

## EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

**§ 3106. Initial and extended evaluations; determinations regarding serious employment handicap**

(a) The Secretary shall provide any veteran who has a service-connected disability rated at 10 percent or more and who applies for benefits under this chapter with an initial evaluation consisting of such services described in section 3104(a)(1) of this title as are necessary (1) to determine whether such veteran is entitled to and eligible for benefits under this chapter, and (2) in the case of a veteran who is determined to be entitled to and eligible for such benefits, to determine—

(A) whether such veteran has a serious employment handicap, and

(B) whether the achievement of a vocational goal currently is reasonably feasible for such veteran if it is reasonably feasible to make such determination without extended evaluation.

(b) In any case in which the Secretary has determined that a veteran has a serious employment handicap and that the achievement of a vocational goal currently is reasonably feasible for such veteran, such veteran shall be provided an individualized written plan of vocational rehabilitation developed under section 3107(a) of this title.

(c) In any case in which the Secretary has determined that a veteran has a serious employment handicap but the Secretary is unable to determine, in an initial evaluation pursuant to subsection (a) of this section, whether or not the achievement of a vocational goal currently is reasonably feasible, such veteran shall be provided with an extended evaluation consisting of the services described in section 3104(a)(1) of this title, such services under this chapter as the Secretary determines necessary to improve such veteran's potential for participation in a program of services designed to achieve a vocational goal and enable such veteran to achieve maximum independence in daily living, and assistance as authorized by section 3108 of this title.

(d) In any case in which the Secretary has determined that a veteran has a serious employment handicap and also determines, following such initial and any such extended evaluation, that achievement of a vocational goal currently is not reasonably feasible, the Secretary shall determine whether the veteran is capable of participating in a program of independent living services and assistance under section 3120 of this title.

(e) The Secretary shall in all cases determine as expeditiously as possible whether the achievement of a vocational goal by a veteran currently is reasonably feasible. In the case of a veteran provided extended evaluation under subsection (c) of this section (including any periods of extensions under section 3105(a) of this title), the Secretary shall make such determination not later than the end of such extended evalua-

tion or period of extension, as the case may be. In determining whether the achievement of a vocational goal currently is reasonably feasible, the Secretary shall resolve any reasonable doubt in favor of determining that such achievement currently is reasonably feasible.

(f) In connection with each period of extended evaluation of a veteran and each rehabilitation program for a veteran who is determined to have a serious employment handicap, the Secretary shall assign a Department of Veterans Affairs employee to be responsible for the management and followup of the provision of all services (including appropriate coordination of employment assistance under section 3117 of this title) and assistance under this chapter to such veteran.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2176, §1506; amended Pub. L. 99-576, title III, §333(b)(4), Oct. 28, 1986, 100 Stat. 3279; Pub. L. 101-237, title IV, §423(b)(1), Dec. 18, 1989, 103 Stat. 2092; renumbered §3106 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 103-446, title XII, §1201(d)(9), Nov. 2, 1994, 108 Stat. 4684; Pub. L. 104-275, title I, §101(f)(1), Oct. 9, 1996, 110 Stat. 3324.)

## PRIOR PROVISIONS

Prior section 3106 was renumbered section 5306 of this title.

## AMENDMENTS

1996—Subsec. (a). Pub. L. 104-275, §101(f)(1)(A), substituted “rated at 10 percent or more” for “described in clause (i) or (ii) of section 3102(1)(A) of this title”.

Subsec. (b). Pub. L. 104-275, §101(f)(1)(B), struck out “counseling in accordance with” before “an individualized written plan”.

Subsec. (c). Pub. L. 104-275, §101(f)(1)(C), substituted “with an extended” for “with extended”.

Subsecs. (d) to (f). Pub. L. 104-275, §101(f)(1)(D), added subsec. (d) and redesignated former subsecs. (d) and (e) as (e) and (f), respectively.

1994—Subsec. (a). Pub. L. 103-446 substituted “clause (i) or (ii) of section 3102(1)(A)” for “section 3102(1)(A) or (B)”.

1991—Pub. L. 102-83, §5(a), renumbered section 1506 of this title as this section.

Subsec. (a). Pub. L. 102-83, §5(c)(1), substituted “3102(1)(A)” for “1502(1)(A)” and “3104(a)(1)” for “1504(a)(1)” in introductory provisions.

Subsec. (b). Pub. L. 102-83, §5(c)(1), substituted “3107(a)” for “1507(a)”.

Subsec. (c). Pub. L. 102-83, §5(c)(1), substituted “3104(a)(1)” for “1504(a)(1)” and “3108” for “1508”.

Subsec. (d). Pub. L. 102-83, §5(c)(1), substituted “3105(a)” for “1505(a)”.

Subsec. (e). Pub. L. 102-83, §5(c)(1), substituted “3117” for “1517”.

1989—Pub. L. 101-237 substituted “Secretary” and “Department of Veterans Affairs” for “Administrator” and “Veterans’ Administration”, respectively, wherever appearing.

1986—Subsecs. (a)(2)(B), (b) to (d). Pub. L. 99-576 substituted “currently is reasonably feasible” for “is reasonably feasible” wherever appearing.

## EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

**§ 3107. Individualized vocational rehabilitation plan**

(a) The Secretary shall formulate an individualized written plan of vocational rehabilitation

for a veteran described in section 3106(b) of this title. Such plan shall be developed with such veteran and shall include, but not be limited to (1) a statement of long-range rehabilitation goals for such veteran and intermediate rehabilitation objectives related to achieving such goals, (2) a statement of the specific services (which shall include counseling in all cases) and assistance to be provided under this chapter, (3) the projected date for the initiation and the anticipated duration of each such service, and (4) objective criteria and an evaluation procedure and schedule for determining whether such objectives and goals are being achieved.

(b) The Secretary shall review at least annually the plan formulated under subsection (a) of this section for a veteran and shall afford such veteran the opportunity to participate in each such review. On the basis of such review, the Secretary shall (1) redevelop such plan with such veteran if the Secretary determines, under regulations which the Secretary shall prescribe, that redevelopment of such plan is appropriate, or (2) disapprove redevelopment of such plan if the Secretary determines, under such regulations, that redevelopment of such plan is not appropriate.

(c)(1) Each veteran for whom a plan has been developed or redeveloped under subsection (a) or (b)(1), respectively, of this section or in whose case redevelopment of a plan has been disapproved under subsection (b)(2) of this section, shall be informed of such veteran's opportunity for a review as provided in paragraph (2) of this subsection.

(2) In any case in which a veteran does not agree to such plan as proposed, to such plan as redeveloped, or to the disapproval of redevelopment of such plan, such veteran may submit to the person described in section 3106(f) of this title a written statement containing such veteran's objections and request a review of such plan as proposed or redeveloped, or a review of the disapproval of redevelopment of such plan, as the case may be.

(3) The Secretary shall review the statement submitted under paragraph (2) of this subsection and the plan as proposed or as redeveloped, and, if applicable, the disapproval of redevelopment of the plan, and render a decision on such review not later than ninety days after the date on which such veteran submits such statement, unless the case is one for which a longer period for review, not to exceed 150 days after such veteran submits such statement, is allowed under regulations prescribed by the Secretary, in which case the Secretary shall render a decision no later than the last day of the period prescribed in such regulations.

(Added Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2177, §1507; amended Pub. L. 101-237, title IV, §423(b)(1)(A), Dec. 18, 1989, 103 Stat. 2092; renumbered §3107 and amended Pub. L. 102-83, §5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 104-275, title I, §101(f)(2)(A), Oct. 9, 1996, 110 Stat. 3325.)

#### PRIOR PROVISIONS

Prior section 3107 was renumbered section 5307 of this title.

#### AMENDMENTS

1996—Subsec. (c)(2). Pub. L. 104-275 substituted “3106(f)” for “3106(e)”.

1991—Pub. L. 102-83, §5(a), renumbered section 1507 of this title as this section.

Subsecs. (a), (c)(2). Pub. L. 102-83, §5(c)(1), substituted “3106(b)” for “1506(b)” in subsec. (a) and “3106(e)” for “1506(e)” in subsec. (c)(2).

1989—Subsecs. (a), (b), (c)(3). Pub. L. 101-237 substituted “Secretary” for “Administrator” wherever appearing.

#### EFFECTIVE DATE

Section effective Apr. 1, 1981, see section 802(a)(1) of Pub. L. 96-466, set out as a note under section 3100 of this title.

#### INDIVIDUALIZED WRITTEN PLANS AND EXTENSIONS OF ELIGIBILITY AND VOCATIONAL REHABILITATION PROGRAM PERIODS FOR VETERANS IN PROGRAMS ON MARCH 31, 1981

Pub. L. 96-466, title I, §101(d), Oct. 17, 1980, 94 Stat. 2186, provided that with respect to veterans participating in a program of vocational rehabilitation under this chapter on Mar. 31, 1981, individualized written plans of vocational rehabilitation were to be formulated under this section as determined by Administrator, and authorized extensions of periods of vocational rehabilitation without regard to certain requirements for determinations of serious employment handicaps.

#### VETERANS PURSUING PROGRAM OF VOCATIONAL REHABILITATION UNDER FORMER SECTION 1507 OF THIS TITLE

During the period beginning on Oct. 1, 1980, and ending on Mar. 31, 1981, the provisions of section 3112 [formerly 1512] of this title, as added by Pub. L. 96-466, title I, §101(a), Oct. 17, 1980, 94 Stat. 2181, shall apply to veterans pursuing a program of vocational rehabilitation training under this chapter in the same manner as former section 1507 of this title applied to veterans pursuing such a program under this chapter on Sept. 30, 1980, see section 802(a)(4) of Pub. L. 96-466, set out as an Effective Date note under section 3100 of this title.

#### § 3108. Allowances

(a)(1) Except in the case of a veteran who makes an election under subsection (f) of this section and subject to the provisions of paragraph (3) of this subsection, each veteran shall be paid a subsistence allowance in accordance with this section during a period determined by the Secretary to be a period of such veteran's participation under this chapter in a rehabilitation program.

(2)(A) In any case in which the Secretary determines, at the conclusion of such veteran's pursuit of a vocational rehabilitation program under this chapter, that such veteran has been rehabilitated to the point of employability, such veteran shall be paid a subsistence allowance, as prescribed in this section for full-time training for the type of program that the veteran was pursuing, for two months while satisfactorily following a program of employment services provided under section 3104(a)(5) of this title.

(B) In any case in which the Secretary determines that a veteran described in subparagraph (A) has been displaced as the result of a natural or other disaster while being paid a subsistence allowance under that subparagraph, as determined by the Secretary, the Secretary may extend the payment of a subsistence allowance under such subparagraph for up to an additional