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## WISCONSIN LEGISLATIVE COUNCIL RULES CLEARINGHOUSE

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Ronald Sklansky  
*Clearinghouse Director*

Richard Sweet  
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Terry C. Anderson  
*Legislative Council Director*

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### CLEARINGHOUSE REPORT TO AGENCY

[THIS REPORT HAS BEEN PREPARED PURSUANT TO S. 227.15, STATS. THIS IS A REPORT ON A RULE AS ORIGINALLY PROPOSED BY THE AGENCY; THE REPORT MAY NOT REFLECT THE FINAL CONTENT OF THE RULE IN FINAL DRAFT FORM AS IT WILL BE SUBMITTED TO THE LEGISLATURE. THIS REPORT CONSTITUTES A REVIEW OF, BUT NOT APPROVAL OR DISAPPROVAL OF, THE SUBSTANTIVE CONTENT AND TECHNICAL ACCURACY OF THE RULE.]

#### CLEARINGHOUSE RULE 02-091

AN ORDER to create chapter VA 16, relating to grants to counties that are not served by transportation services provided by the Wisconsin department of disabled american veterans for the purpose of developing, maintaining, and expanding transportation services.

Submitted by **DEPARTMENT OF VETERANS AFFAIRS**

06-25-2002 RECEIVED BY LEGISLATIVE COUNCIL.

07-19-2002 REPORT SENT TO AGENCY.

RS:PS

**LEGISLATIVE COUNCIL RULES CLEARINGHOUSE REPORT**

This rule has been reviewed by the Rules Clearinghouse. Based on that review, comments are reported as noted below:

1. STATUTORY AUTHORITY [s. 227.15 (2) (a)]

Comment Attached            YES             NO

2. FORM, STYLE AND PLACEMENT IN ADMINISTRATIVE CODE [s. 227.15 (2) (c)]

Comment Attached            YES             NO

3. CONFLICT WITH OR DUPLICATION OF EXISTING RULES [s. 227.15 (2) (d)]

Comment Attached            YES             NO

4. ADEQUACY OF REFERENCES TO RELATED STATUTES, RULES AND FORMS [s. 227.15 (2) (e)]

Comment Attached            YES             NO

5. CLARITY, GRAMMAR, PUNCTUATION AND USE OF PLAIN LANGUAGE [s. 227.15 (2) (f)]

Comment Attached            YES             NO

6. POTENTIAL CONFLICTS WITH, AND COMPARABILITY TO, RELATED FEDERAL REGULATIONS [s. 227.15 (2) (g)]

Comment Attached            YES             NO

7. COMPLIANCE WITH PERMIT ACTION DEADLINE REQUIREMENTS [s. 227.15 (2) (h)]

Comment Attached            YES             NO



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### CLEARINGHOUSE RULE 02-091

#### Comments

**[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]**

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

a. In the proposed order, analysis and text of the rule, reference is made to the "Wisconsin Department of Disabled American Veterans" (emphasis added), giving the erroneous impression that the organization is a state agency. Either "department" should be lower case, as it is in s. 45.43 (7m), Stats., or, if appropriate, a different term such as "the Wisconsin *chapter* of Disabled American Veterans" should be used.

b. As passed by the Legislature, the 2001-03 Budget Reform Bill (January 2002 Special Session Assembly Bill 1) deletes the current limitation in s. 45.43 (7m), Stats. (enacted in 2001 Wisconsin Act 16), that the transportation services are only for "disabled" veterans, thereby allowing the grants to be used for transportation services for any veteran. It appears that the department anticipated this change, as the rule does not define or otherwise refer to disabled veterans, but rather to veterans, as receiving services under the program. Assuming the Governor signs the budget reform bill into law with that provision intact, the rule analysis should mention this change. If the Governor vetoes the change, the proposed order, analysis and rule text should include appropriate references to disabled veterans.

c. In s. VA 16.01 (1), the phrase "several counties" should be changed to "two or more counties together," so that it is clear that two or more counties could apply together, rather than only "several counties," which implies more than two. Also, the word "service" should be plural, for consistency with the language of s. 45.43 (7m), Stats.

d. In s. VA 16.01 (5), to avoid redundancy, the phrase "means a veteran as defined" could be changed to "has the meaning given," as suggested in s. 1.01 (7) (c), Manual.

e. The following comments pertain to s. VA 16.02 (1):

(1) Sub. (1) (intro.) requires that applicants apply for program grants for a *calendar* year, but subs. (1) (a) and (c) require applicants to include specified information in the application "for the most recently completed *fiscal* year" (emphasis added). Is this the *state* fiscal year? What is the rationale for not providing the grants on a fiscal year basis? Also, for the grant application due by March 1, 2003, what is the time period for which the data required in subs. (1) (a) and (c) must be submitted? Is it the state fiscal year that ended on June 30, 2002? If so, will there be any data available for that time period?

(2) Will the department develop a standard application form to be used by all program applicants? If so, sub. (1) (intro.) should state that an applicant shall apply "on a form provided by the department . . ." and a note explaining where to obtain the form should be inserted after sub. (1). [See s. 227.14 (3), Stats.]

(3) In sub. (1) (intro.) and (b), "sought" would appear to be a better word choice than "claimed."

(4) Also in sub. (1) (intro.), the requirements of the last sentence would be clearer if rewritten to read: "The application shall provide sufficient information to establish that the applicant meets the eligibility criteria in sub. (2) and shall be submitted with the following items:".

(5) In subs. (1) (a) and (2) (b), the term "United States" could be abbreviated "U.S."

(6) Sub. (1) (b) requires a statement outlining the transportation program for the year for which the grant is "claimed." To clarify that this is to be a prospective description, the phrase "*proposed* transportation program" could be used. Also for clarification, reference could be to the *calendar* year, rather than just "the year" for which the grant is claimed, if the calendar year is maintained as the grant period. Finally, if two or more counties are applying together to provide multicounty cooperative transportation services, as permitted under s. 45.43 (7m), Stats., should the counties be required to explain how they intend to work together to provide these services on a multicounty basis?

f. The following comments pertain to s. VA 16.02 (2):

(1) Par. (b) refers to the *fiscal* year for which a grant is paid. This conflicts with sub. (1) (intro.), which provides that grants are paid on a *calendar* year basis. Unless the grant period is changed to the fiscal year, the word "fiscal" in par. (b) should be changed to "calendar." Also, par. (b) states, as an eligibility criterion, that an applicant agree to provide transportation services to veterans going to medical appointments arranged or conducted by the U.S. Department of Veterans Affairs.

Why are these particular appointments singled out? Section 45.43 (7m), Stats., refers generally to using grants "to develop, maintain, and expand transportation services for disabled veterans" (or veterans in general, under the budget reform bill). Does the rule language mean that the applicant does not have to agree to transport a veteran to other types of appointments, medical or otherwise?

(2) In par. (d), "for a purpose that is" should be inserted before "not" on line 3.

g. The following comments pertain to s. VA 16.02 (3):

(1) Sub. (3) refers to "the grant year" (emphasis added), which appears to be the same as the calendar year for which funds are received. Consistent terminology should be used, to avoid the impression that the grant year is something different from the calendar year. This problem also occurs in s. VA 16.03.

(2) The word "it" on line 4 should be "its."

(3) Sub. (3) provides that the grant amount for each applicant shall be determined based on the number of miles that eligible veterans are expected to be transported by the applicant during the grant year, as determined by the department. Will the department's determination be based solely on the number of miles veterans were transported in the previous fiscal year, as reported by the applicant under sub (1) (c)? Alternatively, should applicants be required to include an estimate of the number of miles they expect to transport eligible veterans in the calendar year for which funds are sought? Currently, under sub. (1) (c), applicants need only provide mileage information for the most recently completed fiscal year and are not asked to provide anticipated total mileage in the materials they must submit under sub. (1) (b) about their program for the year for which funding is sought.

h. In s. VA 16.03, "any portion" on line 1 should be replaced by "all or a portion of," to clarify that the *entire* grant, as well as a portion of the grant, may be recovered.

**PROPOSED ORDER OF THE  
DEPARTMENT OF VETERANS AFFAIRS  
CREATING RULES**

The Wisconsin Department of Veterans Affairs proposes an order creating Chapter VA 16 of the Wisconsin Administrative code relating to grants to counties that are not served by transportation services provided by the Wisconsin Department of Disabled American Veterans for the purpose of developing, maintaining, and expanding transportation services.

**ANALYSIS PREPARED BY THE  
DEPARTMENT OF VETERANS AFFAIRS**

Statutory authority: sec. 45.43(7m), Stats. *(C.R. in Act 16)*

Statute interpreted: sec. 45.43(7m), Stats.

Under the provisions of 2001 Wisconsin Act 16, the Department of Veterans Affairs was directed to promulgate administrative rules for the disbursement of \$100,000 annually to counties not receiving transportation services from the Wisconsin Department of Disabled American Veterans. The proposed rules will identify the application procedures and establish the eligibility criteria for the purpose of equitably distributing the \$100,000 among the eligible counties.

*Shd mention budget reform bill  
limits limit in 45.43(7m) that just for disabled.*

**TEXT OF RULE**

SECTION 1: Chapter VA 16 is created to read:

**COUNTY TRANSPORTATION SERVICES GRANTS**

**VA 16.01 Definitions.** In this chapter, the following terms shall have the designated meanings:

- (1) "Applicant" means a Wisconsin county or several counties which request a transportation service grant by filing an application with the department.
- (2) "Department" means the department of veterans affairs.
- (3) "Grant" means a transportation services grant authorized under s.45.43 (7m), Stats.
- (4) "Served by the Wisconsin Department of Disabled American Veterans" means that the Wisconsin Department of Disabled American Veterans has a regularly scheduled pick up point within the county, as determined by the department.
- (5) "Veteran" means a veteran as defined in s. 45.35(5)(a), Stats.

*has the meaning given*

*1.01(7)(c), M.*

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*or*  
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*what abt 2?*

*Calendar is fiscal year  
also "year" "grant year"*

*app form? if so, where get -> note*

**VA 16.02 Application , eligibility and grant amount. (1) APPLICATION.** An applicant shall file an application with the department not later than March 1, 2003 for a grant for calendar year 2003 and by November 1, 2003 and each subsequent year immediately preceding the calendar year for which a grant is claimed. An application shall include evidence sufficient to establish that the eligibility criteria under sub. (2) are met and the following exhibits:

*Sought x 2*

- (a) A financial statement, including a report of all expenses and revenue of the applicant relating to the provision of transportation services to veterans to medical appointments arranged or conducted by the United States Department of Veterans Affairs during the most recently completed fiscal year.
- (b) A statement which outlines the applicant's veterans' transportation program for the year for which the grant is claimed, including an itemization of the amount budgeted for the program, a description of the manner in which the applicant coordinates and schedules trips, a description of the methods of transportation, and a statement of the program fees, if any, which are assessed to the veteran who receives the transportation services.
- (c) A report that identifies the number of veterans transported and the number of miles veterans were transported by the applicant during the most recently completed fiscal year.

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inspector*

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**(2) ELIGIBILITY.** An applicant's eligibility to receive a grant shall be determined under the following criteria:

- (a) The applicant is not serviced by the Wisconsin Department of Disabled American Veterans.
- (b) The applicant agrees to provide transportation services to veterans to medical appointments arranged or conducted by the United States Department of Veterans Affairs during the fiscal year for which a grant is paid.
- (c) The applicant agrees to utilize the grant to develop, maintain, and expand transportation services to veterans.
- (d) The applicant may not allocate any portion of the grant for use by a county department not an integral part of its transportation services delivery system and may not reduce funding to a county veterans' service office based upon receipt of the grant.
- (e) The applicant agrees to cooperate in any review and audit of grant expenditures by the department, including the provision of the any relevant single audit document that establishes that grant funds previously received have been audited by the applicant.

*not pd.  
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**(3) GRANT AMOUNT.** The amount of a grant for each applicant shall be determined based upon the number of miles that eligible veterans are expected to be transported by the applicant during the grant year, as determined by the department. Each eligible applicant shall be entitled to a grant based upon its pro rata share of miles among all eligible applicants, except that a grant may not

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exceed the unreimbursed expenditures of the applicant for transportation services for the grant year.

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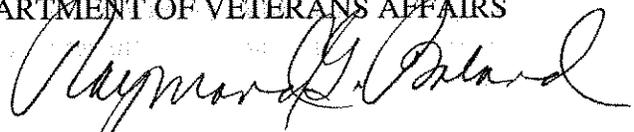
**VA 16.03 Recovery of grant.** The department may recover any portion of a grant upon review and audit if it is determined that the grant was erroneously awarded or that the applicant which received the grant failed to comply with any program requirements or whose projected unreimbursed expenditures were not met during the grant year. The department may recover the overpayment through any appropriate action, including reducing or denying future grant awards.

*did not meet its*

This rule 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 21, 2002.

STATE OF WISCONSIN  
DEPARTMENT OF VETERANS AFFAIRS



RAYMOND G. BOLAND, SECRETARY