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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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### CLEARINGHOUSE RULE 15-048

#### 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 December 2014.]**

#### 1. Statutory Authority

An entry should be inserted in the rule summary’s section for comments and opinions prepared by the Board of Veterans Affairs (board). Administrative rules prepared by the Department of Veterans Affairs must be provided to the board. The board may prepare a report containing written comments and its opinion regarding the proposed rule. If the board has prepared a report, a copy of the report must be included in the analysis of the proposed rule. [ss. 45.03 (2m) and 227.14 (2) (a) 6m., Stats.] The rule analysis does not make it clear whether this proposed rule was provided to the board.

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

a. An entry should be inserted in the rule summary for the place where comments are to be submitted and giving the deadline for submission of comments. [s. 1.02 (2) (a) 13., Manual.]

b. The treatment of s. VA 13.01 in SECTION 3 of the proposed rule should be separated into three SECTIONS as follows:

- (1) “VA 13.01 (1) is renumbered (1h) and is amended to read:”. [Show amended text for the definition of the term “applicant”.]
- (2) “VA 13.01 (1d), (1p), (1t), and (2m) are created to read:”. [Show text for definitions of the terms “aid to indigent veterans”, “assets”, “assisted living facility”, and “divest”.]

(3) “VA 13.01 (4) is amended to read:”. [Show amended text.]

c. A SECTION should be created for the treatment of s. VA 13.02 (2) (intro.) and (3). The text of sub. (1) and the paragraphs under sub. (2), which are not affected by the proposed rule, should be removed. [s. 1.04 (1) (b) 2., Manual.]

d. The text of s. VA 13.03 is not affected by the proposed rule, and should be removed.

e. The treatment of s. VA 13.04 in SECTION 4 of the proposed rule should be separated into four SECTIONS as follows:

(1) “VA 13.04 (title) is amended to read:”. [Show amended title.]

(2) “VA 13.04 (intro.), (1), and (2) are renumbered (1m) (intro.), (1) (a), and (1) (c), and (1m) (intro.) as renumbered is amended to read:”. [Show text of only (1m) (intro.), as the renumbered subunits are not amended in the proposed rule.]

(3) “VA 13.04 (1m) (b) is created to read:”. [Show new text.]

(4) “VA 13.04 (3) and (4) are repealed.”. [No text shown.]

f. The treatment of s. VA 13.05 in SECTION 5 of the proposed rule should be separated into two SECTIONS as follows:

(1) “VA 13.05 (intro.), (1), and (2) are renumbered VA 13.04 (2m) (intro.), (2m) (a), and (2m) (c), and (2m) (intro.), (2m) (a) (title), and (2m) (b) as renumbered are amended to read:”. [Show affected text only.]

(2) “VA 13.04 (2m) (c) is created to read:”. [Show new text.]

g. In s. VA 13.05 (2m) (b), when amending a single word, the existing word should be stricken through in its entirety and the new word should be underscored immediately after the strike-through. [s. 1.06 (2), Manual.] Accordingly, the strike-through of “\$350.00” should be shown before the new dollar amount and qualifier phrase that is inserted with the dollar amount.

h. In s. VA 13.055 (2), the phrasing in each paragraph should be reviewed, and revised as appropriate, to form a complete sentence with the introductory material. [s. 1.03 (3), Manual.] Also, consider separating the paragraphs of sub. (2) into two subsections, one subsection to specify eligibility requirements, and another subsection to specify the provisions that must be contained in a written agreement.

i. In s. VA 13.055 (2) (c), subd. 1. should be combined with the rest of the paragraph because it is the only subdivision. When any section, or part of a section, is divided into smaller subunits, at least two subunits must be created. [s. 1.03 (1), Manual.]

j. An effective date clause should be inserted in a numbered SECTION at the end of the proposed rule. [s. 1.02 (4), Manual.]

k. The introductory clause that lists the rule sections affected in the proposed rule should be updated to reflect any revisions made in accordance with these comments.

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

a. In s. VA 13.01 (2m), the reference to “program” should be revised to reference the defined “veterans housing and recovery program”.

b. In s. VA 13.04 (2m) (b), it appears that the phrase “, but the fee may not” should replace the word “or not to” in the phrase “is subject to a discretionary monthly program fee of 30% of monthly gross income or not to exceed \$400.00”. Also, the proposed rule should explain what standards are to be used in applying the “discretionary” monthly program fee. Does this mean that the amount could be reduced or waived entirely? In what circumstances?

c. In s. VA 13.04 (2m) (b), it is unclear what is meant by the phrase “All subsequent program assessment fees will be due and payable on the first of the month but not later than the fifth of the month”. Are the fees due on the first of the month or the fifth of the month? What happens if a payment is received late?

d. In s. VA 13.055 (1), the sentence is confusing and repeats eligibility requirements that are (or should be) delineated in sub. (2). The provision could simply state that “The department shall provide financial assistance to a veteran who is eligible under sub. (2), for the cost of care provided at an assisted living facility established at a veterans home that exceeds the veteran’s income and resources.”. Subsection (2) should then specify among the eligibility requirements that the cost of care at such a facility exceeds the veteran’s income and resources.

e. In s. VA 13.055 (2), the word “veteran” or “resident” should replace each instance of the word “member”. Alternatively, the word “member” could be defined for the section.

f. In s. VA 13.055 (2) (intro.), unless circumstances for the department’s discretion are specified, the word “is” should replace the phrase “may be”.

g. In s. VA 13.055 (2) (b), is it intended that specific results of the assessment meet this criterion for eligibility, rather than simply completion of the assessment?

h. In s. VA 13.055 (2) (c) 1., it is not clear what is meant by the phrase “a member would benefit more from being treated at the assisted living level of care but he or she lacks private financial resources and low demand for assisted living threatens to increase the existing member private pay rates to an unreasonable level”. What is “the assisted living level of care”? What is meant by “existing member private pay rates”? What is “an unreasonable level”?

i. In s. VA 13.055 (2) (d), it appears that the word “all” should replace the words “any and”.

j. In s. VA 13.055 (2) (j), either the phrase “60 months or” or the phrase “or five years” should be deleted, as those time frames are equal.