



**Department of
Veterans Affairs**
EVIDENCE INTAKE CENTER
PO BOX 4444
JANESVILLE WI 53547-4444

September 17, 2020

In Reply, Refer To: 372/212C

IMPORTANT – reply needed within 60 days

Dear [REDACTED]

You are required to notify VA **immediately** of any condition affecting your eligibility to continued Individual Unemployability (IU). If a Veteran in receipt of IU begins to engage in a substantially gainful occupation, the Veteran's rating may not be reduced solely on the basis of a gainful occupation *unless* the Veteran maintains the occupation for a period of 12 consecutive months.

We have received information from the Social Security Administration (SSA), which indicates you earned wages above the poverty threshold for calendar year 2019. VA uses the poverty threshold for a single Veteran under the age of 65 as a baseline for review of gainful earnings. Earned wages do not automatically exclude a Veteran from IU eligibility. VA will review all facts and circumstances and then render a decision on IU eligibility.

For a complete threshold listing, visit the U.S. Census Bureau website (<https://www.census.gov/data/tables/time-series/demo/income-poverty/historical-poverty-thresholds.html>).

What We Propose to Do

We plan to discontinue your continued eligibility to the individual unemployability benefit based upon evidence that you have sustained gainful employment during the previous calendar year. This proposal would reduce your disability compensation to your schedular evaluation, 90%. If this proposal is implemented, entitlement to Dependents' Educational Assistance and/or any Special Monthly Compensation you may be entitled to associated with your eligibility for the individual unemployability benefit may also be discontinued.

What Additional Information or Evidence Do We Still Need from You?

In order to continue receiving IU, you must complete and return the attached VA Form 21-4140, *Employment Questionnaire* and VA Form 21-4138, *Statement in Support of Claim*. Please utilize these forms to explain your earned wages for calendar year 2019.

Please identify your current employment status and any factors that may have contributed to identified wage earnings. You must submit evidence that supports the applicable scenario:

- If you filed taxes jointly, submit your spouse's W-2
- If you are no longer employed, submit a statement from your former employer providing the date of termination
- If you have not been employed for a continuous year, submit a statement from your employer of the dates employed

If your service-connected conditions have improved, and you are now able to secure gainful employment, please let us know. **If you do not return the completed VA Form 21-4140 and VA Form 21-4138 within 60 days, we may discontinue your entitlement to IU.** This discontinuance will begin at a future date and will not result in an overpayment of benefits paid to you.

How Will We Make Our Decision?

Your disabilities and supporting evidence will be reviewed to determine your continued eligibility to the individual unemployability benefit. The rating decision will explain our decision, the reason for it, and the evidence considered.

How Submitting Evidence May Affect Payments

Your payments will continue at the present rate for 60 days following the date of this notice so that you may, if you wish, submit evidence to show that you are still eligible for the individual unemployability benefit. You may submit evidence in person, through the mail or through your accredited representative. We have enclosed VA Form 21-4140 and VA Form 21-4138 for your convenience.

If you wait more than 60 days to submit evidence, we will carefully consider whatever you submit, but an adjustment of benefits will already have gone into effect and your adjusted benefits will continue while we review the additional evidence.

Be sure to send your evidence, with your full name and VA file number, to the address at the top of this letter.

How to Obtain a Personal Hearing

If you desire a personal hearing to present evidence or argument on any point in your claim, notify this office and we will arrange a time and place for the hearing. You may use the enclosed **VA Form 21-4138, *Statement in Support of Claim***, for this purpose. If you want, you may bring witnesses and their testimony will be entered in the record. VA will furnish the hearing room and provide hearing officials. VA cannot pay for any other expenses of the hearing since a personal hearing is held only upon your request. Please see the enclosed **VA Form 21-0789, *Your Rights to Representation and a Hearing***, for more information.

If within 30 days from the date of this notice VA receives your hearing request, we will not make any adjustments to your award until we have held your hearing and reviewed the testimony.

You may request a hearing after **30 days**; however, we may continue with our proposed action.

How to Obtain Representation

An accredited representative of a veterans' organization or other service organization recognized by the Secretary of Veterans Affairs may represent you, without charge. An accredited agent or attorney may also represent you. However, an accredited agent or attorney may only charge you for services performed in support of your decision review, either a notice of disagreement, supplemental claim, or higher-level review. If you desire representation, let us know and we will send you the necessary forms. If you have already designated a representative, no further action is required on your part.