

(i) An apprenticeship or other on-job training program approved under 38 U.S.C. 3687 will, upon the employer's submission of an application in accordance with § 21.4822 containing the certification required by § 21.4822(a)(3)(iii), be considered to have met all requirements for approval under this subpart, and will be approved unless found ineligible under paragraph (b) of this section, and

(ii) If a job training program described in paragraph (a)(3)(i) of this section requires more than 18 months of training to complete, the period of training approvable for purposes of this subpart will be limited to the first 18 months of training under the program, or a period of training not to exceed 18 months from the point at which the eligible person enters the program in the case where the employer grants credit for prior training. (See § 21.4832(a)(3)).

(Authority: 106 Stat. 2762, Pub. L. 102-484, sec. 4486(h); 10 U.S.C. 1143 note)

(b) *Ineligible programs.* VA will not approve a job training program for employment—

- (1) Which consists of seasonal, intermittent or temporary jobs,
- (2) Under which commissions are the primary source of income,
- (3) Which involves political or religious activities,
- (4) With any department, agency, instrumentality or branch of the Federal Government (including the United States Postal Service and the Postal Rate Commission); or
- (5) Which will not be performed in a State.

(Authority: 106 Stat. 2760, Pub. L. 102-484, sec. 4486(b); 10 U.S.C. 1143 note)

§ 21.4821 [Reserved]

§ 21.4822 Employer applications for approval.

(a) *Applications for approval of job training programs.* (1) The employer must apply for approval of a job training program to the Director of the VA facility having jurisdiction over the place where the eligible person will be trained.

(2) The employer's application for approval of a job training program under this subpart must be in the form prescribed by the Secretary of Veterans Affairs and, except for a program of apprenticeship or other on-job training approved under 38 U.S.C. 3687, must include the employer's certification of the matters set forth in paragraphs (a)(3) and (a)(4) of this section.

(3) The employer must make and submit the following general certifications with the application.

(i) The employer plans that—

(A) Upon the eligible person's completion of the job training program, the employer will employ the eligible person in the position for which he or she has been trained, and

(B) This position will be a full-time, permanent employment position available to the eligible person at the end of the training period.

(ii) The wages and benefits to be paid to an eligible person participating in the job training program—

(A) Will be the same as the wages and benefits normally paid to other employees participating in the same or a comparable job training program, and

(B) If there are no nonveterans training in the program, will be comparable to wages paid in similar programs in the community in which the employee will be trained.

(iii) Employment of the eligible person under the program—

(A) Will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), and

(B) Will not be in a job while another person is laid off from the same or substantially equivalent job, or will not be in a job the opening for which was created as a result of the employer having terminated the employment of any regular employee or otherwise having reduced its workforce with the intention of hiring an eligible person in the job.

(iv) The employer will not employ in the job training program an eligible person already qualified by training and experience for the job for which the training is to be provided.

(v) The job which is the objective of the job training program involves significant training.

(vi) The training content of the job training program is adequate to accomplish the training objective of the program considering—

(A) The nature of the occupation for which training is to be provided, and

(B) The content of comparable, available training programs which lead to the same occupation.

(vii) Each participating eligible person will be employed full-time while in the job training program.

(viii) The training period of the program will not be longer than the training periods that other employers in the community customarily require new employees to complete in order to become competent in the occupation or job for which the training is provided.

(ix) The training establishment or place of employment will have available, as needed to accomplish the

training objective of the program, the following:

(A) Sufficient space,

(B) Equipment,

(C) Instructional material, and

(D) Instructor personnel.

(x) The employer will keep adequate records.

(A) To show the progress made by each eligible person participating in the program, and

(B) To demonstrate compliance by the employer and eligible person with all requirements of law governing the Service Members Occupational Conversion and Training Act.

(xi) The employer, before the eligible person's entry into training, will—

(A) Furnish the eligible person with a copy of the certification described in this paragraph, and

(B) Obtain and retain the eligible person's signed acknowledgment of having received the certification.

(xii) The employer will provide to each participating eligible person for whom a case manager has been assigned by the Department of Labor full opportunity to participate in one personal interview with the case manager during the eligible person's normal work day.

(xiii) The employer will evaluate the eligible person's prior training in the field for which he or she is being trained and will shorten his or her training program appropriately.

(xiv) Whether tools or other work-related materials, or both, are necessary for the eligible person's participation in the program of job training, and if so, a list of those tools and work-related materials which the eligible person and all other trainees in the program, both eligible persons and others, will be required to purchase and for which the employer will reimburse the eligible person.

(xv) The program meets such other criteria which are essential for effective implementation of the Service Members Occupational Conversion and Training Act and as to which VA, after having given notice to the employer, requires the employer's certification.

(4) The employer must submit with the application on a form prescribed by the VA, information concerning:

(i) The total number of hours of participation in the job training program to be offered the eligible person,

(ii) The length of the job training program,

(iii) The starting hourly rate of wages to be paid to a participant in the program,

(iv) The training content of the program, including the name and address of the educational institution, if