va002_EmR0911.pdf **Veterans Affairs – Revises s. VA 2.01 – EmR0911**

Publication Date: July 1, 2009
Effective: July 1, 2009 through November 27, 2009

ORDER OF THE DEPARTMENT OF VETERANS AFFAIRS ADOPTING EMERGENCY RULES

The Wisconsin Department of Veterans Affairs adopts an order to create VA 2.01 (1) (u), VA 2.01 (3) (d), VA 2.01 (3) (e), and VA 2.01 (3) (f) relating to the assistance to needy veterans grant program.

RULE SUMMARY
1. Statute interpreted: sec. 45.40 (2), Stats.

2. Statutory authority: sec. 45.40 (3m), Stats.

3. Explanation of agency authority: The department is charged with administering a grant program to assist needy veterans with health care. It provides eligible applicants with dental, hearing and vision care through private health care providers. The Legislature has granted the agency authority to promulgate "eligibility criteria" which the agency interprets to include both definitions of the eligible care under this program and the amount of funding for each type of eligible care.

4. Related statute or rule: There is no related statute or rule.

5. Plain Language analysis: The creation of VA 2.01 (1) (u) and VA 2.01 (3) (d), VA 2.01 (3) (e), and VA 2.01 (3) (f) will create a definition of "vision care" and establish the limitation of health care assistance available under this program. The program is intended to provide health care assistance to those veterans who are not eligible for the federal assistance offered to veterans. Current definitions of "dental care" and "hearing care" do not provide an eligibility limitation on the provision of care which health care professionals can provide. No definition or eligibility limitation on services exists for "vision care" in the current program. The creation of eligibility limitations for "dental care" and "hearing care", as well as the creation of a definition and eligibility limitation for "vision care" will allow veterans to receive a reasonable modicum of the benefits available to those veterans eligible for federal assistance. The creation of VA 2.01 (3) (d), VA 2.01 (3) (e), and VA 2.01 (3) (f) will place eligibility limitations upon the cost, provision and frequency of available services.

6. Summary of, and comparison with, existing or proposed federal regulations: There is no current or pending federal regulation which would provide health care aid for the eligible veterans under this program.

7. Comparison with rules in adjacent states: There are no similar rules in adjacent states.

8. Summary of factual data and analytical methodologies: Surveys of multiple private vendors of dental care services, hearing care services, and vision care services were undertaken to refine the definition of each service. The United States Department of Veterans Affairs was also contacted to determine what services were offered through that agency and to review costing mechanisms used in the provision of each of the elaborated health care services.

9. Analysis and supporting documents used to determine effect on small business or in preparation of economic impact statement: No analysis was performed regarding an economic impact statement.

10. Effect on small business: These rules have no effect upon small businesses, nor any significant fiscal impact upon the private sector.

11. Agency contact person: James A. Stewart, Chief Legal Counsel, 30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707-7843; Phone: (608) 266-3733 E-Mail: jimmy.stewart@dva.state.wi.us

TEXT OF RULES

SECTION 1. VA 2.01 (1) (u) is created to read:
VA 2.01 (1) (u) "Vision care" means a vision exam by a licensed vision care provider and a prescription for lens and frame.

SECTION 2. VA 2.01 (3) (d) is created to read:

VA 2.01 (3) (d) *Dental care limitation.* Dental care shall not exceed $500 in any consecutive 12 month period except where an upper and lower denture is required and each denture shall not exceed $1875.00 in any consecutive 48 month period.

SECTION 3. VA 2.01 (3) (e) is created to read:

VA 2.01 (3) (e) *Hearing care limitation.* Hearing care shall not exceed $200.00 in any consecutive 12 month period except where a right or left ear hearing aid is required and each hearing aid shall not exceed $1875.00 in any consecutive 48 month period.

SECTION 4. VA 2.01 (3) (f) is created to read:

VA 2.01 (3) (f) *Vision care limitation.* Vision care shall not exceed $400.00 for both a vision exam and the purchase of lens and frame in any consecutive 12 month period.

EFFECTIVE DATES
The creation of the rules contained in this order shall take effect on the date of publication in the official state newspaper, as provided in s.227.24 (1) (c), Stats. The emergency rules shall apply to all applications received on or after that effective date. These rules shall terminate 150 days following the date of publication, or 60 days following the date of any extension which may be granted, whichever is later.

FINDING OF EMERGENCY
The Wisconsin Department of Veterans Affairs finds that an emergency exists and that the attached rules are necessary for the immediate preservation of the public peace, health, safety, or welfare. A statement of facts constituting the emergency is: The economic recession in effect for the last fiscal year has adversely affected the veteran population. Many veterans have lost their employment or had their scope of employment reduced. In addition to losing employment, many veterans have seen their health care reduced or eliminated. In order to serve the largest population of veterans and ensure minimal health care for that population, the department is requesting emergency rules to define “vision care and to limit the eligibility, by available funding, for “dental care”, “hearing care”, and “vision care”. These eligibility limitations, which address the cost, type and frequency of care available under the program, will allow more veterans in need to access the limited resources of this program.

FINAL REGULATORY FLEXIBILITY ANALYSIS
These rules do not have an effect on small businesses.