

Individual Unemployability Certification Process
Frequently Asked Questions
Compensation Service
August 2019

6. What is the effective date for the reduction of new IU processing?

Response: If the VA Form 21-4140 is not returned within the 60 days specified on the form, then the regional office must initiate action to discontinue the TDIU evaluation. Due process must also be provided with a rating decision that proposes to discontinue the TDIU benefit for failure to return the form. If a response is not received within 60 days, then the TDIU evaluation will be discontinued and a rating decision will be sent to the Veteran providing notice of the discontinuance. The effective date of discontinuance will be the date specified in the rating decision which proposed discontinuance or the day following the date of last payment of the TDIU benefit, as specified at § 3.501(f), whichever is later. The Veteran must also be notified that if the form is returned within one year and shows continued unemployability, then the TDIU evaluation may be restored from the date of discontinuance.

When the 4140 is returned and shows regained employability in compliance with 38 CFR 3.343, follow the procedures at M21-1 IV.ii.2.F.5.h and apply 38 CFR 3.105(e) for the reduction effective date which will be the first of the month after a 60 day period.

7. Will the Due Process letters be loaded into VBMS?

Response: Yes, all batched due process letters are loaded in VBMS.

8. Is employment as a teacher or other seasonal employment with expected breaks, such as summer breaks for teachers or winter breaks for landscapers, considered sustained gainful employment? Does 38 CFR 3.343(c)(2) apply in these situations?

Response: Gainful employment characterized by expected seasonal breaks, such as summer breaks for teachers or winter breaks for a landscaping business, meets the criteria for substantially gainful employment. Employment status is not considered interrupted because it is continuously maintained (i.e., continues through the seasonal break). In other words, there is no need to consider 38 CFR 3.343(c)(2) because no break in employment status occurs.