continue until VA determines that the employer has fully complied with recordkeeping and disclosure requirements.

(Authority: 106 Stat. 2757, Pub. L. 102–484, Subtitle G, 10 U.S.C. 1143 note)

§21.4833 [Reserved]

§ 21.4834 Overpayments and forfeits.

- (a) False certification by employer. Whenever VA finds that an overpayment has been made to an employer on behalf of a veteran as a result of a certification or information contained in the employer's application to VA which was false in any material respect—
- (1) The amount of the overpayment shall constitute a liability of the employer to the United States, and
- (2) The employer shall forfeit any unpaid amounts withheld from those payments for the purpose of making a lump-sum incentive payment under § 21.4832(b).

(Authority: 106 Stat. 2763, Pub. L. 102–484, sec. 4487(d)(1)(A), 10 U.S.C. 1143 note)

- (b) Noncompliance by employer. Whenever VA finds that an employer has failed in any substantial respect to comply for a period of time with a requirement of § 21.4820 or § 21.4822 or both (unless the employer's failure is the result of false or incomplete information provided by the eligible person), each amount paid to the employer on behalf of an eligible person for that period shall be considered an overpayment.
- (1) The amount of the overpayment shall constitute a liability of the employer to the United States.
- (2) The employer shall forfeit any unpaid amounts withheld from those payments for the purpose of making a lump-sum incentive payment under § 21.4832(b).

(Authority: 106 Stat. 2763, Pub. L. 102–484, sec. 4487(d)(1)(B); 10 U.S.C. 1143 note)

- (c) False certification by an individual. Whenever VA finds that an overpayment has been made to an employer on behalf of an individual as a result of certification by the individual, or as a result of information provided to an employer or contained in an application submitted by the individual to VA which was willfully or negligently false in any material respect—
- (1) The amount of the overpayment shall constitute a liability of the individual to the United States, and
- (2) The employer shall forfeit any unpaid amounts withheld from those payments for the purpose of making a

lump-sum incentive payment under § 21.4832(b).

(Authority: 106 Stat. 2763, Pub. L. 102–484, sec. 4487(d)(2); 10 U.S.C. 1143 note)

- (d) Payment contrary to limitation or restriction. Whenever VA finds that payment has been made to an employer on behalf of an individual in an amount which exceeds or is otherwise contrary to the limitations set forth in § 21.4832 (d) or (e)—
- (1) Such amount shall constitute an overpayment for which the employer shall be liable to the United States,
- (2) The employer shall forfeit any unpaid amounts withheld from that overpayment for the purpose of making a lump-sum incentive payment under § 21.4832(b).

(Authority: 106 Stat. 2757, Pub. L. 102–484, Subtitle G, 10 U.S.C. 1143 note)

(e) Waivers of overpayments. VA may waive any overpayment established under this section, in whole or in part, as provided by §§ 1.955 through 1.970 of this chapter. Any amount withheld for the purpose of making a lump-sum incentive payment forfeited under this section is not subject to waiver.

(Authority: 106 Stat. 2763, Pub. L. 102–484, sec. 4487(d)(4), 10 U.S.C. 1143 note)

- (f) Recovery of overpayments. (1) Any overpayments referred to in paragraph (a), (b), (c) or (d) of this section may be recovered in the same manner as any other debt due the United States.
- (2) To the extent that an individual and employer are found liable to the United States under this section for the same overpayment, they will be held jointly and severally liable.

(Authority: 106 Stat. 2762, Pub. L. 102–484, sec. 4487, 10 U.S.C. 1143 note)

- (g) Disagreements concerning overpayments. (1) If an employer disagrees with a decision of a Director of a VA facility to hold the employer liable for all or part of an overpayment, the employer, within 60 days after receipt of notice of the decision, may ask that the decision be reviewed by the Director, Education Service.
- (2) A review by the Director, Education Service, of an overpayment liability decision of the Director of the VA field facility will be based upon evidence of record when the original decision not to approve a program was made. It will not be *de novo* in nature and no hearing will be held. The Director, Education Service, has the authority to affirm, reverse, or remand the original decision. The reviewing official's action, other than a remand, shall be the final Department decision on the issue presented.

(3) If the eligible person is held liable for all or part of an overpayment, he or she has the right of appeal to the Board of Veterans Appeals and to have a hearing under the same process as is provided in Part 19, Subpart B of this title.

(Authority: 38 U.S.C. 511(a))

§§ 21.4835—21.4839 [Reserved] Counseling

§ 21.4840 Employment counseling services.

- (a) Eligibility. An eligible person who meets the requirements of § 21.4810 to participate in the Service Members Occupational Conversion and Training Act program may ask VA to provide employment counseling services to assist him or her in selecting a suitable job training program under this subpart. (Authority: 106 Stat. 2763, Pub. L. 102–484, sec. 4487(d)(4), 10 U.S.C. 1143 note, 38 U.S.C. 3697A)
- (b) *Purpose*. The purpose of this counseling is to assist the eligible person to select an employment objective likely to provide satisfactory employment opportunities in light of his or her personal circumstances,

(Authority: 106 Stat. 2763, Pub. L. 102–484, sec. 4487(d)(4), 10 U.S.C. 1143 note, 38 U.S.C. 3697A)

- (c) Additional counseling services. To the extent feasible, VA and the Department of Labor may provide an additional program of counseling or other services designed to resolve difficulties that may be encountered by eligible persons during training under this subpart. If provided, the counseling or other services will be similar in nature to:
- (1) Outreach and assistance (38 U.S.C. 7723, 7724), readjustment counseling (38 U.S.C. 1712A), and educational and vocational counseling (38 U.S.C. 3696A) offered by VA, and
- (2) Disabled veterans' outreach (38 U.S.C. 4103A), employment assistance (38 U.S.C. 4104), and employment counseling, job training counseling, and other transitional assistance (10 U.S.C. 1144) services offered by the Department of Labor.

(Authority: 106 Stat. 2763, Pub. L. 102–484, sec. 4487(d)(4), 10 U.S.C. 1143 note, 38 U.S.C. 1712A, 3797A, 7723, 7724)

§§ 21.4841—21.4843 [Reserved]

§ 21.4844 Failure to cooperate.

VA will take no further action on an eligible person's application for assistance when he or she:

(a) Fails to report for his or her counseling appointment,