Monitoring Changes in Individual Unemployability (IU) Trainee Handout

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Objectives

* Understand how changes in employability status are monitored
* Recognize when monitoring is no longer required
* Understand the new process for dispatch/control for return of *VA Form 21-4140, Employment Questionnaire*
* Understand the action to take upon expiration of due process
* Recognize the action to take when VA Form 21-4140 is received after decision notice has been sent

References

All references are found in the [Live Manual](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034).

* [M21-1, Part IV, Subpart ii, 2. F](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000014564/M21-1-Part-IV-Subpart-ii-Chapter-2-Section-F-Compensation-Based-on-Individual-Unemployability-IU), Compensation Based on Individual Unemployability (IU)

Topic 1: The IU Monitoring Process

**Old process:** In the past when a veteran was granted entitlement to *Individual Unemployability* (IU) an annual diary was established to monitor continued entitlement. This involved annual release of VA Form 21-4140, *Employment Questionnaire* through the *Hines Information Technology Center* (ITC), and Social Security Administration (SSA) data received from the *Income Verification Match* (IVM) program. This process created increased work load and processing of multiple end products to determine if entitlement would continue or be terminated by due process.

**New process:** In an effort to streamline and provide a more efficient process the VA will only require veterans to complete a VA 21-4140 if the SSA Wage Data Match shows employment income above the poverty threshold.

**Monitoring Changes in Employability Status**

In the improved process VA will only require veterans in receipt of IU that show a SSA wage data match above the poverty threshold to recertify entitlement.

Changes in employability of veterans for whom IU is established will be monitored through Va yearly Social Security (SSA) wage data match

* + Veterans identified as having verified earned income over the poverty line will receive a due process letter and *VA Form 21-4140, Employment Questionnaire*, from Hines Information Technology Center (ITC)
  + Veterans will be required to identify/explain their earned income

The poverty line (threshold) is determined when a Veteran’s earned income does not exceed the amount established by the U.S. Census Bureau as the average poverty threshold for one person.

<https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>

**When Employability Monitoring is Not Required**

We no longer need to monitor changes in employability status when the Veteran:

* has **NOT** been identified in the SSA data match as having verified earned income above the poverty line
* has an IU rating that has been in effect for 20 or more continuous years, or entitlement to IU has been replaced with 100-percent schedular evaluation.

**Dispatch/Control for Return of VA Form 21-4140**

|  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| Follow the steps in the table below for the dispatch and control for return of VA Form 21-4140*.*     | **Step** | **Action** | | --- | --- | | 1 | Upon receipt of wages files from SSA, HINES ITC will run a data match to identify those Veterans in receipt of IU and verified earned income over the poverty line. | | 2 | Hines will automatically generate and send a due process letter with an attached VA Form 21-4140 to those identified Veterans. | | 3 | An EP 600 with the claim label “Predetermination – Rating Issue” batch established to control for the return of VA Form 21- 4140 and due process period. The suspense date is set for 65 days from the month it is issued from Hines ITC. | | 4 | Hines will also add the special issue flash, “Annual Eligibility Review” to each claim in the batch process.  **Important:** Claims processors must add this special issue flash if it was not automatically added by Hines. | | 5 | The suspense date will be set for 65 days to allow for the expiration of due process.    Upon expiration of the suspense date, claim processors should refer to section  [M21-1, IV.ii.2.F.5.e-h](https://vaww.vashare.vba.va.gov/sites/SPTNCIO/focusedveterans/training/VSRvirtualtraining/Curriculum%20Library/Monitoring%20Income%20for%20Veterans%20in%20Receipt%20of%20IU/Final%20Documents/Monitoring%20Income%20for%20IU_HO_TBD_K.Standfield.docx) and take appropriate action | |

**When Hines ITC Cannot Issue VA Form 21-4140**

Claims identified in the income match that cannot be batched processed by Hines ITC will require manual review and action by Regional Offices (RO).

The field will be notified by the Office of Field Operations via e-mail to RO leadership of cases in their jurisdiction (based on Veteran’s address) in which the Veteran

• has been identified as being in receipt of income above the poverty threshold, and

• is in receipt of individual unemployability, but

• did not receive due process through the batch process.

Upon receipt of notification from OFO the RO will take the following steps:

|  |  |
| --- | --- |
| **Step** | **Action** |
| 1 | Establish an EP 600 with the claim label, “Predetermination – Rating Issue”   * upon establishment of an EP 600, ensure the SUPPRESS ACKNOWLEDGEMENT LETTER checkbox is selected so the Hines-generated acknowledgement letter is not automatically sent to the Veteran |
| 2 | Add the special issue flash, “Annual Eligibility Report,” and, |
| 3 | Provide the Veteran with due process. Send letter to propose to dscontinue entitlement to IU based on receipt of earned income by sending the Veteran notice of proposed adverse action and including **VA Form 21-4140**, ***Employment Questionnaire*** using the *IU Eligibility Review Due Process* letter in the VSC tab of the **Letter Creator** tool (or equivalent letter in Personal Computer Generated Letters). |
| 4 | Ensure tracked items are entered for   * due process, and * return of VA Form 21-4140 |
| 5 | Set the suspense for 65 days. |
| 6 | Provide e-mail notice back to OFO that due process was sent on identified RO cases |

**Important:** At this time please navigate to Letter Creator and review the “IU Annual Eligibility Review Due Process” letter. Please understand how the up front due process will make it easier and faster to process changes in IU status.

***Also, take this time to visit VBMS and go over the new EP 600 “Predetermination – Rating Issue” and special issue flash “Annual Eligibility Review." Recognize that it is everyone’s responsibility to ensure proper End Product (EP) selection and all applicable flashes are properly associated to the claim.***

Topic 2: Individual Unemployability Due Process

**Expiration of Due Process**

Proposed adverse action is provided as soon as the system shows a SSA data wage match. The due process notification letter is either sent automatically via HINES (ITC) or by RO personnel via Letter Creator.

If you receive or fail to receive a VA Form 21-4140, *Employment Questionnaire* then please follow the guidance in the below table for the appropriate action.

|  |  |
| --- | --- |
| **If...** | **Then...** |
| The VA Form 21-4140 is not returned and due process has expired | |  |  | | --- | --- | | Step | Action | | 1. | Refer the claim to the rating activity.   * The rating decision should reflect a reduction to the schedular evaluation effective the date indicated in the LAST PAID DATE field on the AWARD INFORMATION tab in Share (see 38 CFR 3.501(f)) or the date specified in the notice of proposed adverse action, whichever is later.   ***Important*.** If entitlement to DEA or SMC was previously established based on the grant of IU, address DEA in the rating if otherwise warranted. | | 2. | Refer the claims folder to the authorization activity to reduce the award   * notify the Veteran of the reduction and any loss of entitlement to DEA or SMC * advise the Veteran that if VA receives evidence showing continued unemployability within one year of the date of the decision notice, IU will be restored from the date of reduction, and * advise the regional processing office (RPO) of jurisdiction of the loss of entitlement to DEA, if a 38 U.S.C. Chapter 35 record exists under the Veteran’s claim number.   **Reference:** For more information on RPO jurisdiction, see [M21-1, Part IX, Subpart ii, 2.8.a](file:///C:/Users/VBACOStandK/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/6D5NINRK/Monitoring%20Income%20for%20Veterans%20in%20Receipt%20of%20IU_HO_TBD_K.Standfield.docx) | |
| The VA Form 21-4140 is returned but does not provide an explanation of earned wages | Since only Veterans identified in the wage data match as having received income will receive a 21-4140, wages must be explained as requested in the accompanying due process letter. Indication of non-employment is unacceptable and a fraudulent response.  When reviewing the completed VA Form 21-4140, if the Veteran has checked the block indicating he/she has not been employed in the past 12 months and signed the form.  Follow Steps 1-2 above AND:   * Explain in the rating narrative that the reason for the rating reduction is “failure to provide requested evidence” * Add Corporate flash, “Annual IU Eligibility Review-Fraud” to claim (normally done by authorization activity).   ***Important:***   * If the Veteran fails to check the “No” box indicating that he/she has not worked, but signs the VA Form 21-4140 indicating that he/she has not been employed by VA or others or self-employed at any time during the previous 12 months, the claim should still be referred to the rating board as described in the table below. * If a signed VA Form 21-4140 is received but necessary information, such as wage data, is missing or requires clarification, it is permissible to telephone the Veteran to obtain the clarifying information orally and document any contact with the Veteran on VA Form 27-0820.   **Note:** A phone call cannot be used as a substitute for a non-signed form. |
| The VA Form 21-4140 is returned and provides wage information but is missing a signature | 1. Return the form to the Veteran indicating the form is incomplete (use the “*Form Not Complete*” letter) in Letter Creator tool found under the IPC menu and inform the Veteran a signature is required. 2. Set the suspense for 30 days.   **Note:** If the form is   * returned with a signature follow the most appropriate procedure based on the income reported, or * returned without a signature or failed to return form, follow the procedures in [M21-1, Part IV, Subpart ii, 2.F.5.e](file:///C:/Users/VBACOStandK/AppData/Local/Microsoft/Windows/Temporary%20Internet%20Files/Content.Outlook/6D5NINRK/Monitoring%20Income%20for%20Veterans%20in%20Receipt%20of%20IU_HO_TBD_J%20Givans.docx)**.** |
| The VA Form 21-4140 is returned and shows the veteran reported regained employment but it has not been sustained for 12 or more consecutive months | * refer the claims folder to the rating activity for a rating decision reflecting confirmed and continued entitlement to IU, which will be reviewed if sustained employment is shown, and then * refer the claims folder to the authorization activity to notify the Veteran.   ***Important.*** There is no need to establish a review examination to determine if sustained employment is shown. If continued employment is shown when the next annual data match occurs, entitlement to IU will be reviewed at that time. |
| The VA Form 21-4140 shows possible gainful employment for 12 months or more | | **Step** | **Action** | | --- | --- | | 1 | Refer the claims folder to the rating activity. | | 2 | The rating activity will review **VA Form 21-4140** and all other evidence of record to determine whether discontinuation of entitlement to IU is warranted.  The rating activity must consider whether   * the employment is sustained, gainful employment or marginal employment, and/or * an examination is necessary to evaluate employment status or employability.   **References**:  For more information on   * discontinuing entitlement to IU, see **38 CFR 3.343(c)** * requesting examinations in IU claims, see **M21-1, Part IV, Subpart ii, 2.F.2.c** * the definition of   + substantially gainful employment, see **M21-1, Part IV, Subpart ii, 2.F.1.c**, and   + marginal employment, see **M21-1, Part IV, Subpart ii, 2.F.1.d**, and * circumstances for considering marginal employment, see **M21-1, Part IV, Subpart ii, 2.F.1.e**. | | 3 | The rating activity will complete a rating decision to   * discontinue entitlement to IU based on the return to sustained, gainful employment as well as any ancillary issues such as DEA or SMC entitlement, or * continue entitlement to IU based on the lack of evidence showing that the employment is sustained, gainful employment.   **Important**:  The reasons for decision must discuss the evidence relevant to the determination that sustained gainful employment has or has not been shown. | |

**VA Form 21-4140 received after decision notification sent**

If we receive the Veterans completed VA Form 21-4140, *Employment Questionnaire* after the notification letter has been sent follow the steps in [M21-1, III.IV.2.B](https://vaww.vrm.km.va.gov/system/templates/selfservice/va_kanew/help/agent/locale/en-US/portal/554400000001034/content/554400000015808/M21-1-Part-III-Subpart-iv-Chapter-2-Section-B-Revision-of-Decisions) for Revision of Decision.

Practical Exercise

**Directions:** Read the scenarios and utilizing the Live Manual and training handout answer the questions below.

**Scenario 1:**

Jason Clooney, a Veteran in receipt of Individual Unemployment (IU) showed earned income based on SSA wage data match. Hines (ITC) auto generated and sent Veteran due process letter and VA Form 21-4140, *Employment Questionnaire*.

**What EP and claim label is appropriate for this case?**

**What special issue(s) is/are appropriate for this case?**

**What is the appropriate suspense?**

**Scenario 2:**

Jeremy Shocky who is in receipt of IU showed a SSA wage data match. Hines (ITC) auto generated and sent Veteran due process letter and VA Form 21-4140. Veteran returns the signed form but fails to provide explanation of wage data.

**What action should the rating activity take?**

**What action should the authorization activity take?**