

Clearinghouse Rule 98-037

CERTIFICATE

STATE OF WISCONSIN)
)
DEPARTMENT OF VETERANS AFFAIRS)

I, Raymond G. Boland, Secretary of the Department of Veterans Affairs and custodian of the official records of said department do hereby certify that the annexed rules, relating to various benefits available from the Department of Veterans Affairs were duly approved and adopted by the Board of Veterans Affairs of the Department of Veterans Affairs.

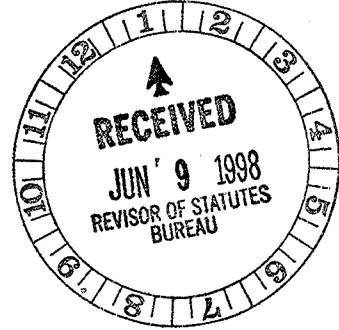
I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Veterans Affairs at 30 W. Mifflin Street, in the city of Madison, Wisconsin, this 9th day of June, 1998.

BY: 
RAYMOND G. BOLAND, SECRETARY



8-1-98



ORDER OF THE
DEPARTMENT OF VETERANS AFFAIRS
AMENDING, REPEALING AND CREATING RULES

The Wisconsin Department of Veterans Affairs proposes an order to repeal VA 1.12(5), 2.01(1)(c) and (f) and (2)(b)3., 9., 16. and 17., 2.03(2)(a) and (c), chapter VA 3, 4.01(15) and chapter VA 11; to amend VA 2.01(1)(d) and (2)(b)7., 10. and 13. and 2.03(1)(e), (2)(b) and (d) and (3)(a) and (b); and to create VA 1.17, 1.18, 2.01(1)(an) and (2)(b)18. and 19., 2.03(2)(g) and (h), (3)(c) and (5), 4.01(6m) and (8m), 4.03(13), (14) and (15) and 13.05, relating to the health care aid grant, retraining grant, primary mortgage loan, economic assistance loan, consumer loan and veterans assistance programs.

ANALYSIS PREPARED BY THE
DEPARTMENT OF VETERANS AFFAIRS

Statutory authority: ss. 45.35(3), 45.357(2), 45.397(2)(a) and 45.73(1), Stats.

Statutes interpreted: ss.45.351, 45.357(2), 45.397, 45.76 and 45.79(3)(a), Stats.

Upon enactment of 1997 Wis. Act 27 the legislature modified various state veterans benefit programs. Specifically, the economic assistance loan program was terminated; the health care aid grant program was reinstated; the primary mortgage housing loan program was amended to permit additional funding through the use of taxable bond proceeds; the retraining grant program was amended to provide grants to veterans who participate in on-the-job training programs; and the department was authorized to charge fees for transitional housing and other assistance under the veterans assistance program. The proposed rules will permit the department to fully implement these legislative initiatives.

In relation to the defunct economic assistance loan and consumer loan programs, the department has repealed those portions of the administrative code no longer necessary. Provisions relating to the administration of the existing loan portfolio will be retained. Specifically, subordination and student loan deferral criteria are codified in Chapter VA 1.

In relation to the health care aid grant program, the department has identified the requirements relating to the term "certificate of entitlement" as required by the new statutory language. Additionally, references to prior authorization have been deleted. Finally, expenditure limitations regarding retroactivity and specific services have been defined so that expenditures will be limited to the expenditure authority provided in 1997 Wis. Act 27.

In relation to the primary mortgage housing loan program, the department has codified requirements applicable to the portion of the program funded by tax exempt bond proceeds so that the requirements are also applicable to loans funded by the newly authorized taxable bond proceeds. Additionally, code language defines the terms "dependent child" and "creditworthy guarantor," both of which are applicable as a result of the enactment of 1997 Wis. Act 27.

In relation to the retraining grant program, requirements for eligible on-the-job training are programs identified. This is explicitly required by the amended statutory language.

Finally, in relation to the veterans assistance program, 1997 Wis. Act 27 authorizes the department to charge fees for services under a fee schedule established by rules. The proposed rules implement this directive. The fee schedule identifies the amounts and types of income which will be available for fee payments and the month during which the fee may first be assessed.

TEXT OF RULE

SECTION 1. VA 1.12(5) is repealed.

SECTION 2. VA 1.17 and 1.18 are created to read:

VA 1.17 ECONOMIC ASSISTANCE LOANS.

(1) SATISFACTION OF LOAN UPON VETERAN'S DEATH. If a veteran who has obtained a loan under s.45.351(2), Stats. dies before completing repayment, the department shall satisfy the loan.

(2) SUBORDINATION AGREEMENT AND PARTIAL RELEASE OF MORTGAGE. The department may execute a subordination agreement or release a portion of the property providing security for its mortgage on a loan under s.45.351(2), Stats. if the mortgagor's equity in the property secured by the mortgage is greater than 10% of the property's value after the execution of the subordination agreement or partial release, the applicant is current on the loan and the repayment history for the 6 months immediately preceding the request has been satisfactory.

(3) DEFERMENT OF PAYMENTS. Where a veteran who is enrolled in a full-time course of instruction, as verified by the educational institution in which the

veteran is enrolled, or in a part-time course of instruction only in cases described in this subsection, applies for deferment of the obligation to commence or continue to make payments on a loan, under s.45.351(2), Stats., the department may grant a deferment if the installments on such loans are less than 90 days delinquent at the time of approval of the deferment and, in the case of a guaranteed loan, if the guarantors consent in writing to the deferment. A deferment may not exceed one year and may not extend more than 3 months beyond the anticipated completion date of the veteran's educational objective but a veteran may qualify for additional deferments if eligible for such deferments under the provisions of this subsection at the time of application. The department may grant deferments to a veteran enrolled in a part-time study course of instruction because such veteran is disabled or unable due to physical or mental disability to enroll in a full-time course of instruction, is a graduate student who has completed the course of work required for a degree but must complete a thesis requirement, or is in the final semester or term of an educational program and needs less than full-time study to meet graduation requirements. Participation in a medical internship program shall be deemed to be enrollment in a full-time course of instruction for the purposes of this subsection.

VA 1.18 TRUST FUND STABILIZATION LOANS.

The department may execute a subordination agreement or release a portion of the property providing security for its mortgage on a loan under s.45.356, 1995 Stats. if the mortgagor's equity in the property secured by the mortgage is greater than 10% of the property's value after the execution of the subordination agreement or partial release, the applicant is current on the loan and the repayment history for the 6 months immediately preceding the request has been satisfactory.

SECTION 3. VA 2.01(1)(an) is created to read:

VA 2.01(1)(an) "Certificate of entitlement" means certification issued by the department which assures that health care aid will be provided for health care received by an eligible person under the terms of the certificate.

SECTION 4. VA 2.01(1)(c) is repealed.

SECTION 5. VA 2.01(1)(d) is amended to read:

VA 2.01(1)(d) "Health care" means essential medical services, other than medications taken as an outpatient or alterations to real property, including but not limited to doctors' services, hospital charges, corrective lenses, prostheses, leasing or purchase of medical appliances and equipment and dental care.

SECTION 6. VA 2.01(1)(f) is repealed.

SECTION 7. VA 2.01(2)(b)3. is repealed.

SECTION 8. VA 2.01(2)(b)7. is amended to read:

VA 2.01(2)(b)7. ~~Transfer to VA hospital~~ 'U.S. department of veterans affairs facilities.' ~~Veterans~~ A veteran with a service-connected disability, seeking care for that disability, shall be transferred use a U.S. department of veterans affairs facility when it is available. This use shall include a transfer to a VA hospital the facility when transfer is medically feasible and when a ~~VA hospital~~ the facility is available. If this transfer is not made, only that portion of health care expenses incurred on and prior to the date on which transfer could have been made will be eligible for payment.

SECTION 9. VA 2.01(2)(b)9. is repealed.

SECTION 10. VA 2.01(2)(b)10. is amended to read:

VA 2.01(2)(b) 10. ~~Emergency health~~ Health care application deadline. Health care aid may be granted for health care received during the period beginning ~~120~~ 90 days prior to actual receipt by the department of an application for health care aid for health care ~~that has been or is being received for an emergency condition.~~ If the application is received by the department more than ~~120~~ 90 days after the provision of health care, aid may be granted if the applicant shows good cause for the delayed receipt.

SECTION 11. VA 2.01(2)(b)13. is amended to read:

VA 2.01(2)(b)13. 'Time limit.' ~~When~~ If at any time after the application for health care aid is received by the department, 60 days have passed from the date the application is signed without contact from the applicant, the applicant's dependents, the county veterans service officer, or any other representative of the applicant, ~~the temporary emergency period shall be deemed to have expired and health care aid may not be provided to pay for the cost of the health care for which the application was made. If contact is made more than 60 days after the date the application is signed, aid may be granted if the applicant shows good cause for the delayed contact.~~

SECTION 12. VA 2.01(2)(b) 16. and 17. are repealed.

SECTION 13. VA 2.01(2)(b) 18. and 19. are created to read:

VA 2.01(2)(b)18. 'Duration of a certificate of entitlement.' The department may authorize health care aid through the issuance of a certificate of entitlement for designated health care provided within 60 days of the issuance of the certificate.

VA 2.02(2)(b)19. 'Payment limitations.' The department shall limit health care aid for eyeglasses or contact lenses to \$250 for an eligible person per 12 month period and for hearing aids to \$1,000 per ear for an eligible person per 12 month period.

SECTION 14. VA 2.03(1)(e) is amended to read:

VA 2.03(1)(e) "Grant period" means one year from the date the application is received by the department or until the anticipated completion date of the applicant's ~~course of instruction~~ approved retraining program, whichever is earlier.

SECTION 15. VA 2.03(2)(a) is repealed.

SECTION 16. VA 2.03(2)(b) is amended to read:

VA 2.03(2)(b) Amount of grant. Applicants who qualify for a retraining grant under the provisions of this section and s.45.397, Stats., are entitled to a grant equal to their need during the grant period or the statutory maximum grant, whichever is less. ~~Need~~ Except as provided in par. (h), need shall be determined by deducting 75% of earned income and all unearned income to be received by the applicant during the grant period, available liquid assets in excess of the ~~retained asset limit stated in s. VA 3.02(2)(a)~~ \$2,400 plus 6 months living expenses computed as set forth in s. VA 9.03 held by the applicant at the time of application and all other financial aid which will be received by the applicant during the grant period from the amount needed during the grant period. The amount needed will be the sum of the amount shown on the standard student budget described in s. VA 9.03 for the appropriate time period and for the appropriate number of family members plus the cost of tuition, fees, supplies and books as reported by the school for the courses to be taken during the grant period plus any unusual expenses reported by the applicant.

SECTION 17. VA 2.03(2)(c) is repealed.

SECTION 18. VA 2.03(2)(d) is amended to read:

VA 2.03(2)(d) Completion date. The anticipated completion date of a course of instruction or a structured on-the-job training program may not be more than 2 years from the date the application is received by the department.

SECTION 19. VA 2.03(2)(g) and (h) are created to read:

VA 2.03(2)(g) Grant payments. The department may make partial grant payments to assure that the veteran continues to pursue an approved course of instruction or engage in an approved structured on-the-job training program

during the grant period. If the veteran discontinues pursuit of the course of education or engagement in the structured on-the-job training program the department may cancel any unpaid portion of the grant.

VA 2.03(2)(h) Earned income. Income from an employer who is providing an approved structured on-the-job training program to the veteran shall be disregarded in determining the veteran's need under par. (b).

SECTION 20. VA 2.03(3)(a) and (b) are amended to read:

VA 2.03(3) Required information. A grant application, including required exhibits and supplements, shall contain information that is necessary to satisfy the department that the applicant has a qualifying need for the grant, has a period of qualifying prior employment, ~~is or will be enrolled in a qualifying course of instruction or is engaged in a structured on-the-job training program which meets the requirements of VA 2.03(5)~~ which will lead to gainful employment and has become unemployed, underemployed or received a notice of termination of employment within the year prior to the date the application is received by the department or has received a retraining grant within 13 months prior to the date the department receives an application for a second grant. Required exhibits and supplements shall include a statement written by the applicant explaining the circumstances leading to the need for retraining and an explanation as to why the applicant feels that the desired retraining will lead to gainful employment. ~~The exhibits and supplements shall also include verification that the applicant has received counseling from an assessment counselor and the counselor approves of the retraining to be undertaken.~~

VA 2.03(b) Procedure for a school-based course. Applications shall be initiated in the office of a county veterans service officer and completed and submitted by the FAO or other appropriate official representing the school ~~attend or to be attended by the applicant~~. The applications shall include verification that the applicant has received counseling from an assessment counselor and the counselor approves of the retraining to be taken.

SECTION 21. VA 2.03(3)(c) is created to read:

VA 2.03(3)(c) Procedure for structured on-the-job training program. Applications shall be initiated, completed and submitted by the office of a county veterans service officer. Each application shall contain a certification by the employer that the requirements of sub. (5) are met. The department shall evaluate the program and determine whether the requirements of VA 2.03(5) are met.

SECTION 22. VA 2.03(5) is created to read:

VA 2.03(5) ON-THE-JOB TRAINING PROGRAMS. All of the following requirements shall be met for approval of a grant for engagement in a structured on-the-job training program:

(a) The employer is planning, upon completion of the veteran's training program, to employ the veteran for the position for which the veteran has been trained and the employer reasonably expects that such a position will be available to the veteran on a stable and permanent basis at the end of the training period.

(b) The training program is not for employment which consists of seasonal, intermittent or temporary jobs.

(c) The training content of the program is adequate to accomplish the training objective of the program taking into account the occupation for which training is to be provided and the content of comparable, available training opportunities which lead to the occupation.

(d) The wages and benefits to be paid to the veteran participating in the training program will not be less than the wages and benefits normally paid to other employees participating in a comparable training program.

(e) The employment of a veteran under the program will not result in the full or partial displacement of currently employed workers.

(f) The employment of a veteran under this program will not be in a job while any other individual is on layoff from the same or substantially equivalent job or the opening for which was created as a result of having terminated the employment of any regular employee or otherwise having reduced the work force with the intention of hiring a veteran under this program.

(g) The employer will not employ in this program a veteran who is already qualified by training or experience for the job for which training is to be provided.

(h) The employer will consider the veteran's prior training in the field for which he or she is being trained and will shorten his or her training program appropriately.

(i) Each participating veteran will be employed full time in the program of job training.

(j) The training period under the proposed program is not longer or shorter than the training period that employers in the community customarily require new employees to complete in order to become competent in the occupation for which training is to be provided.

(k) There are in the training establishment or place of employment such space, equipment, instructional material, and instructor personnel as needed to accomplish the training objective.

(l) The employer will keep records adequate to show the progress made by each veteran participating in the program and otherwise to demonstrate compliance with the requirements of the program for at least 3 years. The employer will make these records and accounts available for examination by the department as may be required.

SECTION 23. Chapter VA 3 is repealed.

SECTION 24. VA 4.01(6m) is created to read:

VA 4.01(6m) "Creditworthy guarantor" means any Wisconsin resident who the department determines has adequate resources or income and an acceptable credit history so as to enable the person to act as a guarantor on a loan of \$3,000 or less for a purpose designated in s.45.76(1)(c), Stats.

SECTION 25. VA 4.01(8m) is created to read:

VA 4.01(8m) "Dependent child" means any natural child, any legally adopted child, or any stepchild of a veteran as defined in s.45.71(16)(a), Stats., who is at least 18 years of age and under the age of 26 if in full attendance at a recognized school of instruction or any age if incapable of self-support by reason of mental or physical disability.

SECTION 26. VA 4.01(15) is repealed.

SECTION 27. VA 4.03(13), (14) and (15) are created to read:

VA 4.03(13) BUSINESS USE. Except for a housing loan for a purpose designated in s.45.76(1)(c), Stats., the department shall not approve a housing loan for a residence, other than a multi-family residence which may be financed under sub.(14), in which it is reasonably expected that more than 15% of the total area is to be used in a trade or business.

VA 4.03(14) MULTI-FAMILY RESIDENCE. Except for a housing loan for a purpose designated in s.45.76(1)(c), Stats., the department shall not approve a housing loan for a multi-family residence unless the housing accommodation has four units or less, the applicant intends to occupy one unit of the housing accommodation and the housing accommodation was first occupied as a residence at least 5 years before the mortgage is executed.

VA 4.03(15) PRIOR FINANCING. Except for a housing loan for a purpose designated in s.45.76(1)(c), Stats., the department shall not approve a housing loan for an applicant who had a mortgage or any other secured financing on the housing accommodation, while using the housing accommodation as a residence, whether or not paid off, at any time prior to the execution of the mortgage.

SECTION 28. Chapter VA 11 is repealed.

SECTION 29. VA 13.05 is created to read:

VA 13.05 PROGRAM FEES. The department may collect a monthly fee from a veteran assistance program participant in an amount calculated under the following schedule:

(1) RESIDENTS OF REGIONAL TRANSITIONAL HOUSING SITES. A resident of a regional transitional housing site who has full-time, part-time or seasonal employment or who is receiving supplemental security income, social security disability insurance payments or any other disability or pension benefits, other than compensated work therapy or industrial/incentive therapy, may be assessed a monthly program fee of 10% of monthly gross income, after a deduction for debt service payments. Allowable debt service payments include recoupment of veterans affairs benefits, past due medical expenses repaid under a repayment agreement, payments to governmental agencies under a repayment agreement, and any court-ordered payments. The assessment may begin upon the resident's receipt of a second pay or benefit check.

(2) RESIDENTS OF SINGLE ROOM OCCUPANCY HOUSING. A resident of single room occupancy housing who has full-time, part-time or seasonal employment or who is receiving supplemental security income, social security disability insurance payments or any other disability or pension benefits, shall be assessed a monthly program fee of 25% of monthly gross income or \$250, whichever is less. The assessment may begin upon the resident's receipt of a pay or benefit check.

The amendments, repeals and creation of the rules contained in this order shall take effect on the first day of the month following publication in the Wisconsin administrative register as provided in s.227.22(2)(intro.), Stats.

Dated at Madison Wisconsin, June 9, 1998

STATE OF WISCONSIN
DEPARTMENT OF VETERANS AFFAIRS

BY: 
RAYMOND G. BOLAND, SECRETARY



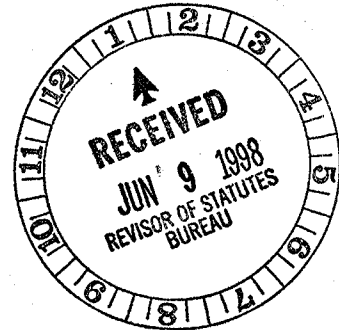
STATE OF WISCONSIN
DEPARTMENT OF VETERANS AFFAIRS



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Tommy G. Thompson, Governor
Raymond G. Boland, Secretary

June 9, 1998

Gary L. Poulson, Deputy Revisor
Revisor of Statutes Bureau
131 W. Wilson Street, Suite 800
Madison WI 53703-3233



Re: Publication of Clearinghouse Rule 98-037

Dear Mr. Poulson:

I have enclosed for filing certified and uncertified copies of the rule identified above for publication in the administrative register. I would appreciate publication of the rule in the end of the month register for July, 1998.

I have filed a certified copy of the rule with the secretary of state on this date.

Sincerely,

John Rosinski, Chief Legal Counsel
Department of Veterans Affairs

Enclosure