



Vocational Rehabilitation and Employment: Maximum Rehabilitation Gain (MRG)

Introduction

On July 1, 2015, Vocational Rehabilitation and Employment (VR&E) Service deployed the new employee performance standards. This consists of implementing new performance measures for percent of active cases, job-ready decisions, average days in Job Ready status, Chapter 36 Days in Applicant Status, Chapter 36 Accuracy, and number of positive outcomes. The calculation for the positive outcomes include Chapter 18 rehabilitations, Chapter 35 rehabilitations and Chapter 31 employment rehabilitations, continuing education rehabilitations, independent living rehabilitations, and maximum rehabilitation gains (MRGs). Since MRG is a newly added measure for the positive outcomes, this training intends to provide guidelines on the proper use of maximum rehabilitation gains for case closures.

VR&E Service has previously established and described the concept of MRG as providing a comprehensive representation of the positive impact of the rehabilitation process for Veterans who are unable to complete planned services and achieve a fully successful outcome as defined by VA regulations. A Veteran has achieved MRG when VR&E is able to measure substantial improvement in the Veteran's circumstances that is directly attributable to services provided by VR&E.

Objective(s)

The purpose of this training is to inform all VR&E Staff of the administration and guidelines of MRG closures. Topics that will be discussed in this training are as follows:

- When to Use the MRG Designation and the Criteria for MRG
- MRG Categories
- MRG Documentation and Responsibilities
- Procedural Guidance
- Closure Statement and
- Other Closure Actions

When to Use the MRG Designation and the Criteria for MRG

MRG may be used when one of the following occurs:

- Services contributed to a Veteran obtaining or maintaining employment that does not meet the criteria for rehabilitation, or
- Services contributed to a Veteran becoming employable in a suitable occupation

Note: The type and number of services provided are not, in themselves, sufficient to close a case as an MRG unless certain criteria are met. The benefit of services provided must be clearly explained and documented and the determination must be based on information about the Veteran's current circumstances.

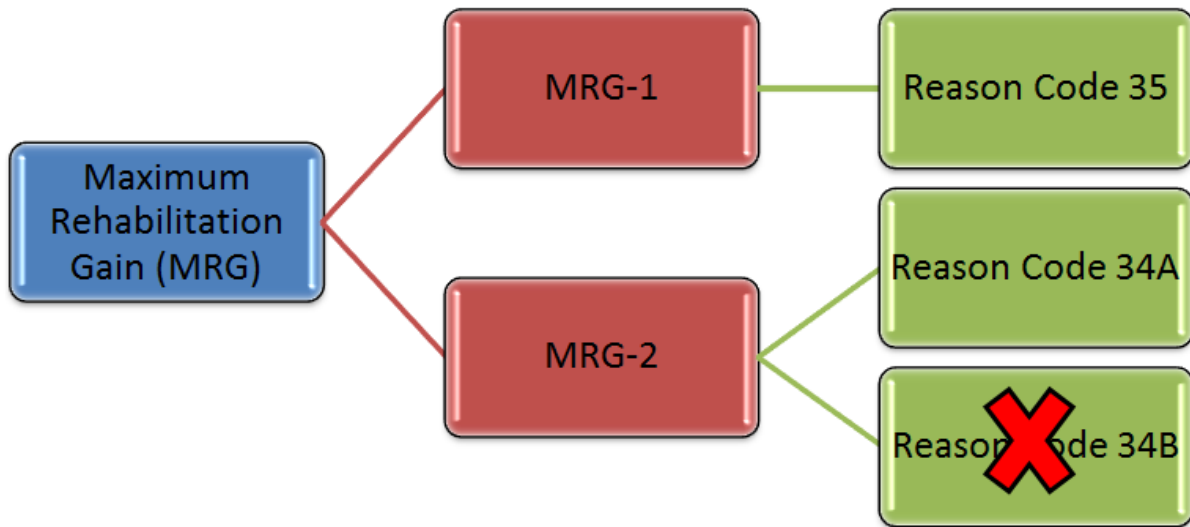
Note: MRG outcomes are now considered positive outcomes and are included in the calculation of the Outcome Accuracy scores.

Criteria for MRG

A determination that a Veteran has reached maximum rehabilitation gain can only be made when all of the following criteria are met:

- The Veteran has received services under an IWRP or an IEAP.
- The Veteran is unable or unwilling to continue services toward completion of a vocational goal despite VR&E efforts to motivate or provide further services.
- The Veteran has received written notification of interruption and pending discontinuance.
- Direct contact has been established with the Veteran within 90 days prior to closure or information about the Veteran's current circumstances has been verified within 120 days prior to closure.
- The Veteran has received significant and measurable gain from the services provided under Chapter 31 as described within categories MRG-1 and MRG-2.

Maximum Rehabilitation Gain Categories



NOTE: As stated in VR&E Circular 28-15-04, the use of RC 34B has been repurposed to track Positive Outcome for Chapter 35 Specialized Restorative Training. Please view *VRE Chapter 35 Training* for further training on the appropriate use of RC 34B.

The two CH 31 MRG Categories are as follows:

- MRG-1, Reason Code 35
- MRG-2, Reason Code 34A

Please click on the hyperlinked text or scroll down on the page to view more information on these two MRG categories.

MRG-1, Reason Code 35



The use of MRG-1 (Reason Code 35) is appropriate in cases when all of the following circumstances are present:

- Veteran is employed,
- VR&E services contributed to the Veteran obtaining or maintaining current employment, and
- Current employment is advantageous to the Veteran but does not meet the criteria for closure as “rehabilitated” in accordance with 38 CFR 21.283.

MRG-2, Reason Code 34A



The use of MRG-2 (Reason Code 34A) is appropriate in the following circumstances:

The Veteran is Employable in a Suitable Occupation (Reason Code 34A)

- The Veteran completed all or some of the planned services leading toward a vocational goal, and is currently employable in a suitable job.
- The services provided by VR&E enable the Veteran to qualify for suitable employment, yet the case does not meet the criteria for closure as “rehabilitated” in accordance with 38 CFR 21.283.
- This includes, but is not limited to, instances when the Veteran chooses to remain in the same unsuitable position that led to the finding of entitlement.

The type or number of services provided by VR&E alone is not sufficient to justify case closure using MRG-2. To determine if the use of MRG-2 is appropriate, the VRC should be able to answer “Yes” to the following questions:

- Is the Veteran currently qualified and capable of obtaining employment in a suitable occupation, defined as employment that is consistent with the Veteran’s interests, aptitudes, and abilities and does not aggravate his/her disability condition(s)?
- Did the services provided by VR&E contribute to the Veteran’s employability?
- Has the Veteran overcome the impairments to employment noted during the initial evaluation?
- Have the Veteran’s circumstances, as it relates to employability, in the period following application for Chapter 31 services improved?
- Did the services provided by VR&E contribute to the improvement in the Veteran’s employability?

Maximum Rehabilitation Gain Responsibilities



Current information must be verified and direct contact must be established prior to closure of a case in Discontinued status using an MRG reason code.

*Current information is defined as information that justifies the MRG and is substantiated by direct contact with the Veteran within 90 days prior to closure or, without direct contact, is verified as accurate within 120 days prior to the date of closure.

*Direct contact is defined as two-way communication in person, by telephone, traditional mail or by electronic means, such as email. When it is not possible to complete this direct contact, the file should be clearly documented to show that efforts were made by all available methods (i.e., traditional mail, phone, or email).

The VR&E case manager must ensure that accurate and current information to substantiate the decision to close the case with an MRG reason code is documented in the CER folder. VR&E staff, a contract counselor, a DVOP specialist, a LVER, or other Veteran-focused entity such as a Veterans Service Officer (VSO) or VA certifying official may also establish the contact or obtain the necessary documentation. The purpose of this requirement is to ensure that current information about the Veteran's circumstances was considered in the decision to close the case.

The case manager is responsible for making every effort to assist the Veteran toward a rehabilitation outcome. However, when the Veteran is unable or unwilling to continue receiving services toward that goal, the VR&E case manager must:

- Review obtained information,
- Develop further information as needed, and
- Prepare a closure statement that clearly explains the use of a particular MRG or other reason code.

The Vocational Rehabilitation and Employment Officer's (VREO) responsibility is to ensure that the:

- Required procedures were followed,
- Current information was used, and
- Required criteria were met before a case is closed using an MRG reason code.

When discontinuing a Chapter 31 case using an MRG reason code, VR&E case managers must provide thorough justification of the MRG in the closure statement. Only cases of Veterans who have derived significant rehabilitative benefits through services provided by VR&E under an IWRP or IEAP may be closed in Discontinued status using an MRG reason code. VREO approval must be indicated in writing on VAF 28-0853.

Chapter 31 Maximum Rehabilitation Gain-Procedural Guidance



When a Veteran is unable or unwilling to continue services toward completion of a vocational goal, proper procedures for interruption, follow-up, and due process must be followed. The guidelines and procedures for justifying, documenting and closing cases in Discontinued status using an MRG reason code are described below.

Follow procedures outlined in M28R.III.A.2 to move the case to Interrupted status and provide written notification to the Veteran of the reason(s) for this action, as well as what next steps are required to continue services under Chapter 31. Clearly state what actions you will take if the Veteran does not respond within the specified period. Discontinuing the Veteran's program is considered an adverse action and requires due process. Due process requires that VA provide prior notification of an adverse action and a period to respond to this notification before taking an adverse action. The Interruption letter may be used to provide notification of the intent to discontinue Chapter 31 benefits. The period of due process that allows the Veteran the opportunity to respond to the notification must be at least 30 days but not more than 60 days.

If it is determined that case closure using an MRG reason code is appropriate, the case manager must send the Veteran the Pre-MRG Letter, VR-48, when moving the case to Interrupted status. Select and print the Interruption letter from the CWINRS database.

If the Veteran responds to the Interruption letter during the due process period by indicating a desire to re-enter services, the case manager should schedule a meeting to discuss next steps to continue or redevelop a plan of services.

If the Veteran does not respond during the due process period, or responds by indicating that he/she is unable or unwilling to re-enter services, the case manager should close the case within the due process period and send the MRG Discontinue Letter (See M28R, Appendix AF, VA Letters).

If the case is not closed within the required due process period, the case manager should send another notification of proposed adverse action and provide an additional period of due process. The pre-MRG letter should be used for this purpose.

Closure Statement

A closure statement must be completed and submitted with VAF 28-0853, Checklist for Proposed Discontinuance. Documented information used to establish that the criteria for MRG have been met must be attached to the closure statement. The statement must include the following information:

- A summary of the need for services that was based on the initial evaluation of the Veteran's impairment of employability
- Services that were planned and how they related to overcoming the impairment
- Services that were actually provided, with notes on whether objectives were completed
- Current circumstances including information about employment, feasibility of achieving a vocational goal
- Synthesis of the above information to explain how specific VR&E services have contributed to current employment, or employability in a suitable job
- Required statement, as appropriate:
 - "Based on recent contact with (the Veteran) on (date of contact), the attached information, and a review of the CER folder, I have determined that (the Veteran) has attained maximum rehabilitation gain. (The Veteran)'s case will be discontinued using MRG reason code (appropriate reason code)", or
 - "Based on the attached information from (source of information) verified on (date verified) and a review of the CER folder, I have determined that (the Veteran) has attained maximum rehabilitation gain. (The Veteran)'s case will be discontinued using MRG reason code (appropriate reason code)."

Complete all appropriate items on VAF 28-0853. When all required signatures have been obtained, complete processing through CWINRS.

Note: The signatures in Item 10 on VAF 28-0853 signify responsibility for reviewing and approving the required elements prior to the decision to discontinue the case. The declaration must be filed on the top of the center section of the CER folder.

MRG Closure Actions

The case manager must change case status in CWINRS to Discontinued status using the appropriate reason code. When using RC 35 to close a Chapter 31 case, employment data must be entered in the CWINRS placement tab. Refer to M28R.V.A.7 for further guidance.

When using RC 34A (MRG 2) to close a Chapter 31 case, select the appropriate detail reason code in CWINRS to reflect “employable.” No employment information is required in CWINRS. Refer to M28R.V.A.7 for further guidance.

Also, the case manager must inform the Veteran of the closure. The case manager must send CWINRS letter and VAF 4107 to the Veteran and the Veteran’s power of attorney, if applicable, informing them of the reasons for the closure and the right to appeal the decision.

Supporting Reference

38 §21.283 Rehabilitated.

(a) General. For purposes of chapter 31 a veteran shall be declared rehabilitated when he or she has overcome the employment handicap to the maximum extent feasible as described in paragraph (c), (d) or (e) of this section. (Authority: 38 U.S.C. 3101 (1), (2))

(b) Definition. The term “suitably employed” includes employment in the competitive labor market, sheltered situations, or on a non-pay basis which is consistent with the veteran's abilities, aptitudes and interests if the criteria contained in paragraph (c) (1) or (2) of this section are otherwise met. (Authority: 38 U.S.C. 3100)

(c) Rehabilitation to the point of employability has been achieved. The veteran who has been found rehabilitated to the point of employability shall be declared rehabilitated if he or she:

(1) Is employed in the occupational objective for which a program of services was provided or in a closely related occupation for at least 60 continuous days;

(2) Is employed in an occupation unrelated to the occupational objective of the veteran's rehabilitation plan for at least 60 continuous days if the veteran concurs in the change and such employment:

(i) Follows intensive, yet unsuccessful, efforts to secure employment for the veteran in the occupation objective of a rehabilitation plan for a closely related occupation contained in the veteran's rehabilitation plan;

(ii) Is consistent with the veteran’s aptitudes, interests, and abilities; and

(iii) Utilizes some of the academic, technical or professional knowledge and skills obtained under the rehabilitation plan; or

(3) Pursues additional education or training, in lieu of obtaining employment, after completing his or her prescribed program of training and rehabilitation services if:

(i) The additional education or training is not approvable as part of the veteran's rehabilitation program under this chapter; and

(ii) Achievement of employment consistent with the veteran's aptitudes, interests, and abilities will be enhanced by the completion of the additional education or training. (Authority: 38 U.S.C. 3101(1), 3107 and 3117)

(d) Rehabilitation to the point of employability has not been completed. A veteran under a rehabilitation plan, who obtains employment without being declared rehabilitated to the point of employability as contemplated by the plan, including a veteran in a rehabilitation program consisting solely of employment services, is considered to be rehabilitated if the following conditions exist:

(1) The veteran obtains and retains employment substantially using the services and assistance provided under the plan for rehabilitation.

(2) The employment obtained is consistent with the veteran's abilities, aptitudes and interests.

(3) Maximum services feasible to assist the veteran to retain the employment obtained have been provided.

(4) The veteran has maintained the employment for at least 60 continuous days. (Authority: 38 U.S.C. 3101(1), 3107 and 3117)

(e) Independent living. A veteran who has pursued a program of independent living services will be considered rehabilitated when all goals of the program have been achieved, or if not achieved, when:

(1) The veteran, nevertheless, has attained a substantial increase in the level of independence with the program assistance provided;

(2) The veteran has maintained the increased level of independence for at least 60 days; and

(3) Further assistance is unlikely to significantly increase the veteran's level of independence. (Authority: 38 U.S.C. 3101 (1), (2) 3107)

References

38 CFR 21.283

M28R.V.A.7

M28R.VII.A.2

Circular 28-15-04

Conclusion

It is imperative that VR&E Staff understand the policies and procedures for developing and implementing appropriate MRG closures. This will allow VR&E Service to obtain comprehensive data for

the revised performance standards that will track the positive impact of the rehabilitation process to Veterans who are unable to complete planned services and achieve rehabilitation.

If you have any questions, please contact your assigned VR&E Field Liaison.

District	E-mail
North Atlantic	VAVBAWAS/CO/VRE/NA
Southeast	VAVBAWAS/CO/VRE/SE
Midwest	VAVBAWAS/CO/VRE/MW
Continental	VAVBAWAS/CO/VRE/CONT
Pacific	VAVBAWAS/CO/VRE/PA

To ensure training is recorded to your "Learning Plan", please log in to the [Talent Management System](#) and complete the evaluation in TMS.

If you have any problems with this process, please contact [Lamoyd Figures](#) or 407-835-5617.