

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-3167/P1dn
MDK:ahe

April 20, 2017

Sen. Petrowski:

The U.S. Department of Veterans Affairs (VA) has suggested that we repeal s. 38.24 (3m) (c) and amend the definition of “covered individual” in s. 38.24 (3m) (a) so that it refers to all of 38 USC 3679 (c), instead of just 38 USC 3679 (c) (2). Regarding the amendment of s. 38.24 (3m) (a), the VA has stated that it will inherently provide that resident fees must be charged during continuous enrollment.

I agree that s. 38.24 (3m) (c) should be repealed, but I don't think that amending s. 38.24 (3m) (a) has the effect intended by the VA. 38 USC 3679 (c) consists of paragraphs (1) and (2). The definition of “covered individual” is set forth in paragraph (2). If we amended s. 38.24 (3m) (a) to refer to “covered individual” as defined in 38 USC 3679 (c), a reader would likely conclude that the state law is still directing the reader to the definition in paragraph (2) of 38 USC 3679 (c). I don't think anything else inherently results from telling the reader that “covered individual” has the definition that is set forth in the federal law.

If you want to require the charging of resident fees during continuous enrollment, I think state law should expressly state that requirement. Therefore, I amended s. 38.24 (3m) (b) to express that requirement.

Please contact me if you have any questions.

Mark D. Kunkel
Senior Legislative Attorney
(608) 266-0131
mark.kunkel@legis.wisconsin.gov