

Rehabilitation Services Eligibility

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Policy

1. Purpose

- 1.1 This policy provides guidance on administering **veterans'** eligibility for rehabilitation services under the Veterans' Support Act 2014 (the Act).

2. Legislative Reference

- 2.1 The relevant legislation is the Act, sections 7, 27(2), 47 (2), 51, 112 to 137, clause 6 of Schedule 1, Part 1 of Schedule 2, section 42 of the Police Act 1958 and section 110 of the Policing Act 2008.

3. The Purpose of Rehabilitation

- 3.1 The purpose of social rehabilitation is to assist in restoring a veteran's **independence** to the maximum extent practicable.

Section 120 of the Veterans' Support Act 2014

- 3.2 The purpose of vocational rehabilitation is to help a veteran, as appropriate to:

- Maintain employment; or
- Obtain employment; or
- Regain or acquire vocational independence.

Section 125(1) of the Veterans' Support Act 2014

- 3.3 If Veterans' Affairs is providing rehabilitation services, it must take all reasonable and practicable steps to assist a veteran achieve the maximum level of rehabilitation having regard to the nature and extent of the veteran's disablement and as determined by medical, social and/or vocational assessment.

Section 115(1) of the Veterans' Support Act 2014

- 3.4 As a matter of policy, Veterans' Affairs has decided that in this respect "practicable" means:

- What is medically sustainable – e.g. the veteran is able to work long-term without the injury or illness causing their overall health to suffer as a result of the work;
- What is possible or capable of being done, at a cost that is not prohibitive;
- Geographical location;
- Availability of services within a reasonable distance of the location of the veteran's permanent **home**;

- Whether the veteran owns the place they are living in.

3.5 “Reasonable” means not necessarily doing everything humanly possible, but only what a reasonable and prudent person would do in the same situation (e.g. downsizing their home if unable to maintain a large property).

4. Eligibility for Rehabilitation

4.1 In order to be eligible for rehabilitation a veteran will have to:

- For social rehabilitation:
 - require social rehabilitation for an injury or illness as a direct consequence of an injury or illness for which he or she is eligible for an entitlement or service under sections 40 and/or 85 of the Act.

Section 121(4)(c)(i) of the Veterans’ Support Act 2014

- For vocational rehabilitation:
 - be eligible for an entitlement or service as listed in sections 40 and/or 85 of the Act for an injury or illness; and
 - be entitled to receive Weekly Income Compensation or Weekly Compensation; or
 - be likely to be entitled to Weekly Income Compensation or Weekly Compensation unless he or receives vocational rehabilitation; or
 - be on parental leave.

Section 126(1) of the Veterans’ Support Act 2014

4.2 If a veteran is entitled to receive Weekly Income Compensation or Weekly Compensation and elected to receive it instead of New Zealand Superannuation or a Veterans’ Pension, he or she is entitled to receive vocational rehabilitation only for the period Weekly Income Compensation or Weekly Compensation may be paid in accordance with section 65 or section 104 of the Act.

Section 126(2) of the Veterans’ Support Act 2014

4.3 Access to rehabilitation is not, however, contingent upon being in receipt of any entitlement. Once service cover has been checked and it has been established that the veteran is suffering from an accepted service-related condition, rehabilitation can be provided for that condition.

4.4 A veteran who is eligible for Weekly Income Compensation can receive rehabilitation in respect of a non-service-related condition that prevents them from working full-time. In all other cases, the veteran must be suffering from a **service-related** condition.

- 4.5 A veteran is not entitled to rehabilitation if he or she is already receiving rehabilitation from another organisation (e.g. ACC).
- 4.6 Veterans' Affairs may however consider completing an assessment of the other organisation's support. If the assessment indicates that the rehabilitation provided is suitable to achieve restoration to the veteran's pre-injury/illness state to the maximum extent possible Veterans' Affairs will take no further action. Veterans' Affairs may, subject to consultation with the other organisation, choose to fund additional "top up" rehabilitation, provided it does not impact negatively on the existing rehabilitation plan for the veteran (**see also section 6**).
- 4.7 Scheme Two veterans must test their eligibility for rehabilitation with ACC. However, if a veteran is found eligible for rehabilitation under the Veterans' Support Act, Veterans' Affairs will commence rehabilitation rather than await ACC's determination on coverage.
- 4.8 Claims for rehabilitation for conditions for which the veteran has not previously applied for a Disablement Pension or impairment compensation under Scheme 2 or Weekly Income Compensation must be referred to the Decision Officer to determine eligibility.
- 4.9 Veterans' Affairs' consideration of rehabilitation will be triggered by entitlement on the basis of a service-related condition, except where a veteran is eligible for Weekly Income Compensation as noted in paragraph 4.4 above.
- 4.10 A New Zealand police officer who is receiving a War Disablement Pension or Disablement Pension based on their service in the New Zealand Police between 1958 and 1972 can apply for the support set out in this policy.

Section 42 of the Police Act 1958, section 110 of the Policing Act 2008 and section 7 and Schedule 1 clause 6 of the Veterans' Support Act 2014

5. Commencement of Rehabilitation

- 5.1 Before the rehabilitation section of the veteran's Your Plan is agreed, Veterans' Affairs is responsible for providing the veteran with rehabilitation where it considers the rehabilitation is suitable for the veteran and appropriate and necessary in the circumstances and is not already being provided by another agency.

Section 117 of the Veterans' Support Act 2014

6. Applications for Rehabilitation

- 6.1 As soon as practicable after receiving the veteran's claim for entitlements (Disablement Pension, Weekly Income Compensation) or application, on the appropriate form, for rehabilitation services, the veteran's Case Manager (one will be appointed with the veteran if necessary) and the Rehabilitation Advisor will be notified that the veteran may be eligible for rehabilitation.

Section 112 of the Veterans' Support Act 2014

- 6.2 The Rehabilitation Advisor will obtain information relevant to the veteran and their rehabilitation needs through assessment. The Rehabilitation Advisor will incorporate the assessments of treatment, social, medical and vocational needs and develop the rehabilitation section of the veteran's Your Plan, including the expected outcomes (**see separate paper on the Rehabilitation Section of Your Plan**). In turn, the Rehabilitation Advisor will liaise with the Case Manager to ensure they understand the details of the plan and the Case Manager will engage at regular intervals as per the Your Plan with the veteran.
- 6.3 The Act requires that if a veteran is not claiming full entitlements under Part 3 or Part 4 of the Act Veterans' Affairs must liaise with ACC to determine which agency will prepare the Rehabilitation Plan. As a matter of policy Veterans' Affairs will liaise with ACC whether or not the veteran is claiming or has been granted entitlements (**see separate paper on the Rehabilitation Section of Your Plan**).

Section 114(b) of the Veterans' Support Act 2014

- 6.4 While the Act only requires (under section 116) the creation of a Plan if the duration of the rehabilitation is longer than 13 weeks, Veterans' Affairs has decided that a Plan will be made for all veterans regardless how long the rehabilitation will be provided. The details of the rehabilitation to be provided to the veteran will be included in the veteran's Your Plan along with details of treatment and other assistance that Veterans' Affairs has agreed to provide to the veteran.

7. Veterans living overseas

- 7.1 The rehabilitation policy applies equally to all New Zealand veterans irrespective of their country of residence.

8. Reviews, Appeals and Complaints

- 8.1 If a veteran disagrees about a decision concerning eligibility for an entitlement or service **see separate policies on Reviews and Appeals**. If a veteran is concerned about Veterans' Affairs' administration of an entitlement or service **see separate policy on Complaints**.

Glossary

accepted disability [policy definition]

Means an injury, illness or condition that Veterans' Affairs accepts as being service-related.

guardian [section 7]

Has the same meaning as in section 15 of the Care of Children Act 2004.

home [section 7]

- (a) means residential premises in which the veteran lives and that are owned, rented, or otherwise lawfully occupied by the veteran or the veteran's parent, guardian, spouse or partner; and
- (b) includes residential premises in which the veteran proposes to live after they are built and that will be owned, rented, or otherwise lawfully occupied by the veteran or the veteran's parent, guardian, spouse, or partner; and
- (c) includes any other premises in which the veteran lives and for which the veteran is solely responsible for home maintenance; but
- (d) does not include any hotel or motel, or any hospital, hostel, rest home, or other institution.

impairment [section 7]

Means a loss or abnormality of psychological, physiological, or anatomical function or structure.

independence [clause 7 Schedule 2]

Includes the capacity to function in the following areas:

- (a) communication
- (b) domestic activities
- (c) educational participation
- (d) financial management
- (e) health care
- (f) hygiene care
- (g) mobility
- (h) motivation
- (i) safety management
- (j) sexuality
- (k) cognitive tasks of daily living, such as orientation, planning, and task completion
- (l) use of transport.

member of the armed forces [section 7]

Means a person who is or has been a member of the New Zealand armed force raised by the Governor-General on behalf of the Sovereign,—

- (a) whether in New Zealand or elsewhere; and
- (b) whether before or after the passing of this Act.

partner [section 7]

Means a civil union partner or a de facto partner.

qualifying operational service [section 8]

Means—

- (a) service in any deployment treated as a war or emergency for the purposes of the War Pensions Act 1954; or
- (b) service on any deployment declared to be operational service under section 9.

qualifying routine service [section 8]

Means service in the armed forces before 1 April 1974 that is not qualifying operational service.

qualifying service [section 8]

Means—

- (a) qualifying operational service; or
- (b) qualifying routine service.

service-related [section 7]

In relation to an injury, an illness, a condition, or a whole-person impairment, means an injury, an illness, or a whole-person impairment caused by, contributed to by, or aggravated by qualifying service.

veteran [section 7]

Means—

- (a) a member of the armed forces who took part in qualifying operational service at the direction of the New Zealand Government; or
- (aa) a member of the armed forces who took part in qualifying routine service before 1 April 1974; or
- (b) a person—
 - (i) who has been—
 - (A) appointed as an employee of the Defence Force under section 61A of the Defence Act 1990; or
 - (B) seconded to the Defence Force with the permission of the Chief of Defence Force; and
 - (ii) who took part in qualifying operational service at the direction of the New Zealand Government; or
- (c) a person who, immediately before the commencement of Part 3 of this Act, is eligible for a pension under the following provisions of the War Pensions Act 1954:
 - (i) section 19 (but only if the person was a member of the forces);
 - (ii) section 55 or 56;
 - (iii) Parts 4 and 5.