim reimbursement for more than one-half the total wages paid to the Veteran (projected in item #5 of the SEI Payment Schedule). The employer will project the amount for reimbursement in item #6 of the SEI Payment Schedule. The employer may itemize each of the expense factors (e.g., 30 percent due to loss of productivity) or submit a single figure encompassing all of the factors for which reimbursement may be claimed.

### 4. Vouchers

#### (a) Submission of Vouchers for Payment

The employer may submit vouchers on a monthly or quarterly basis or a voucher at the end of the Veteran's SEI opportunity. The voucher must include the following:



- (1) Start and end dates of the period for which the employer is claiming reimbursement.
- (2) Wages the employer paid during this period to the Veteran.
- (3) Wages the employer paid during this period to employees in the same or similar jobs, if applicable.
- (4) Amount of reimbursement the employer claims for the following items:
  - Instruction costs
  - Productivity losses
  - Supply and equipment expenses

(b) Review Vouchers

Case managers will perform the following tasks:

- (1) Review vouchers.
- (2) Ensure the figures correspond with Appendix R, SEI Payment Schedule, and VAF 28-1905c that the employer previously submitted.
- (3) Ensure the total claim does not exceed 50 percent of item #5 of Appendix R, SEI Payment Schedule, and not more than 50 percent of the salary paid for the time period invoiced.
- (4) If the claim is incorrect, return the total voucher to the employer with an explanation of the reasons for the return.
- (5) Enter authorized charges in CWINRS. Use Budget Object Code (BOC) 4109 for any portion of charges identified as supplies or equipment and BOC 4107 for all other expenses. Use BOC 4107 for the total if charges are not itemized by the employer. See M28R.V.B.1 for more information on BOCs.
- (6) Authorize and forward the voucher to the Finance unit at the Regional Office for payment. See M28R.V.B.7 for more information on authorizing and processing payments for services.

i. Perform Follow-Up

Case managers will follow up with the Veteran for at least 60 days after completion of the SEI program. Case managers must confirm with the employer that the Veteran has reached his/her goals; if the Veteran's employment is stable, complete recommendations for rehabilitation; and if the Veteran's employment is not stable, determine interventions.

The following documents must be completed, signed, and collected during the follow-up period:

- VAF 28-1905c, Monthly Record of Training and Wages
- VAF 28-1905d, Special Report of Training or CWINRS notes
- VAF 119, Report of Contact or CWINRS notes, if appropriate
- Employer invoices

j. Placement Termination or Reevaluation

A Veteran may have to leave his/her position due to performance, the deterioration of his/her disability or other issues. The case manager may need to reevaluate a participating Veteran's current employment needs. After the reevaluation, the case manager and Veteran may decide to pursue and develop another SEI opportunity with a different employer. This new SEI opportunity may occur without regard to the number of months of entitlement used in the previous SEI opportunity.

Case managers should carefully monitor entitlement usage for Veterans who do not have a Serious Employment Handicap (SEH) to ensure that these Veterans do not use more than 48 months of entitlement.

k. Additional SEI Program Approvals

Before a Veteran can participate in a second or subsequent SEI opportunity, the Regional Office Director and the VR&E Service Director must approve the new opportunity.

l. Charge against Entitlement

The case manager will not charge basic Chapter 31 entitlement for the period during which the employer is entitled to reimbursements of direct expenses under the program. The time spent in Job Ready status during the period of SEI is counted as part of the 18 months of employment services the Veteran may receive.

7.05 Direct Benefit Payments to Veterans

a. Subsistence Allowance

No Veteran may receive Chapter 31 subsistence allowance while participating in an SEI program. However, SEI participants are eligible for all services that Veterans can receive under VR&E's Employment Services.

b. Chapter 30 Allowance

In accordance with 38 CFR 21.256, if the SEI meets the criteria for approval of on-job training under Chapter 30, the Veteran may be paid at the educational assistance rates provided for this type of training under Chapter 30 to the extent that he/she has remaining eligibility and entitlement under Chapter 30 and has elected to receive educational assistance in accordance with 38 CFR 21.7136.

7.06 Duration of Employer Payments

Per 38 CFR 21.256, the period for which the employer is paid may not exceed the period necessary to accomplish on-job training or to begin and maintain employment at the journeyman level for at least 2 months. The period for which payment may be authorized may not exceed 6 months, unless the VR&E Officer approves a longer period. The case manager may request up to two additional 3-month periods of SEI if it is reasonable to assume the extended period of service would increase the Veteran's marketability and/or employment options.