

## **Individual Unemployability**

In some cases a veteran's disability is not severe enough to qualify for a 100 percent rating under the Veterans Administration's rating schedule, yet the veteran can't obtain or hold on to a job because of that disability.

There is a VA benefit option to address this situation. The benefit known as Total Disability due to Individual Unemployability (TDIU) grants the veteran the equivalent of a 100 percent rating. The veteran is paid at the 100 percent rate even though their "true rating" is something less than 100 percent.

Here's how the rating system works. Once the VA determines a veteran is service-connected disabled, it assigns a disability rating according to its schedule for rating disabilities. Disability ratings are expressed as a percentage based on the average impairment of the veteran's earning capacity. This means that the more severe the veteran's symptoms are, the bigger the impact becomes on his or her ability to work. Many of the 100 percent disability ratings include a requirement that the veteran is not able to get or keep a job because of that disability.

In order to qualify for TDIU, service-connected disabilities must meet minimum rating thresholds:

- If the veteran has only one service-connected disability, it must be rated at least 60 percent or higher.
- If the veteran has two or more service-connected disabilities, at least one of those disabilities must be rated at 40 percent or higher, and, after factoring in the ratings for the other disabilities, the veteran's combined disability rating must be 70-percent or higher.
- The final eligibility requirement is that the veteran must be unemployable on the basis of one or more of his or her service-connected disabilities.

Entitlement to TDIU generally requires evidence of unemployment due to the disability in question (i.e., employment history or employer records) and medical evidence that the veteran's service-connected disability renders him or her totally disabled and unemployable (i.e., a doctor's opinion letter). Age cannot be a factor in determining this benefit by the VA.

The fact you have a paying job does not automatically disqualify you from being entitled to a TDIU rating. If your salary is substantially less than the prevailing poverty level (currently \$11,702), or you are working at a job where you are protected from job requirements that someone else in that position would be expected to satisfy (e.g., working for a friend or relative), the VA will not consider you to be gainfully employed. A job with a salary below the poverty level is called "marginal" employment. A job where you are protected from normal work requirements is called "sheltered" employment. Both marginal and sheltered employments are exceptions to the unemployment requirement for TDIU benefits.

TDIU is not necessarily a permanent benefit. The VA may periodically require you to undergo medical examinations to verify whether you are still unable to work due to a service-connected disability. Failure to report for such an examination could result in a revocation of TDIU. Likewise, if the VA becomes aware that you are working at a job that is neither marginal nor sheltered while you are receiving TDIU benefits, your TDIU rating could be revoked and you may be liable to the VA for TDIU benefits paid to you after you became employed. In addition, the VA will normally send you a questionnaire annually inquiring about your income and your employment. Failure to return this questionnaire could also result in revocation of this benefit.

Veterans should exercise caution even if working as a volunteer. If the VA determines that the nature and amount of unpaid work demonstrates you are not unemployable, TDIU can be revoked. Anytime the VA revokes a TDIU rating, the amount of disability compensation drops to the level of the veteran's actual rating under the rating schedule.

If you are a veteran who can't work due to the service- connected issues, you should come into our office and inquire about filing a claim for Individual Unemployability.

While you are here, pick up a Veterans Discount ID Card that easily identifies your veteran status to merchants who offer discounts to veterans. Simply bring in your honorable discharge (DD-214) and we will issue you the card free of charge.

*Ted Puntillo is director of Veteran Services for Solano County. Reach him at 784-6590 or [TEPuntillo@SolanoCounty.com](mailto:TEPuntillo@SolanoCounty.com). The Solano County Veteran Services Office, 675 Texas St. in Fairfield, is open from 9 a.m. to noon and 1 to 4 p.m. Monday through Friday.*