

Report From Agency

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Clearinghouse No. 10-111

**Final Draft Rule
November 1, 2011**

**PROPOSED ORDER
OF THE WISCONSIN DEPARTMENT OF MILITARY AFFAIRS
ADOPTING RULES**

The Wisconsin department of military affairs proposes the following order *to create* DMA 1 *relating to* payments of military family financial aid as required under s. 321.45, Stats.

SUMMARY OF PROPOSED RULE

This rule establishes criteria by which military family members can receive military family financial aid from the military family relief fund. The rule also establishes minimum and maximum aid levels.

Statute interpreted: Section 321.45, Stats.

Statutory authority: Section 321.45 (2), Stats.

Explanation of agency authority: Section 321.45 (2), Stats. requires the department of military affairs to promulgate rules establishing eligibility criteria and the amount of financial aid awardable under the military family financial aid program.

Related statute or rule: Sections 20.465 (2) (r), 25.38, and 71.10 (5i), Stats.

Plain language analysis: The Wisconsin department of military affairs (DMA) is responsible for distributing funds to eligible families of military service members from the military family relief fund.

The proposed rule order creates a provision specifying the eligibility criteria for individuals to receive aid from the military family relief fund and establishes minimum and maximum amounts of aid that may be awarded from the fund. Establishing a window of aid enables the department to respond to the emergency financial needs of military families while exercising responsible stewardship of the money obtained through the generosity of the people of Wisconsin.

Summary of, and comparison with, existing or proposed federal regulation: Each military branch has its own emergency relief organizations. This rule most closely resembles Army Regulation 930-4, which sets out rules for the administration of Army Emergency Relief (AER) assistance.

Active Duty service members, their dependents, some retired service members, and surviving spouses and orphans of service members who died on active duty are eligible to receive aid through AER. Unlike AER, military family relief funds are available only to immediate family members of certain service members. Both the federal and state programs are funded by donations. Army Emergency Relief provides grants and loans, while funds from the military family relief fund are in the form of grants only. Provision of Army Emergency Relief provided a framework for developing provisions of this rule.

Comparison with rules in adjacent states:

Illinois

The Illinois Military Family Relief Fund (IMFRF) is authorized by Title 95 Chapter 2 Part 200 of the Illinois Administrative Code and is funded by a voluntary check off on Illinois individual income tax forms.

The IMFRF provides grants to families of Illinois National Guard members and Illinois residents serving in the U.S. Armed Forces Reserve who are called to active duty as a result of the September 11, 2001 terrorist attacks. IMFRF grants are available to help service members and their families defray the costs of food, housing, utilities, medical services, and other expenses that become difficult to afford when a wage-earner has temporarily left civilian employment to be placed on active military duty.

The IMFRF provides three tiers of grants. All status and need based grants are awarded on a first-come, first-served basis. A status based grant of \$500 is available for National Guard and Reserve soldiers on active duty for a minimum of 60 days with a pay grade below a moderate amount. Members may reapply for the \$500 status based grant for every 6 months of consecutive duty.

A need based grant of \$2,000 is available for National Guard and Reserve soldiers on active duty for a minimum of 60 days with a pay grade below a moderate amount and the service member's military salary must be at least 30% less than his or her civilian salary. Members may reapply for the \$2,000 need based grant for every 6 months of consecutive duty. A casualty based grant of \$5,000 is available for Active Duty, National Guard and Reserve soldiers who suffer a service-connected injury.

Iowa

The State of Iowa has established a Veterans Trust Fund to provide certain services to veterans under Iowa Administrative Code 801 Chapter 14. As of 2009 the trust fund is funded by a Joint Veterans Trust Fund and volunteer fire fighter preparedness fund income tax check off. Trust fund expenditures are approved through the Iowa Veterans Commission.

Funds are used for unemployment or underemployment assistance due to service-related causes, assistance with vision, hearing, dental care, durable medical equipment, and prescription drugs; counseling and substance abuse services; housing repair; and transitional housing in an emergency.

Disbursements are limited to members with income less than 200% of federal poverty level and less than \$15,000 in liquid assets. Interest funds are received monthly and approved applicants are placed on a waiting list based on the date received and approved.

Michigan

The Michigan Military Family Relief Fund is authorized by MI ST 35.1211-35.1216 2004 and is funded by a voluntary check off on Michigan individual income tax forms.

The fund is available to any member of a reserve component of the United States armed forces based in Michigan or who is a resident of Michigan serving in a reserve component of the United States armed forces based in another state and is called to active duty by the president of the United States or the United States secretary of defense as a result of national response to September 11, 2001 or as a response to a national emergency declared by the president of the United States and for which funds are being spent by the federal government.

The fund provides financial assistance for clothing, food, housing, utilities, medical services or prescriptions, insurance payments, vehicle payments, or other related necessities of daily living. The fund covers needs that occurred during the time the individual was on active duty or needs that occurred because the individual has incurred a line of duty injury or illness. Michigan limits the fund to \$2,000 in one calendar year for each individual.

Minnesota

Minnesota does not have a government administrated military family relief fund.

Summary of factual data and analytical methodologies: None

Analysis and supporting documents used to determine effect on small business or in preparation of economic impact report: Not necessary.

Effect on small business: None.

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Place where comments are to be submitted and deadline for submission: Comments may be submitted to the address listed above. The deadline for comments was close of business on the day of the public hearing, which was held on October 13, 2010.

TEXT OF RULE

DMA 1.01 Purpose.

The purpose of this chapter is to establish the eligibility criteria and the amount of aid to be provided to the immediate families of service members faced with a financial emergency, as provided in s. 321.45, Stats.

DMA 1.02 Definitions.

In this chapter:

- (1) "Aid" means military family financial aid.
- (2) "Eligible applicant" means an individual who meets the requirements of s. 321.45 (1) (a), Stats.
- (3) "Department" means the Wisconsin department of military affairs.
- (4) "Disaster" has the meaning given in s. 323.02 (6), Stats.
- (5) "Financial emergency" means an unexpected financial liability, the satisfaction of which would cause a significant hardship.
- (6) "Fund" has the meaning given in s. 25.38, Stats.
- (7) "Immediate family" has the meaning given in s. 321.45 (1) (a), Stats.
- (8) "Medical emergency" means unexpected medical or dental treatment, not covered by insurance and for which the applicant is financially liable, required to preserve the life or limb of the applicant or dependant.
- (9) "Service member" has the meaning given in s. 321.45 (1) (b), Stats.
- (10) "Sponsor" means a person meeting the definition of s. 321.45 (1) (b), Stats. who is the spouse or parent of a person defined in s. 321.45 (1) (a).

DMA 1.03 Aid parameters.

- (1) GENERAL. Aid will not be granted in an amount less than \$100. The specific amount of aid will be determined by the level of need of the applicant, but will not exceed \$2,500 per applicant per calendar year.
- (2) EXCEPTIONS. Notwithstanding sub. (1), the adjutant general may approve requests for aid outside the general parameters in the event of extenuating circumstances experienced by the applicant.

DMA 1.04 Eligibility criteria.

- (1) APPLICANT ELIGIBILITY. The department may make payments under this chapter if all of the following are met:
 - (a) The applicant is an individual who meets the requirements of s. 321.45 (1) (a), Stats.
 - (b) The applicant's sponsor meets the requirements of s. 321.45 (1) (b), Stats.

(c) The applicant is experiencing a financial emergency that is not otherwise covered by insurance or reimbursement from other sources.

(d) The financial need is beyond the means of the applicant at the time of the application.

(2) FINANCIAL ELIGIBILITY. In all cases, if expenses are covered by insurance or some other source of reimbursement, distribution of aid will be denied. Costs eligible for aid include, but are not limited to:

(a) Disaster related expenses not otherwise reimbursed.

(b) Expenses for treatment or hospital related to a medical emergency.

(c) Financial emergency.

(d) Food assistance.

(e) Privately owned vehicle repairs essential to maintaining a vehicle in safe operating condition and routine maintenance, vehicle insurance premium for the period of emergency need, the cost of emergency operation needed, and car payment.

(f) Rental assistance for payment of initial rent and deposit, payment of rent, house and trailer payments, and emergency shelter.

(g) Travel expenses for immediate family members related to medical treatment or hospitalization of sponsor resulting from military service.

(h) Unreimbursed funeral expenses of an immediate family member for which the applicant is financially liable.

(i) Utilities assistance for payment of required deposits and payment of utility bills.

(j) Expenses the department determines are valid for aid.

(3) INELIGIBLE COSTS. Costs ineligible for aid include, but are not limited to:

(a) Business ventures or any similar investment.

(b) Civilian court fees, fines, judgments, liens, bail, legal fees, and income tax.

(c) Coverage of over-drafted bank accounts and associated overdraft fees.

(d) Divorce.

(e) Educational expenses.

- (f) Funeral expenses that are reimbursed by insurance, social security, or veterans benefits.
- (g) Gambling losses.
- (h) Goods or items for convenience, comfort, or luxury.
- (i) Liquidation or consolidation of debts.
- (j) Marriage.
- (k) Medical, dental, and hospital expenses that are reimbursed by insurance, Social Security, or veterans benefits.
- (l) Rental, lease, or purchase of a new or used privately owned vehicle and costs associated with rental, lease, or purchase such as taxes, registration, and insurance.
- (m) Requests totaling less than \$100.
- (n) Vacation travel.
- (o) Expenses the department determines are invalid for aid.

(4) **FACTORS.** In making a determination under sub. (2), the department will consider all of the following as well as other factors the department deems relevant to fulfill the purpose of the aid program while preserving the integrity of the fund:

- (a) The eligibility of costs for which aid is requested.
- (b) Whether the applicant has received previous aid and if additional payment is deemed appropriate.
- (c) Whether aid will relieve the situation.
- (d) The availability of insurance.

DMA 1.05 Application process.

- (1) The department shall prepare application materials containing application instructions and eligibility criteria identified in s. DMA 1.04.
- (2) A complete application will include the information necessary for the department to make a determination under s. DMA 1.03.
- (3) Upon receipt of an application the department will notify the applicant of receipt of the application. If the application is sufficient to make a positive determination of aid the department will advise the applicant of such. If the application is insufficient to make a positive determination, or if the application would result in a denial of aid, the department will advise the

applicant of the deficiencies to give the applicant an opportunity to amend or correct the application.

(4) The failure of the applicant to provide the requested information will be cause for denial of the application.

DMA 1.06 Fund expenditure limitation.

Expenditures from the aid fund shall not exceed the amount available in s. 25.38, Stats.

(END OF RULE TEXT)

Effective Date. 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.

Initial Applicability. This rule first applies to applications received after the effective date of the act.

Dated this _____day of November, 2011

STATE OF WISCONSIN
DEPARTMENT OF MILITARY AFFAIRS

By _____
Donald P. Dunbar
Major General
Wisconsin National Guard
The Adjutant General