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**DEPARTMENT OF MILITARY AFFAIRS
EMERGENCY RULE RELATING TO MILITARY FAMILY FINANCIAL AID**

The Wisconsin Department of Military Affairs hereby adopts the following emergency rule relating to Military Family Financial Aid.

ANALYSIS

Statute Interpreted

Wis. Stat. 321.45(2)

Statutory Authority

Wis. Stat. 321.45(2), Wis. Stat. 321

Explanation of Agency Authority

The Department of Military Affairs is charged with promulgating rules to administer Military Family Financial Aid under Wis. Stat. 321.45(2).

Related Statute or Rule

Wis. Stat. 20.465(2)(r)

Plain Language Analysis

This rule establishes the eligibility criteria, the amount of financial aid and the application process for military family financial aid. The purpose of the military family financial aid is to provide financial support to service members and their immediate families dealing with emergency situations. The rule requires applicants be a member of the immediate family of a service member, that the service member and the applicant are residents of the state, and that the service member is serving on active duty in the U.S. armed forces.

The application is available free of charge and the fund administrator will make a decision to approve or deny an application within 14 days of the receipt of a completed application. An applicant has 30 days to appeal any final determination by the fund administrator in writing and an addition 30 days to appeal the administrator's decision to the adjutant general.

A governing board comprised of military officials and the fund's executive director will provide oversight of the family aid process, and application records will be archived for 5 years.

Summary of, and comparison with, existing or proposed federal regulations

Each military branch has its own emergency relief organizations. This rule most closely resembles Army Regulation 930-4, which sets out rules for the administration of Army Emergency Relief (AER) assistance.

Active Duty service members, their dependents, some retired service members, and surviving spouses and orphans of service members who died on active duty are eligible to receive aid through AER. Military Family Financial Aid funds are available only to service members on active duty and their immediate family members. Both Army Emergency Relief and Military Family Financial Aid are funded through donations. Military Family Financial Aid will be administered by a Fund Administration committee as the Wisconsin Department of Military Affairs. Army Emergency Relief provides loans and grants to service members, whereas Military Family Financial Aid provides only grants. That aside, the substantive provisions of the Military Family Financial Aid Rule were based in large part on Army Emergency Relief.

Comparison with rules in adjacent states

- Illinois

The Illinois Military Family Relief Fund (IMFRF) is authorized by Title 95 Chapter 2 Part 200 of the Illinois Administrative Code and is funded by a voluntary check off on Illinois individual income tax forms.

The IMFRF provides grants to families of Illinois National Guard members and Illinois residents serving in the U.S. Armed Forces Reserve who are called to active duty as a result of the September 11, 2001 terrorist attacks. IMFRF grants are available to help service members and their families defray the costs of food, housing, utilities, medical services, and other expenses that become difficult to afford when a wage-earner.

The IMFRF provides three tiers of grants. All status and need based grants are awarded on a first-come, first-served basis. A status based grant of \$500 is available for National Guard and Reserve soldiers on active duty for a minimum of 60 days with a pay grade below a moderate amount. Members may reapply for the \$500 status based grant for every 6 months of consecutive duty.

A need based grant of \$2,000 is available for National Guard and Reserve soldiers on active duty for a minimum of 60 days with a pay grade below a moderate amount and the service member's military salary must be at least 30% less than his or her civilian salary. Members may reapply for the \$2,000 need based grant for every 6 months of consecutive duty. A casualty based grant of \$5,000 is available for Active Duty, National Guard and Reserve soldiers who suffer a service-connected injury.

- Iowa

The State of Iowa has established a Veterans Trust Fund to provide certain services to veterans under Iowa Administrative Code 801 Chapter 14. As of 2009 the trust fund is funded by a Joint Veterans Trust Fund and volunteer fire fighter preparedness fund income tax check off. Trust fund expenditures are approved through the Iowa Veterans Commission.

Funds are used for unemployment or underemployment assistance due to service-related causes, assistance with vision, hearing, dental care, durable medical equipment, and prescription drugs; counseling and substance abuse services; housing repair; and transitional housing in an emergency.

Disbursements are limited to members with income less than 200% of federal poverty level and less than \$15,000 in liquid assets. Interest funds are received monthly and approved applicants are placed on a waiting list based on the date received and approved.

- Michigan

The Michigan Military Family Relief Fund is authorized by MI ST 35.1211-35.1216 2004 and is funded by a voluntary check off on Michigan individual income tax forms.

The fund is available to any member of a reserve component of the United States armed forces based in Michigan or who is a resident of Michigan serving in a reserve component of the United States armed forces based in another state and is called to active duty by the president of the United States or the United States secretary of defense as a result of national response to September 11, 2001 or as a response to a national emergency declared by the president of the United States and for which funds are being spent by the federal government.

The fund provides financial assistance for clothing, food, housing, utilities, medical services or prescriptions, insurance payments, vehicle payments, or other related necessities of daily living. The fund covers needs that occurred during the time the individual was on active duty or needs that occurred because the individual has incurred a line of duty injury or illness. Michigan limits the fund to \$2,000 in one calendar year for each individual.

- Minnesota

Minnesota does not have a government administrated military family relief fund.

Summary of factual data and analytical methodologies

None.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report

Not necessary.

Effect of small business

None.

Agency Contact Person

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Place where comments are to be submitted and deadline for submission

The public record on this proposed rule making will be held open until close of business the day of the hearing to permit the submission of comments in lieu of public hearing testimony or comments supplementing testimony offered at the hearing. Any such comments should be submitted to Randi Milsap, Department of Military Affairs, 2400 Wright St., P. O. Box 14587, Madison, WI 53708. You may also contact Randi Milsap by phone at (608) 242-3072 or via email at randi.milsap@wisconsin.gov

EXEMPTION FROM FINDING OF EMERGENCY

Under 2009 Wisconsin Act 28, section 9136, a Finding of Emergency is not required for this emergency rule. The relevant portion of 2009 Act 28 reads as follows:

2009 Wisconsin Act 28, SECTION 9136. Nonstatutory provisions; Military Affairs.

(2c) EMERGENCY RULE; MILITARY FAMILY FINANCIAL AID. Using the procedure under section 227.24 of the statutes, the department of military affairs shall promulgate the rules described under section 321.45 (2) of the statutes, as created by this act, for the period before the permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, **the department of military affairs is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for the rules promulgated under this subsection. [Emphasis added]**

Dated at Madison, Wisconsin
July 2, 2010
by the Department of Military Affairs.

Donald P. Dunbar
Brig Gen, (WI) WING
The Adjutant General

FISCAL ESTIMATE

The Wisconsin Department of Military Affairs adopts the following fiscal estimate relating to proposed rule DMA 1 Wis. Adm. Code, Military Family Financial Aid.

Assumptions used in arriving at fiscal estimate

The Military Family Relief Fund is funded by a voluntary income tax check-off as authorized by Wis Stat § 20.465(2)(r). Moreover, the fund will be administered by full time staff of the Department of Military Affairs ex officio and the time required to administer the fund is expected to be minimal. As a result, the fiscal impact of both the fund and its administration is expected to be minimal.

State fiscal effect

None.

Local government fiscal effect

None.

Long-range fiscal implications

None.

Agency Contact Person

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Text of Rule

SECTION 1. Chapter DMA 1 is created to read:

CHAPTER DMA 1 MILITARY FAMILY FINANCIAL AID RULE

DMA 1.01	Purpose
DMA 1.02	Definitions
DMA 1.03	Military Family Financial Aid
DMA 1.04	Eligibility Criteria
DMA 1.05	Application Process
DMA 1.06	Eligible and Ineligible Costs
DMA 1.07	Payments
DMA 1.08	Governance Board
DMA 1.09	Record Retention
DMA 1.10	Fund Expenditure Limitation
DMA 1.11	Multiple Payment
DMA 1.12	Appeal Process

1.01 PURPOSE. The purpose of this chapter is to establish the eligibility criteria, the amount of financial aid and the application process for military family financial aid as required in s. 321.45, Stats.

1.02 DEFINITIONS. In this chapter:

- (1) "Applicant" means a service member or member of the immediate family of a service member that applies for military family financial aid under this chapter.
- (2) "Department" means the Wisconsin department of military affairs.
- (3) "Emergency situation" means a situation that arises suddenly, is unforeseen and urgent, and requires immediate attention.
- (4) "Fund administrator" means a board appointed by the Adjutant General to oversee and distribute Military Family Financial Aid funds.
- (5) "Immediate family" has the meaning given in s. 321.45 (1) (a), Stats.
- (6) "Service member" has the meaning given in s. 321.45 (1) (b), Stats.
- (7) "State" means the state of Wisconsin.

1.03 MILITARY FAMILY FINANCIAL AID.

Military family financial aid's purpose is to provide financial support to service members and their immediate families dealing with emergency situations.

1.04 ELIGIBILITY.

- (1) The department may make payments to eligible applicants under this chapter upon receipt and consideration of an application if the fund administrator determines all of the following:
 - (a) The applicant is eligible.
 - (b) Assistance is authorized for the claimed emergency situation.
 - (c) The financial need is beyond the means of the applicant at the time of the application.
- (2) In making a determination under sub. (1)(a), the fund administrator shall verify all of the following:
 - (a) The applicant is a service member or a member of the immediate family of a service member;
 - (b) The service member and the applicant are residents of the state; and
 - (c) The service member is serving on active duty in the U.S. armed forces.
- (3) In making a determination under sub. (1)(b), the fund administrator shall consider all of the following:
 - (a) Whether the situation is an emergency situation.
 - (b) The eligibility of costs for which financial aid is requested.
 - (c) Whether the applicant has received previous Military Family Financial Aid.
 - (d) Whether financial aid will relieve the situation.
 - (e) Any other factors the fund administrator considers relevant.
- (4) In making a determination under sub. (1)(c), the fund administrator shall consider the following:

- (a) The total value of actual and projected eligible costs presented in the application.
- (b) Information on applicant's income from all sources, including other sources of financial aid and spousal income, when applicable.
- (c) Itemized statement of monthly and other expenses.

1.05 APPLICATION PROCESS.

(1) The department shall prepare application materials which may be updated as needed. The application materials shall set forth the application instructions and requirements for funding under this chapter.

(2) Application materials are available on request without charge from the Service Member Support Division, Wisconsin Department of Military Affairs, 2400 Wright Street, P.O. Box 8111, Madison, WI 53708-8111, telephone (800) 292-4964. Application materials may also be accessed from the Wisconsin Department of Military Affairs at: <http://dma/wi.gov/>

(3) The completed forms and supporting documentation shall be mailed to the Service Member Support Division, Wisconsin Department of Military Affairs, 2400 Wright Street, P.O. Box 8111, Madison, WI 53708-8111.

A completed application form signed by the applicant containing the following information:

- (a) A description of the emergency situation for which Military Family Financial Aid is requested.
- (b) A statement and representation of status eligibility.
- (c) A description of the type and amount of eligible costs incurred.
- (d) A description of financial status and sources of income for the service member's immediate family.
- (e) Any other information that the fund administrator considers relevant.

(4) The fund administrator shall review the application and supporting documentation for completeness and may return the application with a request for more detailed information. The fund administrator may consult with the applicant to ensure the application reflects the extent of the eligible costs and to reconcile any differences. The application is not complete until the fund administrator receives all requested information.

(5) An application returned to the applicant with a request for more detailed information or for correction of deficiencies must be resubmitted within 30 days from receipt by applicant. The failure of the applicant to provide in a timely manner the requested information without a reasonable explanation shall be cause for denial of the application.

(6) For purposes of this section, an application and supporting documentation is deemed complete when the fund administrator determines the application fully complies with the requirements under this chapter. When the application is complete, a notice will be provided to the applicant of the fund administrator's receipt and acceptance of the application.

(7) If the fund administrator determines that a review of the application and supporting documentation cannot be completed because the records, documents and other evidence were not maintained in accordance with generally accepted accounting principles and practices consistently applied, or were for any reason inadequate to demonstrate the reasonableness of the eligible costs claimed, the fund administrator may reject the application or make adjustments, if possible. Further consideration of such amounts will depend on the adequacy of subsequent documentation submitted by the applicant. Any additional information requested by the fund administrator must be resubmitted by the applicant within 30 days from receipt unless specifically extended by the fund administrator. The failure of the applicant to provide in a timely manner the requested information without a reasonable explanation shall be cause for denial of the application.

(8) The fund administrator shall take no longer than 14 days from the time the application is deemed complete in which to approve or deny the application. Applications that are approved shall be paid in accordance with s. 1.07 of this chapter. A letter of denial shall be sent upon decision by the fund administrator that the application is denied.

1.06 ELIGIBLE AND INELIGIBLE COSTS.

(1) ELIGIBLE COSTS. Costs eligible for payment under this chapter shall include, but are not limited to:

- (a) Loss of funds, normally attributable to theft or not safeguarding funds.
- (b) Medical, dental, and hospital expenses.
 - 1. Medical treatment or hospital expenses are not elective but medically required.
 - 2. Paying bills or a required down payment cannot be deferred through usual repayment period.
 - 3. Programmed treatment involves a significant down payment that the individual cannot meet.
 - 4. Assistance for prosthetics, such as orthopedic shoes, hearing aids, glasses is supported by a statement from a medical authority attesting that the device is essential for the health and welfare of the individual.
- (c) Funeral expenses for expenses incurred by immediate family members.
- (d) Required travel expenses to meet unforeseen required travel and related maintenance expenses such as transportation, lodging, and food due to emergency leave, emergency travel, or convalescent leave authorized by medical authorities.
- (e) Rental assistance for payment of initial rent and deposit, payment of rent, house and trailer payments and emergency shelter.
- (f) Food assistance.
- (g) Utilities assistance for payment of required deposits and payment of utility bills.
- (h) Assistance for privately owned vehicles for the cost of repairs essential to maintain a vehicle in safe operating condition and routine maintenance, vehicle insurance premium for period of emergency need, cost of emergency operation need and car payment.
- (i) Clothing financial aid when the clothing is needed for everyday living.
- (j) Fire or other disaster financial aid based on undue hardship.
- (k) Other valid reasons not otherwise identified.

(2) INELIGIBLE COSTS. Costs ineligible for payment under this chapter shall include, but are not limited to:

- (a) Divorces.
- (b) Marriage.
- (c) Education expenses.
- (d) Rental, lease or purchase of a new or used privately owned vehicle and costs associated with rental, lease, or purchase such as taxes, registration, and insurance.
- (e) Ordinary leave or vacation.
- (f) Liquidation or consolidation of debts.

- (g) Business ventures or any similar investment.
- (h) Funds to replace those overdrawn from bank account.
- (i) Civilian court fees, fines, judgments, liens, bail, legal fees, and income tax.
- (j) Goods or items for convenience, comfort, or luxury.
- (k) Gambling losses.
- (l) Funeral expenses that are reimbursed by insurance, Social Security, veterans benefits.

1.07 PAYMENT.

(1) A grant shall be paid to an eligible applicant in an amount to be determined by the fund administrator.

(2) Payment procedures.

- (a) Military Family Financial Aid may be paid only when funds are available.
- (b) Payments that cannot be made because of insufficient funding will be paid to the extent funding is available.

(2) Payment procedures.

- (a) Military Family Financial Aid may be paid only when monies are available.
- (b) In any quarter of the state fiscal year, the department may not make payments to applicants in excess of 25 percent of the total amounts available in s. 25.38, Stats.
 - 1. Payments that cannot be made because of insufficient funding will be paid to the extent funding is available in the subsequent quarter.
 - 2. Payments will be made in the order in which they were approved.
- (c) Payments will be tendered in the order in which the fund administrator approves the application.

1.08 GOVERNANCE BOARD.

(1) A Governance Board shall be established to provide oversight of the management of the Military Family Financial Aid process. The Governance Board shall be comprised, at minimum, of the following:

- (a) the Adjutant General,
- (b) the Executive Director,
- (c) WING J-1, and
- (d) the Staff Judge Advocate.

(2) The Governance Board shall meet at least once every 6 months, or with greater frequency if necessary.

1.09 RECORD RETENTION. The department shall maintain all applications for Military Family Financial Aid for five years.

1.10 FUND EXPENDITURE LIMITATION. Expenditures from the Military Family Financial Aid fund shall not exceed the amount available in 25.38, Stats. Balances shall be reconciled at the end of the state fiscal year.

1.11 MULTIPLE PAYMENTS. A service member's immediate family may receive multiple payments if eligible, funds are otherwise available and if disbursement is deemed appropriate within the sound discretion of the fund administrator.

1.11 APPEAL PROCESS.

(1) Applicant shall have 30 days after receipt of the final determination by the fund administrator in which to file a written appeal of denial of funds.

(2) The applicant shall first appeal directly in writing to the fund administrator detailing the rationale and basis for overturning the original determination.

(3) Following an appeal determination by the fund administrator, an applicant may appeal within 30 days, in writing, to the adjutant general of the department of military affairs. This appeal must include all materials submitted by the applicant to the fund administrator in the first level of appeal as well as any additional material the applicant deems necessary.



Pursuant to s. 227.24, Stats., this rule shall take effect as an emergency rule upon publication in the official state newspaper.

