

## Chapter VA 2

### EMERGENCY, CORRESPONDENCE AND PART TIME STUDY, RETRAINING AND TUITION AND FEE REIMBURSEMENT GRANTS

VA 2.01 Assistance to needy veterans program.  
VA 2.02 Veterans tuition reimbursement program.

VA 2.03 Retraining grants.  
VA 2.05 Recovery of erroneous payments.

**Note:** Chapter VA 2 as it existed on December 31, 1979 was repealed and a new chapter VA 2 was created effective January 1, 1980. Chapter VA 2 as it existed on April 30, 1986 was repealed and a new chapter VA 2 was created effective May 1, 1986.

**Note:** 2005 Wis. Act 22 repealed and recreated Ch. 45, Stats. Cross–references to Ch. 45, Stats., were corrected by the revisor under s. 13.93 (2m) (b) 7., Stats.

#### VA 2.01 Assistance to needy veterans program.

##### (1) DEFINITIONS. In this section:

(a) “Applicant” means an individual who meets the requirements of s. 45.40, Stats.

(b) “Applicant’s family” means the applicant’s spouse and dependents or, where the applicant is a dependent, the parents, stepparents, or any custodial guardians of the dependent.

(c) “Approved treatment programs” means treatment programs approved by the United States Department of Veterans Affairs (USDVA) or alcohol and other drug treatment programs certified by the Wisconsin department of health services.

(d) “Available liquid assets” means cash on hand, including cash in checking, savings, money market or similar accounts, cash value of life insurance policies, liquid investments, including stocks and bonds and amounts deposited in any retirement plans, owned, either jointly or solely, by the applicant or the applicant’s family.

(e) “Declaration of aid” means a written determination regarding the availability of county, state, or federal aid administered by the county for an applicant. A declaration of aid must be signed by a county official authorized to determine whether aid is available for an applicant and the applicant’s family and whether the applicant has accepted the aid available.

(f) “Dental care” means any care given to teeth, the supporting natural and artificial structures for teeth, and any replacement or restoration of teeth.

(g) “Denture” means a dental device that replaces one or more teeth and includes all dental preparation and the manufacture and fitting of the device.

(h) “Department” means the Wisconsin department of veterans affairs.

(i) “Description of benefits” means a written determination that an applicant is eligible for health care aid or subsistence aid or both. A description of benefits expires 90 days after the date of eligibility is established and printed by the department unless extended by the department.

(j) “Earned income” means all anticipated family monthly take home earnings from employment including armed forces reserve and national guard pay, and work study payments, after all payroll deductions of the applicant and the applicant’s family except payroll deductions for savings plans and payment of debts.

(k) “Economic emergency” means a natural disaster which damages an applicant’s primary living residence, a medical emergency, the failure of the applicant’s sole means of transportation, or a severe disruption in essential household systems caused by a failure of the applicant’s stove, refrigerator, heating system, ventilating and air conditioning system, plumbing system, or electrical system such that it materially compromises the applicant’s ability to live.

(L) “Health care” means dental care, dentures, hearing care, and vision care.

(m) “Health care aid” means the payment by the department for health care.

(n) “Hearing care” means any care related to hearing, including, but not limited to, hearing exams or hearing aids.

(o) “Illness or injury” means a physical or mental health problem that has been diagnosed by a licensed physician, dentist, optometrist, or audiologist.

(p) “Month” means any consecutive 30–calendar day period.

(q) “Natural disaster” means a catastrophic occurrence over which the applicant or family members living with the applicant has no control, including, but not limited to, a fire, flood, tornado, blizzard, or earthquake.

(r) “Subsistence” means essential living expenses including current rent or mortgage payments on the applicant’s primary residence, food, current medical insurance premiums, current costs for prescribed medications, essential travel, child care required because of employment, educational or medical reasons, and current costs for electricity, heat, and basic telephone service for the applicant’s primary residence. Subsistence also means any repairs or purchases required due to an economic emergency.

(s) “Subsistence aid” means the payment by the department for subsistence.

(t) “Unearned income” means the estimated amount the applicant and the applicant’s family receives in benefits or grants during any month from the USDVA or other federal agencies, scholarships, fellowships, grants, tuition and fee waivers, all other definite awards other than loans, including amounts paid to the applicant or the applicant’s family or to the school on behalf of the applicant or applicant’s family for vocational rehabilitation by the USDVA or any other agency, income from trusts or inheritances, unemployment compensation, worker’s compensation, social security payments, net rentals from real estate, interest or dividend income or other income not included under earned income. It shall not include death benefits paid by the USDVA or other federal agencies.

(u) “Vision care” means a vision exam by a licensed vision care provider and a prescription for lens and frame.

(v) “Change in refractive error” means an increase or decrease of sphere, cylinder or power of at least the following: sphere power of + or – .25 diopter; cylinder power of + or – .5 diopter; axis change of + or –.25 to .75 diopters at 5 degrees, + or – 1 to 2 diopters at 3 degrees or + or –2.25 or more diopters at 2 degrees.

(2) GRANT APPLICATION. (a) *Forms required.* A grant application shall be submitted on a department approved form. It may be submitted through a county veterans service officer, through any other department authorized agent, or directly to the department, either manually or electronically. The application shall specify the type of care being requested and if the care requested is subsistence aid, the application shall be submitted no later than the 91st day following the verified loss of income due to illness, injury or natural disaster. A declaration of aid shall be submitted with the application. The declaration shall state that the applicant has applied for all aid offered through or administered by the county,

including aid from the federal or state government and shall list all assets available to the applicant or the applicant's family. If requested by the department the applicant shall submit evidence establishing that all other available aid has been applied for and accepted. The department may request additional verification of any information provided in the application. The department shall notify the applicant or applicant's county veterans service officer if any required documentation is missing or if further verification is required to make a decision on the applicant's eligibility. The department shall terminate an application if such documentation or verification does not arrive at the department's central office within 30 days of that notification.

**Note:** Application and declaration of aid forms may be obtained at the Department's web site at <http://dva.state.wi.us>.

**Note:** The department's central office is located at 30 West Mifflin Street, P.O. Box 7843, Madison, Wisconsin 53707-7843.

(b) *Eligibility.* 1. 'All applicants.' Except for applicants who are eligible under subd. 3., the applicant's income shall not exceed 130% of the federal poverty guidelines, in effect on the date the application arrives at the department's central office, for the number of family members living in the primary residence. An applicant may apply for subsistence aid, health care aid, or both. Applications approved by the department shall have the balance of the maximum available aid allocated towards each type of aid requested, unless the applicant indicates a lesser amount in writing. Applications shall be denied if no unallocated funds are available at the time of application. The department shall indicate on each description of benefits the type of health care or subsistence aid authorized, the date the department confirmed that the applicant was eligible for the grant, a date 90 calendar days from that date, the unallocated amount available for each type of aid and for the cumulative limits of this section, and the amount of aid being authorized. No more than one description of benefits may be outstanding at any time, except where all health care providers have submitted binding quotes prior to the issuance of more than one description of benefits, and are willing to accept payment from this program in full for any service rendered to the applicant in accordance with the description of benefits. The department shall pay the lesser of the actual cost of services invoiced or the binding quote submitted by the health care provider. No payment shall be made by the department unless an itemized written invoice is received by the department within 30 days of the expiration date, or any approved extension of that expiration date, as identified in the applicable description of benefits. Authorized applications for health care aid may not be withdrawn without the agreement of the provider of the health care aid.

2. 'Unremarried surviving spouses and dependents of veterans who die in the line of duty.' Unremarried surviving spouses and dependents claiming eligibility due to the death of a veteran in the line of duty shall submit evidence from the appropriate military service indicating that the veteran died in the line of duty.

3. 'Spouses and dependents of activated or deployed members.' Spouses and dependents of a member of the U.S. armed forces or of the Wisconsin National Guard claiming eligibility shall submit evidence that the service member has been deployed or activated, that due to the activation or deployment a loss of income has occurred, that an economic emergency has occurred during the activation or deployment, and that the spouse and dependents are residents of the state.

(3) **LIMITATIONS.** (a) *Health care aid.* A health care provider may provide health care within 90 days after the department confirms that the applicant is eligible only after a description of benefits has been transmitted to the applicant or the county veterans service officer. The department may accept a second application for the health care listed on the first description of benefits if the department receives a statement from the health care provider, within 7 calendar days before the expiration listed on the first description of benefits, that the health care authorized is still being provided and that the patient will not incur costs.

(b) *Subsistence aid.* Subsistence aid is available for the 90 day period following the date of the verified loss of income due to illness, injury or a natural disaster. Applications may be made for any 30 day period within the 90 days following the date of the verified loss of income. No more than three 30 day periods of subsistence aid may be granted for any verified loss of income due to illness, injury or natural disaster. No subsistence aid will be granted for any period prior to the date the application for subsistence aid is received. Subsistence aid shall be limited to the difference between the amount of earned and unearned income available before the loss of income and the earned and unearned income being received after the loss of income, subject to the limitations under s. 45.40 (1m) (b) and (3), Stats. The applicant shall verify the loss of income by submitting verification of income forms, certified public accounting statements or any other evidence as the department deems credible. Illness or injury must be verified in writing on a form approved by the department. When the department has evidence that the incapacitation will cause an income loss for 90 days or longer, subsistence grants will be prorated for each of the 30 day periods unless the department determines that an alternate distribution of the grant would benefit the applicant. If the loss of income is the result of alcohol or other drug abuse, the applicant shall verify current participation in an approved treatment program.

(c) *Restrictions.* Aid granted for subsistence or health care under s. 45.40, Stats., is subject to a \$7,500 cumulative total based on the aid granted to a veteran and his or her spouse and dependents. The maximum amount of subsistence aid payable in a consecutive 12-month period is \$3,000. The department may provide a grant only if the provider accepts the grant, available health insurance, third party payments on behalf of the applicant and any department-approved payment from the veteran as payment in full. The department may approve a payment by the veteran when a provider refuses to accept the maximum grant available to the veteran as payment in full if the veteran has sufficient available liquid assets to contribute an amount that will induce the provider to accept the aggregate payment as payment in full.

(d) *Dental care aid.* A dental health care professional shall indicate in writing that the dental procedures performed were directly necessary to dental care. Such procedures shall not exceed \$500.00 in any consecutive 12 month period except where a full or partial upper / or a lower denture is required. The grant for such denture or dentures shall not exceed \$1,875 for one or \$3,750 for both in any consecutive 48 month period.

(e) *Hearing care aid.* Hearing care shall not exceed \$200.00 in any consecutive 12 month period except where a left and / or right ear hearing aid is required. The grant for each hearing aid shall not exceed \$1,875 in any consecutive 48 month period. A participant may obtain a grant to fund an additional or more costly hearing aids and a related examination, if a licensed audiological health care professional identifies, in writing, compelling medical circumstances which have required this added assistance.

(f) *Vision care aid.* A grant for vision care shall not exceed \$400.00 in any consecutive 12 month period; however a participant may obtain a grant for replacement glasses before 12 consecutive months have elapsed if the eyewear is prescribed because of a documented change in refractive error.

(g) *Vision care replacement.* A participant may obtain a grant for an additional visit to a licensed vision care provider and for a more costly set of corrective eyewear or for an additional set of corrective eyewear where an optometrist or an ophthalmologist identifies in writing a compelling medical circumstance which has required this added assistance.

**History:** Cr. Register, April, 1986, No. 364, eff. 5-1-86; am. (1) (a), (c), (d), (g), (2) (b) 1., 2., 7., 10., 13., and 14., (2) (c) 4., cr. (1) (am), r. (2) (b) 11., and 12., and (2) (c) 2., Register, February, 1989, No. 398, eff. 3-1-89; am. (2) (b) 2. and 10., r. (2) (b) 5., Register, January, 1990, No. 409, eff. 2-1-90; am. (2) (b) 2., Register, September, 1990, No. 417, eff. 10-1-90; am. (1) (b), (c), (2) (b) 2., 7., 13., 14., and (c) 4., cr. (1) (em), r. and recr. (2) (c) 3., Register, June, 1992, No. 438, eff. 7-1-92; am. (1) (d), (2) (b) 13. and 14., cr. (2) (b) 15. to 17., Register, January, 1996, No. 481, eff. 2-1-96;

cr. (1) (an) and (2) (b) 18. and 19., r. (1) (c), (f), (2) (b) 3., 9., 16. and 17., am. (1) (d), (2) (b) 7., 10. and 13., Register, July, 1998, No. 511, eff. 8–1–98; emerg. am. (2) (b) 2., eff. 10–12–98; am. (2) (b) 2., Register, March, 1999, No. 519, eff. 4–1–99; am. (2) (b) 15., Register, July, 2000, No. 535, eff. 8–1–00; CR 03–024: am. (2) (b) 2. Register July 2003 No. 571, eff. 8–1–03; CR 05–097 r. and recr. Register January 2006 No. 601, eff. 2–1–06; CR 09–026: am. (2) (a), (b) 1., (3) (b) and (c) Register October 2009 No. 646, eff. 11–1–09; correction in (1) (c) made under s. 13.92 (4) (b) 6., Stats., Register October 2009 No. 646; correction in (3) (b) made under s. 13.92 (4) (b) 7., Stats., Register June 2010 No. 654; **CR 09–091; cr. (1) (u), (v), (3) (d) to (g) Register August 2010 No. 656, eff. 9–1–10; titles created in (3) (d) to (g) under s. 13.92 (4) (b) 2. Register August 2010 No. 656.**

## VA 2.02 Veterans tuition reimbursement program.

(1) **DEFINITIONS.** In this section the following terms shall have the designated meanings:

(a) “Department” means the department of veterans affairs.

(b) “Income” means the annualized adjusted gross income of the veteran and the veteran’s spouse reportable on their federal tax return.

(c) “Tuition” has the meaning specified in s. 45.20 (1) (d), Stats.

(d) “Undergraduate degree” means a bachelor’s degree.

(e) “Veteran” means a person who meets the requirements of s. 45.01 (12), Stats.

(2) **REIMBURSEMENT APPLICATION.** An application shall be submitted on a form approved by the department. It may be submitted through a county veterans service officer, through any other agent authorized by the department, or directly to the department, either manually or electronically. Applications shall be received by the department or an authorized agent no later than 60 days after the starting date of the course, term or semester for which reimbursement is requested. Applications are considered received if all student information is completed and a physical or electronic date stamp is affixed to the application. The school veterans coordinator shall list the completion date of the semester, the cost of tuition, other assistance received or applied for by the applicant, the number of credits enrolled in during the semester, and the semester grade point average. Applications are considered complete when all required information has been provided and the completed application is submitted to the department manually or electronically. Completed applications submitted more than 60 days following the last day of the course, term or semester for which reimbursement is requested shall be denied unless good cause can be shown for the delay in submission.

**Note:** Application forms may be obtained at the department’s web site at <http://dva.state.wi.us>.

(3) **LIMITATIONS.** (a) *Undergraduate enrollment.* Reimbursement may be made only if a representative of the educational institution, center or school certifies that the veteran was enrolled as an undergraduate during the semester for which reimbursement is sought and that the veteran does not have an undergraduate degree.

(b) *Pre-application.* For semesters beginning after December 31, 2005, reimbursement may be made only if the veteran fully completes and files a pre-application with the department, on a form approved by the department, within 180 days of the commencement of the semester for which reimbursement is sought. It may be submitted through a county veterans service officer, through any other agent authorized by the department, or directly to the department, either manually or electronically. Failure to file a pre-application under the terms of this paragraph will result in the denial of any grant application subsequently filed for the applicable semester.

**Note:** Pre-application forms may be obtained at the department’s web site at <http://dva.state.wi.us>.

(c) *Veterans benefits.* A veteran may not receive reimbursement for any semester or course for which he or she is eligible for or received a grant under s. 321.40, Stats., or 10 USC 2007. A veteran who fails to comply with the procedural requirements or maintain the requisite grade point average applicable to the grant or who takes any action which might disqualify him or her from

receiving the applicable grant, is considered to still be eligible for the applicable grant for the purpose of determining whether he or she is entitled to reimbursement under this section.

(d) *Duplicate benefits.* Reimbursement is limited to that portion of a veteran’s tuition not paid for by other grants or scholarships, including any offsets or remissions the veteran is entitled to receive under any other program.

(e) *Grade point average.* The department shall utilize the grade point average calculated and reported by the school.

**History:** Cr. Register, April, 1986, No. 364, eff. 5–1–86; r. (2), am. (3) and (6), Register, February, 1989, No. 398, eff. 3–1–89; am (5), Register, August, 1993, No. 452, eff. 9–1–93; CR 04–080: cr. (8) Register November 2004 No. 587, eff. 12–1–04; CR 05–096: r. and recr. Register January 2006 No. 601, eff. 2–1–06; CR 07–083: am. (3) (b) Register February 2008 No. 626, eff. 3–1–08; correction in (3) (c) made under s. 13.92 (4) (b) 7., Stats., Register October 2009 No. 646; EmR0944: emerg. am. (2), eff. 1–4–10; CR 09–122: am. (2) Register June 2010 No. 654, eff. 7–1–10.

**VA 2.03 Retraining grants. (1) DEFINITIONS.** In this section:

(a) “Available liquid assets” means cash on hand, cash in a checking or savings account, stocks, bonds, certificates of deposit, treasury bills, money market funds and other liquid investments owned individually or jointly by the applicant and the applicant’s spouse, unless the applicant and spouse are separated or are in the process of obtaining a divorce as established by the criteria set forth in s. VA 1.12 (4), but does not include funds deposited in IRAs, Keogh plans, deferred compensation plans, or cash surrender value of life insurance policies.

(b) “Course of instruction” has the meaning specified in s. VA 9.01 (3).

(c) “Earned income” has the meaning specified in s. VA 9.01 (5).

(d) “FAO” has the meaning specified in s. VA 9.01 (6).

(e) “Grant period” means one year from the date the application is received by the department or until the anticipated completion date of the applicant’s approved retraining program, whichever is earlier.

(f) “Underemployed” means the status of a veteran whose annual income from employment does not exceed the federal poverty guidelines, as established by the department of health and human services, for the veteran’s family size. The department shall adjust the guidelines on July 1 of each year to reflect the most recent federal poverty guidelines.

(g) “Unearned income” has the meaning specified in s. VA 9.01 (14).

(h) “Unusual expenses” has the meaning specified in s. VA 9.01 (16).

(2) **LIMITATIONS.** (b) *Amount of grant.* Applicants who qualify for a retraining grant under the provisions of this section and s. 45.21, Stats., are entitled to a grant equal to their need during the grant period or the statutory maximum grant, whichever is less. Except as provided in par. (h), need shall be determined by deducting 75% of earned income and all unearned income to be received by the applicant during the grant period, available liquid assets in excess of \$2,400 plus 6 months living expenses computed as set forth in s. VA 9.03 held by the applicant at the time of application and all other financial aid which will be received by the applicant during the grant period from the amount needed during the grant period. The amount needed will be the sum of the amount shown on the standard student budget described in s. VA 9.03 for the appropriate time period and for the appropriate number of family members plus the cost of tuition, fees, supplies and books as reported by the school for the courses to be taken during the grant period plus any unusual expenses reported by the applicant.

(d) *Completion date.* The anticipated completion date of a course of instruction or a structured on-the-job training program may not be more than 2 years from the date the application is received by the department.



(e) *Number of retraining grants.* A veteran may receive only one grant in a 12 month period. A check for an additional grant may not be mailed until a year has passed since the date the check for the previous grant was mailed. No more than 2 grants may be given to a veteran.

(f) *Qualifying prior employment.* The veteran shall demonstrate a work history of at least 6 consecutive months of employment with one employer or in the same or similar occupations. Loss of that employment or a reduction in earnings may not be caused by the voluntary actions of the veteran.

(g) *Grant payments.* The department may make partial grant payments to assure that the veteran continues to pursue an approved course of instruction or engage in an approved structured on-the-job training program during the grant period. The department may require written verification from the school or the employer that the veteran is making satisfactory progress towards completion of the course of instruction or the structured on-the-job training program. If the veteran is unable to verify satisfactory progress towards completion or discontinues pursuit of the course of education or engagement in the structured on-the-job training program, the department may cancel any unpaid portion of the grant.

(h) *Earned income.* Income from an employer who is providing an approved structured on-the-job training program to the veteran shall be disregarded in determining the veteran's need under par. (b).

(i) *Grant limit.* The maximum grant payable under this section for each grant period is \$3,000.

(j) *Lifetime limit.* The total cumulative amount that a veteran may receive under this section is \$6,000.

(k) *Other available assistance.* The department may not provide a grant payment under this section if other assistance is available to meet the veteran's needs.

**(3) GRANT APPLICATION.** (a) *Required information.* A grant application, including required exhibits and supplements, shall contain information that is necessary to satisfy the department that the applicant has a qualifying need for the grant, has a period of qualifying prior employment, is enrolled in a qualifying course of instruction or is engaged in a structured on-the-job training program which meets the requirements of s. VA 2.03 (5) which will lead to gainful employment and has become unemployed, underemployed or received a notice of termination of employment within the year prior to the date the application is received by the department or has received a retraining grant within 13 months prior to the date the department receives an application for a second grant. Required exhibits and supplements shall include a statement written by the applicant explaining the circumstances leading to the need for retraining and an explanation as to why the applicant feels that the desired retraining will lead to gainful employment.

(b) *Procedure for a school-based course.* Applications shall be initiated in the office of a county veterans service officer and completed and submitted by the FAO or other appropriate official representing the school attended by the applicant. The applications shall include verification that the applicant has received counseling from an assessment counselor and the counselor approves of the retraining to be taken.

(c) *Procedure for structured on-the-job training program.* Applications shall be initiated, completed and submitted by the office of a county veterans service officer. Each application shall contain a certification by the employer that the requirements of sub. (5) are met. The department shall evaluate the program and determine whether the requirements of s. VA 2.03 (5) are met.

**(4) COORDINATION WITH OTHER OCCUPATIONAL TRAINING PROGRAMS.** The department shall stay in regular contact with and shall promote cooperation with the United States department of labor, the United States department of veterans affairs, the department

of workforce development, and any other occupational training program administrator as appropriate. The department may exchange program literature with the agencies and encourage county veterans service officers to provide information about other programs to veterans who participate in or inquire about the retraining grant program.

**(5) ON-THE-JOB TRAINING PROGRAMS.** All of the following requirements shall be met for approval of a grant for engagement in a structured on-the-job training program:

(a) The employer is planning, upon completion of the veteran's training program, to employ the veteran for the position for which the veteran has been trained and the employer reasonably expects that such a position will be available to the veteran on a stable and permanent basis at the end of the training period.

(b) The training program is not for employment which consists of seasonal, intermittent or temporary jobs.

(c) The training content of the program is adequate to accomplish the training objective of the program taking into account the occupation for which training is to be provided and the content of comparable, available training opportunities which lead to the occupation.

(d) The wages and benefits to be paid to the veteran participating in the training program will not be less than the wages and benefits normally paid to other employees participating in a comparable training program.

(e) The employment of a veteran under the program will not result in the full or partial displacement of currently employed workers.

(f) The employment of a veteran under this program will not be in a job while any other individual is on layoff from the same or substantially equivalent job or the opening for which was created as a result of having terminated the employment of any regular employee or otherwise having reduced the work force with the intention of hiring a veteran under this program.

(g) The employer will not employ in this program a veteran who is already qualified by training or experience for the job for which training is to be provided.

(h) The employer will consider the veteran's prior training in the field for which he or she is being trained and will shorten his or her training program appropriately.

(i) Each participating veteran will be employed full time in the program of job training.

(j) The training period under the proposed program is not longer or shorter than the training period that employers in the community customarily require new employees to complete in order to become competent in the occupation for which training is to be provided.

(k) There are in the training establishment or place of employment such space, equipment, instructional material, and instructor personnel as needed to accomplish the training objective.

(L) The employer will keep records adequate to show the progress made by each veteran participating in the program and otherwise to demonstrate compliance with the requirements of the program for at least 3 years. The employer will make these records and accounts available for examination by the department as may be required.

**History:** Cr. Register, January, 1990, No. 409, eff. 2-1-90; am. (1) (d), (2) (e) and (3) (a), Register, June 1992, No. 438, eff. 7-1-92; r. (1) (f), am. (2) (b) (3) (a), cr. (2) (f), (4), Register, August, 1993, No. 452, eff. 9-1-93; cr. (1) (f), am. (2) (f) and (3) (a), Register, January, 1996, No. 481, eff. 2-1-96; am. (1) (e), (2) (b), (d), (3) (a) and (b), r. (2) (a) and (c), cr. (2) (g), (h), (3) (c), and (5), Register, July, 1998, No. 511, eff. 8-1-98; CR 05-091: am. (2) (g), cr. (2) (i) to (k) Register January 2006 No. 601, eff. 2-1-06; corrections in (4) made under s. 13.92 (4) (b) 6., Stats., Register October 2009 No. 646.

**VA 2.05 Recovery of erroneous payments. (1) CRITERIA.** The department may recover payments made as a grant under s. 45.20 or 45.21, Stats., if any of the following apply:

(a) The information provided by the applicant or the school is inaccurate.

(b) The department incorrectly calculated the grant amount.

(c) The applicant is not entitled to a grant or is entitled to a lower grant amount as a result of a change in circumstances that affects the applicant's eligibility to receive the grant.

**(2) AMOUNT OF RECOVERY.** The department may recover only the portion of the grant to which applicant would not have been entitled if the correct information had been provided or the grant had been properly calculated, or as a change in circumstances warrants.

**(3) REMEDIES.** The department may request repayment of the amount due under sub. (2). In lieu of a lump sum payment, the department may enter into an agreement under which the applicant may repay the amount due within a 12-month period. If the

applicant fails to repay the amount due within 30 days of a request for repayment or fails to comply with the terms of a repayment agreement, the department may offset future grants that the applicant may be entitled to under s. 45.20 or 45.21, Stats., until the amount due has been recovered. The department may also suspend other benefits available to the applicant until the amount due has been recovered, except that the department may not suspend benefits available under s. 45.40, Stats.

**(4) WAIVER.** The department may temporarily or permanently waive its authority to recover payments under sub. (1) or suspend benefits under sub. (3) if the applicant's household income is totally exempt from garnishment under s. 812.34 (2) (b), Stats.

**(5) ADMINISTRATIVE REVIEW.** Any department decision under this section is subject to appeal under s. VA 1.03.

**History:** CR 04-003: cr. Register June 2004 No. 582, eff. 7-1-04.