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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 09-025

#### Comments

**[NOTE: All citations to “Manual” in the comments below are to the Administrative Rules Procedures Manual, prepared by the Legislative Reference Bureau and the Legislative Council Staff, dated September 2008.]**

#### **1. Statutory Authority**

A question is raised as to the department’s statutory authority for this rule. 2007 Wisconsin Act 20 repealed s. 45.40 (2) (b), 2005-06 Stats. That statute set limits on the amount that could be paid under the assistance to needy veterans program for dental, vision, and hearing care. This rule would re-impose limits on those services.

Also, the statute cited by the department as authority for this rule, s. 45.40 (3m), Stats., requires rules for establishing eligibility criteria and household income limits, but not limits on payments for specific types of care.

#### **2. Form, Style and Placement in Administrative Code**

a. In the introductory clause, the “hereby” should be deleted and a comma should be inserted before “relating”. In the rule summary, it is unnecessary to repeat the “(a)” before each numbered item after the first one. Also, there should be an item 12., indicating the place where comments should be submitted and the deadline for submission. [See s. 1.02 (2), Manual.]

b. In s. VA 2.01 (1) (f):

(1) The definition of “dental care” should state what elements comprise “dental care” under the program and nothing more. Any substantive requirements or limitations should

be in one or more substantive provisions, separate from the definition. [See s. 1.01 (7) (b), Manual.]

(2) The statement that “dental care” means whatever procedures the department approves (and a dental professional deems necessary) does not provide guidance as to the covered services. Setting forth the covered elements of dental care is much more informative. Also, “department” should replace “Wisconsin Department of Veterans Affairs”, since “department” is a defined term.

(3) In moving the substantive language to its own provision, the “and” on line 6 should be changed to “or”, so that a procedure has to meet only one of the three criteria, which seems to be the intent.

(4) The language concerning cost should be in a separate sentence from the three criteria. Also, the time period would be more clear if stated as a three-year period from a specified starting date, such as the date on which the first service is provided, rather than referring to three calendar years.

c. The definitions of “hearing care” and “vision care” in s. VA 2.01 (1) (n) and (u), respectively, should also be revised in accordance with the comments above. The lengthy definition of “vision care”, which contains a great deal of substantive material, is particularly problematic. Also see comments on these provisions under heading 5., below. A definition should only define the term; limitations should be in separate substantive provisions.

#### **5. Clarity, Grammar, Punctuation and Use of Plain Language**

a. In s. VA 2.01 (1) (n), could “a licensed audiological health care provider” be more simply stated as “a licensed audiologist”? Also, the sentence starting with “If compelling medical circumstances...” should be rewritten in the active voice. The first “additional” on line 5 is unnecessary.

b. Terminology involving program grants should be consistent throughout the rule. In s. VA 2.01 (1) (n), “grant” is used, whereas “benefits” is used in s. VA 2.01 (1) (u).

c. In s. VA 2.01 (1) (u), the “plus” on line 2 should be “and”. The first instance of optometrist should be preceded by “an” rather than “a”. Also, the parentheses should be replaced by commas.