

**Report From Agency**

**STATE OF WISCONSIN**  
**Department of Veterans Affairs**

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Report from Agency

**RULEMAKING REPORT TO LEGISLATURE**

Clearinghouse Rule 19-144

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**I. THE PROPOSED RULE:**

The proposed rule, including the analysis and text, is attached.

**II. REFERENCE TO APPLICABLE FORMS:**

N/A

**III. FISCAL ESTIMATE AND EIA:**

The Fiscal Estimate and EIA are attached.

**IV. DETAILED STATEMENT EXPLAINING THE BASIS AND PURPOSE OF THE PROPOSED RULE, INCLUDING HOW THE PROPOSED RULE ADVANCES RELEVANT STATUTORY GOALS OR PURPOSES:**

Pursuant to s. 45.51 (7) (b), Stats., members of veterans homes are required to “pay the amount due the state for care and maintenance of the member”. Section VA 6.01 (16) further requires the Department to charge for “actual care and maintenance provided to a member”.

The current rate setting calculation used by the Department is a formula-based process that uses the average census counts, the program costs of member care from appropriations under s. 20.485 (1) (gk), Stats., the bed days for each type of care provided, and the weighted costs of direct and indirect care. The current formula has been used at the King Veterans Home facility without significant deviation since 1999 and at the Union Grove Veterans Home since 2010.

In its 2010 and 2017 reports, the Legislative Audit Bureau (LAB) recommended the Department amend Chapter VA 6 to include a formula for calculating private pay rates for nursing home and assisted living care at the Wisconsin Veterans Homes, to include clear definitions for rate-setting terms such as “costs of care”.

The purpose of the proposed rules is to incorporate the LAB recommendations contained in the report and codify the long standing and consistent rate calculations used to determine private per diem rates for nursing home care and assisted living care at Wisconsin Veterans Homes.

Additional rule modifications were made to correct outdated references, and improve clarity, consistency, and format in accordance with rulemaking standards.

**V. SUMMARY OF PUBLIC COMMENTS AND THE DEPARTMENT'S RESPONSES, EXPLANATION OF MODIFICATIONS TO PROPOSED RULES PROMPTED BY PUBLIC COMMENTS:**

The Department of Veterans Affairs held a public hearing on December 13, 2019. No public comments were received.

At its meeting on February 22, 2018, the Board of Veterans Affairs reviewed the proposed rules and offered no comments.

**VI. RESPONSE TO LEGISLATIVE COUNCIL STAFF RECOMMENDATIONS:**

In response to recommendation 2.d.:

The Department believes the narrative and the example provided in the appendix thoroughly describe the steps used to calculate the private pay rate. The proposed rule section relating to the formula used to calculate the private pay rate was amended to create a separate section for additional clarity.

All other recommendations in the Clearinghouse Report were accepted and incorporated into the proposed rules.

**VII. REPORT FROM THE SBRRB AND FINAL REGULATORY FLEXIBILITY ANALYSIS:**

N/A