

Clearinghouse No. 23-056

STATE OF WISCONSIN
Department of Veterans Affairs

In the matter of rulemaking proceedings before the Department of Veterans Affairs.

ORDER OF THE DEPARTMENT OF VETERANS AFFAIRS
ADOPTING PERMANENT RULES

The statement of scope for this rule, SS 006-23, was approved by the Governor on January 12, 2023, published in Register No. 805A4 on January 23, 2023, and approved for implementation by the Secretary of the Department of Veterans Affairs on February 6, 2023.

ORDER

An order of the Department of Veterans Affairs *to repeal* VA 13.01 (2), 13.02 (2) (b), 13.03 (title) and (5), 13.04 (3), 13.05 (2), and 13.06; *to renumber* VA 13.03 (intro.) and (1) to (4), (6), and (7), and 13.04 (2); *to renumber and amend* VA 13.02 (2) (intro.), (a), (c) to (e), and (3), and 13.04 (intro.) and (1); *to amend* VA 13 (title), 13.01 (1), (3), and (4), 13.02 (1), and (2) (title), and 13.05 (title), (intro.), and (1); *to repeal and recreate* VA 13.02 (title) and 13.06; and *to create* VA 13.001, 13.01 (1m), (2m), and (5), 13.02 (3) (b) and (4), 13.035, 13.04 (1) (c), (2m), (3m), and (Note), 13.05 (2m), and 13.065; relating to veterans housing and recovery program.

Analysis prepared by the Department of Veterans Affairs.

ANALYSIS

Statutes interpreted:

Section 45.43

Statutory authority:

Sections 45.03 (2), 45.43 (2)

Explanation of agency authority:

Section 45.03 (2), Stats., provides that the Secretary may promulgate rules necessary to carry out the purposes of Chapter 45 of the Wisconsin Statutes and the powers and duties conferred upon it.

Section 45.43 (2), Stats., provides the department may charge fees for single room occupancy housing, transitional housing, and for other assistance provided under this section that the department designates, and requires the department to promulgate rules establishing the fee schedule and the manner of implementation of that schedule.

Related statute or rule:

None

Plain language analysis:

Chapter VA 13 encompasses the department's program that provides transitional and supportive housing and services to homeless veterans. This program, the Veterans Housing and Recovery Program (VHRP), is funded largely by the U.S. Department of Veterans Affairs (USDVA) Grant

and Per Diem (GPD) program. The VHRP provides temporary housing, training, and supportive services to veterans who are homeless or at risk of becoming homeless in order to help them obtain permanent housing. The VHRP also helps homeless veterans in Wisconsin receive the job training, education, counseling, and rehabilitative services they need to obtain steady employment, affordable housing, and the skills to sustain a productive lifestyle.

The assisted living program, referenced in the current rule, formerly provided state funds to enable indigent veterans to remain in the assisted living center that was operated at Union Grove. The assisted living program was eliminated in 2019.

The proposed rule repeals references to the assisted living program, updates the chapter to reflect current administrative practices, improves the administration of the program, and makes the following substantive changes:

- Amends chapter title from *Veterans Assistance Program* to *Veterans Housing and Recovery Program*.
- Creates definitions for “case management”, “homeless”, and “VHRP facility”, amends the definition for “veteran” to reflect USDVA program eligibility, and repeals a redundant definition (as definitions in VA 1 apply to all chapters).
- Repeals references to single-room occupancy and assisted living facilities.
- Repeals references relating to financial assistance to pursue vocational opportunities.
- Repeals monetary references relating to rent and amends provisions to reflect that the program uses the HUD Fair Market rent values and is regulated and funded by the GPD program.
- Updates provisions relating to program assistance, eligibility, participation requirements, and discharge conditions.

This rule also makes general updates, revises outdated provisions, and amends certain provisions for clarity and conformity with current drafting standards for style and format.

Summary of, and comparison with, existing or proposed federal regulation:

The GPD program is the USDVA’s largest transitional housing program for veterans experiencing homelessness and is permanently authorized under Public Law 109-461 and governed under 38 C.F.R. part 61. Since 1994, the GPD program has awarded funding to organizations to provide transitional housing with wraparound supportive services to assist vulnerable veterans in moving into permanent housing.

The U.S. Department of Housing and Urban Development (HUD) annually estimates Fair Market Rents, as defined in 24 CFR 888.113. The VHRP program uses HUD Fair Market rent values that are regulated and funded by the GPD program.

Since guidance and regulations for this program change frequently, it is vital that the rules under chapter VA 13 reflect the most current USDVA regulations and directives.

Comparison with rules in adjacent states:

Illinois: A review of Illinois statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin’s Veterans Housing and Recovery Program. The State of Illinois has a specially adapted housing grant for veterans who qualify for the federal veterans' specially adapted housing grant. Under the 330 ILCS 65/Disabled Veterans Housing Act, eligible veterans may be granted a single lump sum payment not to exceed \$15,000 to provide assistance in acquiring a suitable dwelling unit with special fixtures and/or movable facilities made necessary by the veteran's permanent and total disability. To be eligible, the veteran must be certified eligible by the VA for the federal Specially Adapted Housing Grant, and the veteran must have been a resident of the State of Illinois at the time he or she entered the service. Veterans eligible for the federal grant for Specially Adapted Housing may be provided a State of Illinois grant of up to \$3,000 to help pay the cost of remodeling made necessary by the veteran's permanent and total disability.

Iowa: A review of Iowa statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin's Veterans Housing and Recovery Program. The Iowa Department of Veterans Affairs provides minimal transitional housing assistance through the Iowa Veterans Trust Fund. Assistance for transitional housing may be provided to veterans who are displaced from their homes during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. The maximum amount that may be paid under this program for any consecutive 12-month period may not exceed \$1,000 for transitional housing.

Michigan: A review of Michigan's statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin's Veterans Housing and Recovery Program. The Department of Military and Veterans Affairs provides grants of up to \$2,000 per year for qualified veterans and their families through the Military Family Relief Fund, which provides financial assistance for necessities of daily living, including housing. The requirements may be waived in emergency cases upon a written request to the Adjutant General.

Minnesota: A review of Minnesota's statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin's Veterans Housing and Recovery Program. The Minnesota Department of Veterans Affairs provides a Property Management Incentive Fund, which provides a one-time incentive payment of up to \$2,000 to property managers who agree to accept a one-year rental application from veterans with complex rental barriers. The High-Barrier Landlord Incentive Program provides \$1,000 per month for up to 12 consecutive months to landlords who rent to veterans with the highest barriers to obtaining housing. This program is limited to serving 25 veterans. The Veteran Temporary Emergency Housing Voucher Program provides reimbursement to Community Service Providers covering the cost of a temporary hotel room or non-congregate temporary unit for veterans or former service members and their households who are actively experiencing homelessness and have no other sheltering options available to them.

Summary of factual data and analytical methodologies:

The current policies and administration of the Veterans Housing and Recovery Program were closely reviewed to develop the proposed rule revisions. Pursuant to ss. 45.03 (2m) and 227.14 (2) (a) 6m., Stats., administrative rules prepared by the Department of Veterans Affairs must be provided to the Board of Veterans Affairs. The Board may prepare a report containing written comments and its opinion regarding the proposed rules. At its meeting on October 12, 2023, the Board voted to support the proposed revisions to VA 13.

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact analysis:

The permanent rule was posted for 14 days to solicit economic impact comments from stakeholders. No comments were received.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

The proposed rules do not have an anticipated economic impact and have no effect on small businesses, as defined in s. 227.114 (1), Stats.

Agency Contact:

Mindy Allen, Administrative Rules Coordinator, Email: DVAAdminRules@DVA.Wisconsin.gov

Place where comments are to be submitted and deadline for submission:

The deadline to submit comments was November 3, 2023.

SECTION 1. VA 13 (title) is amended to read:

VA 13 (title) ~~VETERANS ASSISTANCE~~ HOUSING AND RECOVERY PROGRAM

SECTION 2. VA 13.001 is created to read:

VA 13.001 Purpose. The purpose of this chapter is to establish rules for the administration of the veterans housing and recovery program for the provision of temporary housing assistance for eligible veterans.

SECTION 3. VA 13.01 (1) is amended to read:

VA 13.01 (1) “Applicant” means a person who requests assistance under the ~~veterans assistance~~ program by filing a written application with the department.

SECTION 4. VA 13.01 (1m) is created to read:

VA 13.01 (1m) “Case management” means an organized process to ensure appropriate treatment, rehabilitation, and services are available to a participant in a planned, coordinated, efficient, and effective manner to promote a high-quality, cost-effective intervention and outcome.

SECTION 5. VA 13.01 (2) is repealed.

SECTION 6. VA 13.01 (2m) is created to read:

VA 13.01 (2m) “Homeless” means that a veteran is experiencing any of the following:

- (a) Is without a full-time or adequate nighttime residence.
- (b) Has a full-time nighttime residence that is not intended to be a regular place for people to sleep, including a car, park, abandoned building, bus or train station, airport, or camping ground.
- (c) Is residing in a shelter, including a hotel or motel, designated as a temporary living arrangement.
- (d) Is residing in a place not meant for human habitation or having exited an institution in which the veteran temporarily resided.
- (e) Is at risk of imminently losing their housing, including housing they own, rent, or live in without paying rent or are sharing with others, as well as rooms in hotels or motels.
- (f) Is fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in their current housing situation.

SECTION 7. VA 13.01 (3) and (4) are amended to read:

VA 13.01 (3) “Veteran” means ~~a veteran as defined in s. 45.01 (12), Stats~~ an individual who served in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces and who was discharged under conditions other than dishonorable.

VA 13.01 (4) “~~Veterans assistance program~~ Program” means the veterans housing and recovery program authorized under s. 45.43, Stats.

SECTION 8. VA 13.01 (5) is created to read:

VA 13.01 (5) “VHRP facility” means a program site that provides temporary housing for eligible veterans.

SECTION 9. VA 13.02 (title) is repealed and recreated to read:

VA 13.02 (title) Applicant eligibility.

SECTION 10. VA 13.02 (1) is amended to read:

VA 13.02 (1) VETERAN STATUS. The department shall verify an applicant's veteran status ~~during the assessment conducted under s. VA 13.03.~~

SECTION 11. VA 13.02 (2) (title) is amended to read:

VA 13.02 (2) (title) ~~NEED~~ ASSESSMENT TO DETERMINE NEED FOR ASSISTANCE.

SECTION 12. VA 13.02 (2) (intro.) and (a) are renumbered VA 13.02 (2) (br) (intro.) and 1. and amended to read:

VA 13.02 (2) (br) (intro.) Assistance shall be provided to a veteran under the ~~veterans assistance~~ program when the veteran's need for assistance arises because of any of the following circumstances:

1. ~~Homelessness or conditions which~~ Conditions that indicate that the veteran is homeless or at risk of becoming homeless.

SECTION 13. VA 13.02 (2) (b) is repealed.

SECTION 14. VA 13.02 (2) (c) to (e) are renumbered VA 13.02 (2) (br) 2. to 4., and amended to read:

VA 13.02 (2) (br) 2. ~~Unemployment or underemployment~~ Conditions that indicate the veteran is unemployed or underemployed which significantly limits ~~a~~ the veteran's ability to be self-supporting.

3. ~~Affliction~~ Conditions that indicate the veteran is afflicted with acute or chronic physical or mental health problems which significantly limits ~~a~~ the veteran's ability to be self-supporting.

4. ~~Insufficient~~ Conditions that indicate that the veteran has insufficient monthly income and resources, as determined by the department, to pay for the cost of ~~care provided at an assisted living facility established at a veterans home~~ housing.

SECTION 15. VA 13.02 (3) is renumbered VA 13.02 (3) (a) and amended to read:

VA 13.02 (3) PROVISION OF ASSISTANCE. (a) A veteran who establishes a need for assistance under this section shall enter into a written agreement with the department identifying the assistance that the veteran shall receive and the veteran's responsibilities under the ~~veterans assistance~~ program. ~~The department may terminate assistance whenever the veteran fails to fulfill his or her responsibilities under the agreement.~~

SECTION 16. VA 13.02 (3) (b) and (4) are created to read:

VA 13.02 (3) (b) An applicant may be denied assistance under any of the following circumstances:

1. The applicant does not meet the definition of homeless.
2. The applicant's needs exceed the capabilities of the program.
3. The applicant has sufficient funds to be self-supporting.
4. The applicant is unwilling to participate in case management.
5. The applicant is on the sex offender registry.
6. The applicant has an outstanding active warrant.

7. The applicant was previously discharged for cause from the program by the department. The department may require a veteran to meet certain conditions prior to applying for assistance if the veteran was previously discharged from the program by the department.

(4) ADDITIONAL BENEFIT. Assistance provided under the program is in addition to any other benefits or services a veteran is entitled to receive under any other program administered by the department.

SECTION 17. VA 13.03 (title) is repealed.

SECTION 18. VA 13.03 (intro.) and (1) to (4) are renumbered VA 13.02 (2) (ag) (intro.) and 1. to 4.

SECTION 19. VA 13.03 (5) is repealed.

SECTION 20. VA 13.03 (6) and (7) are renumbered VA 13.02 (2) (ag) 5. and 6.

SECTION 21. VA 13.035 is created to read:

VA 13.035 Program participation. (1) WRITTEN AGREEMENT. The department may provide assistance under the program upon determination of an applicant's eligibility under s. VA 13.02 and after completing a written agreement between the veteran and the department.

(2) AGREEMENT REQUIREMENTS. The department shall specify all of the following in the written agreement:

(a) The veteran's demographic information.

(b) The veteran's responsibilities under the program and the consequences of the participant's failure to comply with those responsibilities.

(c) A provision informing the veteran of the following rights:

1. The veteran's right to voluntarily withdraw from the program at any time.

2. The veteran's right to request reconsideration of a department decision to discharge a participant from the program as specified under s. VA 13.04 (3m).

(d) The assistance the veteran is eligible to receive based on the assessment conducted under s. VA 13.02 (2).

(e) The conditions of discharge as specified under s. VA 13.04 (2m).

Note: A copy of the written agreement may be obtained on the department's website at www.WisVets.com, or by request from the Department of Veterans Affairs, P.O. Box 7843, Madison, WI 53707-7843, or call 800-WIS-VETS (947-8387).

(3) TERMS OF AGREEMENT. The term of the initial agreement may be up to 2 years as determined by the USDVA and may be extended by the department.

(4) TERMINATION OF AGREEMENT. The department may terminate assistance only for reasons specified under s. VA 13.04 (2m). The veteran may terminate the agreement at any time for any reason.

SECTION 22. VA 13.04 (intro.), (1), and (2) are renumbered VA 13.04 (1) (intro.), (a), and (b), and VA 13.04 (1) (intro.) and (a), as renumbered, are amended to read:

VA 13.04 Assistance. (1) ASSISTANCE PROVIDED. (intro.) Upon completion of an assessment conducted under s. VA ~~13.03~~ 13.02 (2), and pursuant to a written agreement between the department and the eligible veteran, the following assistance shall be provided:

(a) Transitional housing at a VHRP facility.

SECTION 23. VA 13.04 (1) (c) and (2m) are created to read:

VA 13.04 (1)(c) Appropriate support services to enable independence and ability to secure permanent housing, including medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living.

(2m) DISCHARGE FROM PROGRAM. The department may discharge a veteran from the program whenever any of the following occurs:

(a) The department determines that the veteran no longer meets the eligibility requirements of the program under s. VA 13.02 (2).

(b) The department determines that the needs of the veteran exceed the capabilities of the program.

(c) The veteran fails to participate in the responsibilities outlined in the written agreement under s. VA 13.03 (1).

(d) The department finds that the veteran willfully made or caused to be made false statements relating to the participant's eligibility during the assessment conducted under s. VA 13.02 (2).

(e) The department determines that the veteran is no longer in need of assistance under the program.

(f) The veteran voluntarily withdraws from the program.

(g) The veteran is incarcerated in jail or prison.

SECTION 24. VA 13.04 (3) is repealed.

SECTION 25. VA 13.04 (3m) and (Note) are created to read:

VA 13.04 (3m) RECONSIDERATION PROCEDURES. An applicant who is denied admittance or a veteran discharged from the program may request reconsideration of a department decision by submitting a written request to the department's office of legal counsel. The request for reconsideration must be received by the department within 60 calendar days after the date of the department decision.

Note: The address to deliver a written request for reconsideration is Department of Veterans Affairs, Office of Legal Counsel, P.O. Box 7843, Madison, WI 53707-7843.

SECTION 26. VA 13.05 (title) and (intro.) are amended to read:

VA 13.05 (title) Program fees and rental charges. (intro.) The department ~~or regional transitional housing site vendor~~ may collect a monthly fee ~~or rental charge~~ from a ~~veterans assistance program participant~~ veteran residing in a ~~regional transitional housing site~~ VHRP facility in an amount calculated under the following schedule:

SECTION 27. VA 13.05 (1) is amended to read:

VA 13.05 (1) RESIDENTS OF REGIONAL TRANSITIONAL HOUSING SITES A VHRP FACILITY. A resident of a ~~regional transitional housing site~~ VHRP facility who is employed or who is receiving supplemental security income, social security disability insurance payments or any other disability or pension benefits, other than compensated work therapy or industrial/incentive therapy payments paid at a rate below the prevailing minimum wage, may be assessed a monthly program ~~rental charge fee~~ of not more than 30% ~~percent~~ of the veteran's monthly net income, after ~~a deduction~~ deductions for VA overpayments, medical expenses child care expenses, court-ordered child support payments, or any other court-ordered payment. The ~~assessment amount of assessed program fees~~ shall be uniformly applied to each resident of a specific site. The total amount of the

~~monthly assessments at a particular site may not exceed the site's monthly unfunded operational costs program's set maximum rate in accordance with 38 CFR 61.82 (a). An individual assessment~~
The amount assessed to a resident may begin upon the resident's receipt of a second pay or benefit check except when the resident receives a retroactive lump sum award of pension, compensation, or other entitlement payments. In that case, an assessment may be made against the lump sum award but shall be limited to the number of months the resident resided at the site prior to the month of receipt of the lump sum award. When a lump sum is received for a retroactive payment, 30 percent or program fee max will be paid for all prior benefit months received in lump sum. The assessment will begin upon receipt of the pay or benefit check.

SECTION 28. VA 13.05 (2) is repealed.

SECTION 29. VA 13.05 (2m) is created to read:

VA 13.05 (2m) The determination for the monthly assessment and the collection process and procedures shall be documented in the department's program operating procedures.

SECTION 30. VA 13.06 is repealed.

SECTION 31. VA 13.065 is created to read:

VA 13.065 Protection of personal information. Any person or entity involved with the operations of the program or who provides services under the program shall ensure that all applicant data and the veteran's personal information collected are secure and maintained in accordance with state and federal confidentiality and privacy laws, rules, and regulations.

SECTION 32. EFFECTIVE DATE. The rules adopted in this order shall take effect on the first day of the month following publication in the Wisconsin Administrative Register, pursuant to s. 227.22 (2) (intro.), Stats.

(END OF RULE TEXT)

Dated: April 24, 2024

Agency _____



James Bond, Secretary-designee
Department of Veterans Affairs