



INDIVIDUAL UNEMPLOYABILITY

SUBSTANTIALLY GAINFUL VERSUS MARGINAL EMPLOYMENT

Employment status alone does not answer the TDIU question. Income and the facts of the work setting matter.

38 C.F.R. 4.16

ECONOMIC SCREEN

TWO WAYS EMPLOYMENT MAY BE MARGINAL

INCOME TEST

Earned annual income does not exceed the Census poverty threshold for one person.

OR

FACTS-FOUND TEST

Income exceeds that threshold, but the work is in a protected environment or otherwise marginal based on the facts.

DOCUMENT THE WORK

USE SPECIFIC FACTS

1

EARNINGS

Pay records, tax records, hours, and periods worked.

2

DUTIES

Actual tasks, pace, productivity, attendance, and reliability.

3

SUPPORT

Changes to ordinary expectations, supervision, flexibility, or duties.

4

DURATION

Start and end dates, failed work attempts, leave, and why work changed or ended.