

CR 88-104

CERTIFICATE

STATE OF WISCONSIN )  
 ) SS  
DEPARTMENT OF VETERANS AFFAIRS )

I, John J. Maurer, Secretary of the Department of Veterans Affairs and custodian of the official records of said department do hereby certify that the annexed rules, relating to various benefits available from the Department of Veterans Affairs were duly approved and adopted by the Board of Veterans Affairs of the Department of Veterans Affairs on December 15, 1988.

I further certify that said copy has been compared by me with the original on file in this department and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed the official seal of the Department of Veterans Affairs at 77 North Dickinson Street, in the city of Madison, Wisconsin this 15th day of December, 1988.

BY: John J. Maurer  
JOHN J. MAURER, Secretary

RECEIVED

DEC 16 1988

12:05pm  
Revisor of Statutes  
Bureau

3-1-89

ORDER OF THE  
DEPARTMENT OF VETERANS AFFAIRS  
REPEALING, AMENDING, REPEALING AND RECREATING AND CREATING RULES

The Wisconsin Department of Veterans Affairs repeals VA 2.01(2)(b) 11. and 12. and (c) 2., 2.02(2), 3.03(12)(h) and (13)(b), 4.01(9), 4.04, 4.05(3)(a), (b), (c) and (g), 4.06(2) and (6), 4.08(8)(a), and 4.09(4) and (7); amends VA 1.03(4), (5), (6), (7) and (9), 2.01(1)(a), (c), (d), and (g), (2) (b) 1., 2., 7., 10., 13. and 14., and (c) 4., 2.02(3) and (6), 3.01(5), 3.02(1), 3.03(9), and (12) (f), (g), and (i), 3.05(4), 4.01(1), (4), (13), (16) and (25), 4.02 (6), 4.03(1), (3) (a), (c), (h), (k), (n) (intro), (o) (intro) and 3., (r) (intro) and (7), 4.05(2), (3) (d) and (e), (5) (b), (7) and (12), 4.07(1), 4.08 (title) and (1) (a), (2), (3) and (9), 4.11(2), (3) and (4), 8.01 (intro) chapter 9 (title), 9.01(2), (5), (8), (9), (12), (14) and (18), 9.02(3) and (4) and 9.03; repeals and recreates VA 3.03(5), 3.04(1), 4.03(6), 4.09(3) and 6.01(8); and creates VA 1.15 (3), 2.01(1) (am), 3.01(1m) and (3m), 4.01(17m), 4.05(5) (em), 4.09(11) (c) and (d) and 6.01 (15) of the Wisconsin Administrative Code relative to various benefits available from the Department of Veterans Affairs.

Analysis Prepared by the Department of Veterans Affairs

Statutory authority: ss. 45.28(1)(2), 45.35(3) and 45.73(1), Stats.  
Statutes interpreted: ss. 45.28(1)(a)(e), 45.351(1) (intro) and (a) and (b), (2) (a) and (b) and (5), 45.365(1)(a), 45.37(1), 45.396(2), 45.71(7), (9) and (11), 45.72(5), 45.74(2)(3), 45.76(1)(a) 1. and (3)(a) 2, 45.79(2)(a) and (b), 45.80(2), (c) and (e), and various provisions of subchapter III of chapter 227, Stats.

In addition to revising the department's rules to correct misspelled words, add missing words, make the language of the rules sex neutral, update statutory references and make other technical changes, extensive amendments were required to change the term "direct loan" to "primary loan" throughout the department's rules.

The loan advisory council has been eliminated from the department appeals process.

The definition of "secretary" as the secretary of the department of veterans affairs has been added to the definitions section for all chapters of the department's rules.

The rules relating to emergency grants have been liberalized to permit applicants for health care aid to retain funds necessary for temporary basic subsistence and, if they are self employed, essential capital.

The term "doctor" has been substituted for the term "physician" in the emergency grants section of the rules and the term "dental care" has been defined for the purpose of making it clear that the department may pay for treatment of conditions such as mandibular joint dysfunction. The health care grant program has been expanded to permit the department to pay for dentures when medically indicated. Specific provisions relating to medical equipment and major surgery have been deleted from the department's rules as has a provision requiring applicants for subsistence aid to apply for direct general relief when it has evidence that the anticipated duration of their disability will exceed 90 days.

Specific references to items such as medicaid, medicare, Champus and Champva have been deleted as has a provision establishing a two year time limit from the date of notices that emergency medical care had been received for submission of applications to the department because more than two years have passed since the department's rules were changed to eliminate this notice requirement.

Items such as continuation of motor vehicle insurance and child care expenses have been added to the items which may be considered when evaluating emergency grant applications and the term "corrective lenses" has been substituted for "eye-glasses".

Technical changes have been made to the part time study grant section of the department's rules to eliminate a fiscal year limit provision which was necessary to distinguish between part time study grant applications which were covered by the fiscal year limit during the first fiscal year following the enactment of this limit.

The other technical changes in the part time study grant rules are proposed as a result of changes made in department procedures following the enactment of 1983 Wisconsin Act 503 which permitted the department to accept applications up to 60 days after termination of courses. Prior to the enactment of this law, part time study grant applications had to be submitted to the department before the completion of the courses to which they pertained so it was necessary for the department to require the submission of certificates of satisfactory completion as separate documents after the courses had been completed. This act enabled the department to consolidate the certificate of satisfactory completion on the application form.

The economic assistance loan provisions of the department's rules have been amended primarily to delete language which was necessary during the four years when veterans were required to obtain letters from conventional lending institutions establishing that they could not obtain credit upon manageable terms. This language was deleted from the statutes by 1983 Wisconsin Act 20. Specifically deleted are phrases relating to anticipated monthly payments on debts and detailed need criteria because the primary considerations used by the economic assistance loan section in evaluating applications are based on income, assets and debts structure.

The income section of the present economic assistance loan income section of the department's rules presently contains references to subsections of the income section of the housing loan chapter of the departments rules. However, since the statutory definition of income for the purpose of the economic assistance loan program is different from the statutory definition for the housing loan program, a complete income section has been inserted in the economic assistance loan section of the rules and cross references to the housing loan subsections have been eliminated.

The economic assistance loan program has been expanded by eliminating the prohibition on loans for the payment of current income or property taxes, for the downpayment for the acquisition of real estate including a veteran's home and for motor vehicles, provided they are to be used primarily for business purposes.

The provision in the economic assistance loan rules relating to issuance of checks for home improvement loans has been repealed and the provision of this chapter of the department's rules relating to guarantors has been repealed and recreated to eliminate the term "endorser" and to make this rule provision clearer. These changes will not result in any substantive change in the department's operating procedures. The inability of a veteran to obtain full time veterans administration educational assistance allowance has been deleted as a basis on which a veteran may request deferral of payments on an educational loans.

The minimum amperage acceptable in a home to be financed by a department housing loan has been increased from 30 to 60 amperes and the the provisions relating to department loan repayment and to bad credit practices have been expanded to include cases where veterans quit claimed previously owned real estate back to the department or to another lender and to clarify the provisions which apply to loan repayment records with the department.

The provisions of the department's rules restricting second housing loans in the case of applicants who previously had department housing loans have been eliminated so that it will no longer be necessary for applicants for either primary or secondary housing loans to establish that their homes were sold for acceptable reasons if they apply for subsequent housing loans within a year of the sale of the homes on which they had mortgage loans from the department.

The detailed provisions in the department's rules relating to the establishment of the cost of the housing accommodation and garage are repealed and the requirement that veterans submit verifications of all deposits has been limited to only those deposits which will constitute a part of their downpayments. Provisions in the rules requiring that a housing loan applicant's interest in other owned nonresidential real estate must be encumbered to the department have been eliminated from the department's rules except in cases involving applicants for second mortgage housing loans whose equity in other owned nonresidential real estate, together with other funds they propose to retain, exceeds the maximum retainable assets. The amount invested by an individual in a deferred compensation plan is excluded from income for the purpose of either qualifying or disqualifying a housing loan application. National guard or military reserve pay may not be used to disqualify a housing loan application.

Specific criteria for establishing when land value is excessive and when properties used for both business and residential purposes may be financed have been eliminated.

The provision specifying when authorized primary lenders must remit payments to the department has been repealed as have some sections of the secondary loan program rules dealing with preliminary evidence of title, maximum primary financing and detailed instructions for the submission of instruments to the department.

Specific criteria for the approval of subordination agreements are set forth and these agreements are restricted to veterans who meet minimum need criteria.

The commandant of the Wisconsin veterans home has been given the discretion to readmit members who were former residents of the home and the department is given the right to defer or deny admission to applicants whom the commandant has determined the home would be unable to provide complete medical care.

Numerous technical amendments have been made to the full time educational grant chapter of the rules. The two most significant substantive changes made to this chapter of the department's rules are a redefinition of armed forces reserve and national guard pay as earned rather than as unearned income and a provision increasing annual budgets, upon which grant eligibility is based, and providing for automatic future annual increases in these budgets based upon increases in the consumer price index.

The board of veterans affairs of the department of veterans affairs proposes to repeal, amend, repeal and recreate and create rules as follows:

SECTION 1. VA 1.03(4), (5), (6), (7) and (9) are amended to read:

VA 1.03 (4) CONDUCT OF HEARING. The hearing on the appeal shall be held before a hearing examiner ~~or before the loan advisory council at the discretion of~~ designated by the secretary. The hearing examiner ~~or members of the loan advisory council~~ shall have the powers enumerated under s. 227.09, 227.46, Stats. The department shall present evidence first unless the hearing examiner ~~or the loan advisory council~~ varies the order of proceeding in the interest of obtaining the most cogent presentation of the case. An appellant may appear in person, with or without counsel, or by counsel or other agent of the appellant's choice.

(5) EVIDENCE. In accordance with s.227.08, 227.45 Stats., the hearing

examiner ~~ex-lean-advisory-council~~ shall not be bound by common law or statutory rules of evidence. Parties may stipulate to some or all of the facts, and the hearing examiner ~~ex-lean-advisory-council~~ may base the proposed decision upon the stipulation. All exhibits shall be marked and made available for inspection by the opposing party before being shown to a witness, unless the exhibit shall have been marked and a copy made available to the opposing party prior to hearing.

(6) RECORD OF APPEAL. A stenographic, electronic, or other record of the hearing shall be kept, and shall be transcribed at the request of any party. Such transcription shall be at the department's expense if the purpose for transcription is deemed reasonable to the department's ~~ex-the-lean-advisory council's~~ or hearing examiner's satisfaction. Copies of the tape recordings, transcripts, or other record shall be furnished to any party upon request at the cost of production to the department, except that copies may be provided free of charge to parties who can demonstrate that they are indigent.

(7) PROPOSED DECISION. The hearing examiner ~~ex-lean-advisory-council~~ shall issue a proposed written decision to the board of veterans affairs, including findings of fact, conclusions of law, order and opinion pursuant to ~~s.227.09(2)~~, 227.46(2), Stats. The proposed decision shall be served on all parties at least 20 calendar days before it is submitted to the board of veterans affairs for final decision unless the 20 calendar day period is waived by all parties. Each party adversely affected may file objections to the proposed decision, briefly stating the reasons and authorities for each objection, and may file a brief and present oral argument to the board at the meeting of the board at which the party's case is to be heard.

(9) PETITION FOR REHEARING. A party aggrieved by a final decision may petition the board ~~department~~ for rehearing pursuant to ~~s.227.42~~, 227.49, Stats. Any other party shall have 20 days from the date the petition for rehearing is mailed to them at their last known address to file a reply to the petition.

SECTION 3. VA 1.15(3) is created to read:

VA 1.15(3). "Secretary" means the secretary of the department of veterans affairs.

SECTION 4. VA 2.01(1)(a), (c), (d) and (g) are amended to read:

VA 2.01 EMERGENCY GRANTS. (1) DEFINITIONS. (a) "Available liquid assets" means cash on hand, including cash in checking or savings accounts, liquid investments, including stocks and bonds and amounts deposited in IRA and Keogh plans, owned by the applicant's dependents either individually or jointly with the applicant, or owned individually and 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 the cash surrender value of life insurance policies, funds necessary for temporary basic subsistence or those assets which are the essential capital of a self-employed person, the lack of which would seriously affect the person's livelihood.

(c) "Emergency health care" means health care provided where the need for essential medical services was sudden and urgent enough to be considered an emergency by a ~~physician~~ doctor, follow up care related to the emergency situation and any health care provided a student veteran or a student veteran's dependents.

(d) "Health care" means essential medical services including but not limited to ~~physician~~ doctors' services, hospital charges, ~~eye-glasses,~~ corrective lenses, prostheses, leasing or purchase of medical appliances and equipment and dental care.

(g) "Subsistence" means essential living expenses including rent or mortgage payments on the veteran's or veteran's dependent's residential living quarters, food, clothing, medical insurance premiums, prescribed medications, essential travel, moving expenses, child care required because of employment, education or medical reasons, household utilities expenses including heat,

electricity, gas and telephone, and, in exceptional cases, such other items relating to emergency aid as the department may deem necessary.

SECTION 5. VA 2.01(1)(am) is created to read:

VA 2.01(1)(am) "Dental care" means health care limited to the care, restoration or replacement of teeth.

SECTION 6. VA 2.01(2)(b) 1., 2., 7., 10., 13. and 14. are amended to read:

VA 2.01(2)(b) Health care aid. 1. 'Maternity care.' Except for applications involving recently service separated veterans ~~not-covered-by-civilian-health-and-medical-program---uniformed-services-or-civilian-health-and-medical-program---veterans-administration~~ who were unable to qualify for maternity insurance coverage and students who might be forced to drop out of school unless health care aid is provided, health care aid for expenses of maternity care may be granted only for that portion of the expenses of maternity due to a medical emergency.

2. 'Dental care.' Health care aid for dental care shall be limited to extractions, fillings, dentures and denture repairs, unless related to health care provided as a result of accidental injury. ~~In-cases-where-the-cost-of-a-new-denture-is-less-than-the-cost-of-denture-repair,-payment-for-the-new-denture-may-be-authorized.~~

7. 'Transfer to VA hospital.' Veterans shall be transferred to a VA hospital when transfer is medically feasible and when a VA hospital is available. If this transfer is not made, only that portion of health care expenses incurred prior to the date on which transfer could have been made will be eligible for payment.

10. 'Emergency health care application deadline.' ~~Subject-to-the-provisions-of-subd.-43,-health~~ Health care aid may be granted for health care received during the period beginning 120 days prior to actual receipt by the department of an application for health care aid for health care that has been or is being received for an emergency condition.

13. 'Time limits.' When one year has passed without contact with the applicant, the applicant's dependents, the county veterans service officer, or other representative, the temporary emergency period shall be deemed to have expired and health care aid may not be provided to pay for the cost of the health care for which application was made. ~~The department may provide health care aid only if an application for health care aid is received by the department within 2 years of the date notice of emergency health care was received by the department, provided that notice is received by the department prior to the effective date of this subd.~~

14. 'Itemized bills.' Final payment for health care bills may be made only when the department has received itemized statements showing adjustments for payments received from ~~insurance, medicaid, medicare, and~~ all other available sources.

SECTION 7. VA 2.02(b) 11. and 12. and (c) 2. are repealed.

SECTION 8. VA 2.01(2)(c) 4. is amended to read:

VA 2.01(2)(c) 4. 'Motor vehicle expenses.' Subsistence aid for the payment of motor vehicle expenses, including fuel, repairs, and monthly motor vehicle payments if necessary to prevent repossession, and continuation of vehicle insurance may be provided only when use of the motor vehicle is required for medical care, ~~spouse's~~ employment, transportation ~~of children~~ to school or day care, or in other situations where the department determines that the use of the motor vehicle is required during the period of incapacitation.

SECTION 9. VA 2.02(2) is repealed.

SECTION 10. VA 2.02(3) and (6) are amended to read:

VA 2.02(3) SUBSTITUTE COURSES. Reimbursement may be made ~~only~~ if a veteran satisfactorily completes either the course listed on the application or a substitute course offered by the same school during the same semester or school term which substitute course meets the conditions of s. 45.396, Stats.

Reimbursement may also be made for a qualifying course not listed on an application taken during the same school term as an ineligible course listed on the application.

(6) NOTICE OF COMPLETION. The veteran may be reimbursed for the cost of tuition, fees, and required textbooks to the extent authorized, only upon receipt by the department ~~of a certificate of satisfactory completion~~ a fully completed part-time study grant application. The application shall be signed by the approved school's veterans coordinator and should list the official satisfactory complete date and costs of tuition, fees, and required textbooks, ~~and only if an application for reimbursement is received by the department no later than 60 days after the termination of a course.~~

SECTION 11. VA 3.01(1m) and (3m) are created to read:

VA 3.01(1m) "Anticipated debt payments" means anticipated monthly payments on debts, debt repayments required to be made on other than a monthly basis converted to monthly payments and 10 percent of indebtedness on which periodic repayments is not required.

(3m) INCOME. "Income" means current annual adjusted gross income of the applicant as disclosed, verified and evaluated in accordance with the provisions of s. VA 3.03(5).

SECTION 12. VA 3.01(5) is amended to read:

VA 3.01(5) "Total debt payments" means one-twelfth of an applicant's "annual shelter payment" and the applicant's ~~anticipated monthly debt payments~~ "anticipated debt payments". ~~Anticipated monthly payments on debts shall be based upon the monthly payments which the applicant would be required to make on such debts including the economic assistance loan applied for, or, in the alternative upon financing from a conventional lending institution to provide funds for the purposes set forth in the economic assistance loan application. Periodic debt repayments required to be made on other than a monthly basis shall be converted to monthly payments by multiplying such payments by the~~

~~quotient arrived at by dividing the number of months between the due dates of such payments into 1. (E.g., a \$600 semi-annual payment would be converted to a \$100 monthly payment by dividing 6 into 1 and multiplying the resulting quotient of .16667 by \$600.) Total debt payments shall include 10% of the applicant's indebtedness which will not be paid by loan proceeds and on which periodic payments are not required, except indebtedness incurred for educational purposes.~~

SECTION 13. VA 3.02(1) is amended to read:

VA 3.02(1) OBJECTIVE. The department may lend to any veteran who qualifies for a loan under the provisions of this chapter and s. 45.351(2), Stats., an amount not more than the statutory limit from the veterans trust fund to provide economic assistance for the purposes set forth in s. 45.351(2), Stats., where the veteran's need to provide funds for such economic assistance is established to the satisfaction of the department and such veteran is unable to meet that need from available resources or credit upon manageable terms. ~~In determining need the department shall use such criteria as--the purpose of the loan; the size and the health of the applicant's family; the applicant's total debt structure including term of debts, level of payments and types of obligations; the nature of frequency of and intensity of the problems creating the need for loan funds; the length of the applicant's time on the job and the level and dependability of the applicant's income; the applicant's past credit practices; availability of credit to the applicant; the absence or presence of exceptional circumstances and such other factors as may be relevant to a determination of need in individual cases.~~

SECTION 14. VA 3.03(5) is repealed and recreated to read:

VA 3.03(5) DISCLOSURE, VERIFICATION AND EVALUATION OF INCOME. All of an applicant's income shall be disclosed and verified. Income from other than the

applicant's regular work which the department determines will not last for five years may be excluded. If the department is provided with a statement from an employer showing current hourly wage, income shall be based on 40 hour weeks and 52 weeks per year unless evidence to the contrary is provided.

- a. Income to be derived by an applicant from a new business which the applicant is establishing or purchasing may be based upon an acceptable projected profit statement.
- b. Income of a self employed applicant shall be based on the person's prior year's income tax returns or a profit and loss statement for at least six of the twelve months immediately preceding the loan application date.
- c. Income from the National Guard, Military Reserve or active duty military shall include all allowances except for clothing.
- d. Piece work pay, incentive pay, tips, shift differential and cost of living adjustments are "income" unless the department determines that they are not likely to continue for five years.
- e. Overtime pay and bonuses are generally not considered "income" except when the department determines that they are likely to be received for the next five years.
- f. Unemployment compensation is "income" when it is received for regular or seasonal layoffs from the applicant's current employment. Otherwise, unemployment compensation is not "income".
- g. Worker's compensation is "income" when the department determines that the applicant is likely to continue to receive it or return to employment or be declared totally and permanently disabled.
- h. Child support payments, separate maintenance payments and alimony are "income" when the department determines that they are likely to continue for five years.

- i. One-half of gross rental income is "income" if utilities are paid by the applicant and 2/3 of gross rental income is "income" if utilities are paid by the tenants unless tax returns or a profit and loss statement are used to verify the income in which case the net profit is "income".
- j. Disability compensation, social security, social security disability, retirement pensions and social security for dependent children are "income" unless the department determines that they are not likely to continue for five years.
- k. AFDC, general relief and food stamps are "income" unless the department determines that they are not likely to continue for five years.
- l. The prior year's income tax returns shall not be acceptable verification for income which was not being received for all of the tax year covered by the returns.
- m. Applicants verifying their income by income tax returns shall submit a complete copy of their most recent federal tax return including all schedules.
- n. In addition to farm income reported on the applicant's last income tax return, income from farming shall include adjustments to reflect the value of food stuffs consumed by the applicant and members of the applicant's household and write-offs for accelerated depreciation and investment credits.

SECTION 15. VA 3.03(9) and (12) (f), (g) and (i) are amended to read:

VA 3.03(9) MOBILE HOME LOANS. A loan may be made for the purpose of purchase of or improvements to a mobile home used or to be used by the veteran as the veteran's primary residence, including ~~transperation~~ transportation and hook-up expenses, the necessary provision of or replacement of a primary water system, including well, or of a septic disposal system, and essential

repairs or maintenance, whether or not such mobile home is located on or to be located on land owned by the applicant, and for the purchase of land on which such mobile home is located or to be located.

(12)(f) Where the loan proceeds will not directly benefit the veteran or will only be of a minimal benefit, where the proceeds will not substantially resolve the applicant's financial problems, or ~~were~~ where the proceeds are required to repay obligations resulting from the veteran's willful misconduct.

(g) For current month-to-month household and living expenses, except in the case of education loans ~~or for the payment of current income or property~~ **taxes.**

(i) To purchase, or to pay existing obligations incurred exclusively for the purchase of television sets, stereos, tape decks, recording equipment, sporting equipment, recreational vehicles or equipment, leisure or hobby equipment, or motor vehicles which are not used exclusively for business purposes.

SECTION 16. VA 3.03(12)(h) and (13)(b) are repealed.

SECTION 17. VA 3.04(1) is repealed and recreated to read:

VA 3.04(1) GUARANTORS. The department may accept as adequate security the guarantee of loan promissory notes by creditworthy and financially acceptable guarantors. No employe of the department, no county veterans service officer and no other person in any way connected with the administrative duties of the department or serving in an advisory capacity thereto shall be accepted as guarantor on any loan unless the applicant is a member of the guarantor's immediate family. Any other Wisconsin resident who is determined by the department to be financially responsible and whose joining in the obligation will provide adequate security for the loan may be accepted as a guarantor.

SECTION 18. VA 3.05(4) is amended to read:

VA 3.05(4) DEFERMENT OF PAYMENTS. Where a veteran who is enrolled in a

full-time course of instruction, as verified by the educational institution in which the veteran is enrolled, or in a part-time course of instruction only in cases hereinafter set forth, applies for deferment of the obligation to commence or continue to make payments on a loan, the department may grant a deferment if the installments on such loans are less than 90 days delinquent at the time of approval of the deferment and, in the case of a guaranteed loan, if the guarantors consent in writing to the deferment. A deferment may not exceed 1 year and may not extend more than 3 months beyond the anticipated completion date of the veteran's educational objective but a veteran may qualify for additional deferments if eligible for such deferments under the provisions of this subsection at the time of application therefor. The department may grant deferments to a veteran enrolled in a part-time course of instruction because such veteran is disabled or unable due to physical or mental disability to enroll in a full-time course of instruction, ~~is-unable-to-obtain-full-time veterans-administration-educational-assistance,~~ is a graduate student who has completed the course of work required for a degree but must complete a thesis requirement, or is in the final semester or term of an educational program and needs less than full-time study to meet graduation requirements. Participation in a medical internship program shall be deemed to be enrollment in a full-time course of instruction for the purposes of this subsection.

SECTION 19. VA 4.01(1), (4), (13), (16) and (25) are amended to read:

VA 4.01(1) "Adequate housing" means a structurally sound dwelling ready for immediate occupancy and sufficient in size to accommodate the applicant and the applicant's dependents, with necessary electrical (above ~~30~~ 60 amperes), heating and sanitary facilities in good condition of repair. In order to be considered adequate housing, the dwelling must have sufficient bedrooms to provide sleeping accommodations segregated by sex for the applicant's unmarried dependents, except that dependents less than 6 years old need not have

segregated sleeping accommodations if the dwelling provides space for necessary expansion or if older dependents will be leaving the dwelling permanently in the near future in order for the dwelling to be considered adequate housing.

(4) "Applicant" means a person who applies for a ~~direct~~ primary loan certificate of eligibility or a veteran who applies for a housing loan under subch. II of ch. 45, Stats. The term "applicant" also means the applicant and co-applicant, if there is a co-applicant, unless the context clearly limits the meaning to only the applicant.

(13) "Housing loan" or "loan" means either a "~~direct~~ primary loan" or a "secondary loan" or both.

(16) "Mortgagee" means in the case of a ~~direct~~ primary loan the department or the authority and in the case of a secondary loan means the department and the primary lender.

(25) "Veteran" in the case of a "secondary loan" means either veteran as defined in both ss. 45.35(5) and 45.71(16)(a), Stats., or such a deceased veteran's unremarried surviving spouse or minor or dependent child who is a resident of and living in this state at the time of making application for a "housing loan", and, in the case of a "~~direct~~ primary loan" means either a veteran as defined in s. 45.71(16)(a), Stats., or such a deceased veteran's unremarried surviving spouse or minor or dependent child who is a resident of and living in this state at the time of making application for a certificate of eligibility or a ~~direct~~ primary loan.

SECTION 20. VA 4.01(9) is repealed.

SECTION 21. VA 4.01(17m) is created to read:

VA 4.01(17m) "Primary loan" means a housing loan under s.45.79, Stats.

SECTION 22. VA 4.02(6) is amended to read:

4.02(6) CONSENT TO REMOVAL. No mobile home upon which a ~~direct~~ primary loan has been made shall be moved from the site of original hookup without the

consent of the authorized lender and the department and no mobile home upon which a secondary loan has been made shall be moved from the site of original hookup without the consent of the department.

SECTION 23. VA 4.03(1), (3) (a), (c), (h), (k), (n) (intro), (o) (intro) and 3. and (r) (intro) and (7) are amended to read:

VA 4.03 GENERAL LOAN POLICY BOTH PROGRAMS. (Subch. II of ch. 45, Stats.)

(1) LOAN REPAYMENT RECORD. The department will not issue a certificate of eligibility to a veteran or approve a ~~secondary~~ loan to a veteran who is delinquent on ~~an economic-assistance-loan~~ a loan from the department.

Unless approved by the secretary or approved pursuant to guidelines established by him, an application for ~~an economic-assistance-loan~~, a ~~secondary~~ loan or for a certificate of eligibility from a person whose repayment record on a department loan has been unsatisfactory shall be summarily denied on the basis of such record.

(3) CONSTRUCTION LOANS (a) ~~Direct~~ Primary construction loans shall be made for a term not exceeding 29 years and 4 months, in addition to the construction period not exceeding 8 months.

(c) On ~~direct~~ primary construction loans payment on principal may be waived for up to 8 months, however, payment of interest and 1/12 of the estimated annual taxes and insurance premiums shall be made monthly. Such interest is to be charged on principal actually disbursed during the previous month based on the number of days of such usage and billed as of the first of the month. On secondary construction loans the first monthly payment will be due 6 months after the date of approval.

(h) A basement survey shall be required in connection with every construction loan before closing except that the lender may waive a basement survey provided the lender obtains a certificate from the local building inspector or zoning authority that the proposed basement is located within the

bounds of the described property in compliance with all applicable side yard and set back requirements and that the basement elevation is proper. If a ~~direct~~ primary loan is involved, the authorized lender must agree to sign the lenders warranty on the basis of the certificate.

(k) In cases involving ~~direct~~ primary loans, credit reports must be obtained by authorized lenders on the builder(s) and shall be reordered if the previous reports are more than 6 months old.

(n) All downpayment monies received by any of the parties to the construction transaction shall be deposited with the lender and such amounts as are necessary for closing shall be disbursed at closing. Such monies not disbursed at closing will be retained by the lender in an escrow account until the next draw is requested by the builder. No housing loan proceeds will be disbursed until all of the down payment monies have been fully expended. Advances prior to completion may equal 80% of the cost of completed construction unless the cost breakdown shows profit as a separate entry in which case 100% of the cost of completed construction may be disbursed, but such disbursement shall not exceed 75% of the total committed ~~direct~~ primary loan funds, or in the case of secondary loans, committed primary lender and secondary loan funds, until after final inspection. Funds remaining after each and every draw shall be sufficient to complete the construction. Such advances shall be made on construction completed and in place, and inspected by the lender or agent using VA/FHA guidelines. Such advances will take place:

(o) Payment for work which cannot be completed for acceptable reasons, but does not affect occupancy of the dwelling, shall not be made until completion of such work. At the discretion of the authorized lender, ~~direct~~ primary loan funds may be escrowed for uncompleted construction provided that:

3. The escrowed amount does not exceed \$4,000 in any case. Upon inspection of the completed work by the authorized lender or agent the

escrowed funds may be disbursed. Interest must be paid by the mortgagor from date of disbursement of ~~direct~~ primary funds by the department on funds placed in escrow under this paragraph.

(r) In ~~direct~~ primary loan applications "work credits" and "sweat equity" shall only be allowed after the applicant evidences that the downpayment is unborrowed funds, and the applicant has adequate funds for closing and moving expenses. The ~~direct~~ primary loan shall be the total cost of the construction less the downpayment. The "work credits" and "sweat equity" shall be deducted from the loan principal amount after the construction has been completed. An authorized lender may, however, at its discretion, waive firm price contracts for labor for required painting provided that:

(7) SURVEY. Where the legal description of the property is in metes and bounds, a survey, or copy of a survey, clearly delineating a single perimeter of the entire plot and location of any existing or proposed improvements shall be required in connection with a ~~direct~~ primary loan, unless the cost of such a survey would be more than \$300 and it is determined by the department that there is little question as to the location of the improvements within the perimeter. In these cases a surveyor's or professional engineer's letter will be required.

SECTION 24. VA 4.03(6) is repealed and recreated to read:

VA 4.03(6) SECOND APPLICATIONS. (a) When an applicant for a certificate of eligibility remains obligated to the department on either a secondary loan or another primary loan and the applicant is otherwise qualified for such certificate, a conditional certificate of eligibility will be prepared authorizing application for a primary loan, subject to the requirement that the existing secondary or primary loan is fully paid prior to or at the time of closing of the primary loan.

(b) If an applicant quit claimed real estate back to the department in lieu

of foreclosure within the last five years, the applicant shall be ineligible to receive a second certificate of eligibility, a primary housing loan or a second mortgage housing loan unless the secretary finds that there are mitigating circumstances which warrant approval.

SECTION 25. VA 4.04 is repealed.

SECTION 26. VA 4.05(2), (3)(d) and (e), (5)(b) and (7) and (12) are amended to read:

VA 4.05(2) VETERAN'S CONTRIBUTION. If the applicant's contribution required under ss. 45.74(5) and 45.77, Stats., or such closing costs and moving expenses as the applicant may be required to pay have been or are to be acquired by borrowing, the application may not be approved. The applicant must be financially able with the aid of the housing loan applied for to complete the contemplated purchase, construction, improvement or refinance and to pay all required closing and moving expenses. Work credits, rent credits or other reductions of the price of the property being acquired by an applicant may be allowed but only after the applicant evidences that a 5% down payment has been made from such applicant's own funds. Mortgage funds shall not be utilized to pay closing costs. Applicants shall submit verifications of all deposits in excess of \$100 which will constitute a portion of their contribution.

(3)(d) When an applicant has sold real estate on a land contract, the department shall consider as income the payment being received by the applicant less the payment made on any underlying debt on the real estate, ~~and shall require the applicant to assign the applicants vendor's interest in the land contract to the department if such interest is funds for the purpose of obtaining payment to the department or escrow for improvements to the principal residence of the net proceeds to be realized by the applicant at the time of the payment of the land contract balance.~~

(e) Release of all or any portion of or interest in other owned real estate

assigned to or encumbered in favor of the department in connection with primary loans included-in-direct-loan-mortgages may be made pursuant to s. VA 4.08(9), and ~~releases-of-such-real-estate~~ from secondary ~~loan-mortgages~~ may-be-made loans pursuant to s. VA 4.09(12).

(5)(b) The "income" to be used for an applicant with an individual retirement account (IRA) or who participates in a deferred compensation plan is the adjusted gross income. The IRA adjustment to income or the amount invested in a deferred compensation plan or both shall not be added back to the applicant's income.

(7) PERSONAL PROPERTY. Any personal property of value included in the offer to purchase a property to be financed with a housing loan shall have a value placed upon it by the appraiser and the amount of this value shall be deducted from the sale price. The personal property shall be paid for by the applicant from funds which must be in excess of the minimum downpayment and closing costs. If there is no value to personal property included in the offer to purchase, the offer shall so state. The cost of any personal property included in a construction or improvement contract shall be paid by the veteran borrower and such payment shall not constitute part of the applicant's equity in the property. (Carpeting, built-ins, fixtures or other items permanently affixed to the structure shall not be considered personal property.) No personal property, however, may be included in properties being financed with ~~direct~~ primary housing loans being made for purposes other than mobile home purchases.

(12) BAD CREDIT PRACTICES. Applications from applicants who have failed to pay their obligations in a timely manner or have quit claimed previously owned real estate back to a lender in lieu of foreclosure within the last 5 years shall be denied unless such applications have strong offsetting characteristics ~~or-unless-the-financial-difficulties-responsible-for-the~~

~~applicant's inability to pay their obligations in a timely manner could not have been avoided by prudent management.~~ Examples of such offsetting characteristics are whether the lender did not incur a loss as a result of the quit claim and whether a loss of employment due to no fault of the applicant or other unavoidable circumstances caused the underlying repayment problem.

SECTION 27. VA 4.05(3)(a), (b), (c) and (g) are repealed.

SECTION 28. VA 4.05(5)(em) is created to read:

VA 4.05(5)(em). Income from national guard or military reserves shall not be used to disqualify an application.

SECTION 29. VA 4.06(2) and (6) are repealed.

SECTION 30. VA 4.07(1) is amended to read:

VA 4.07 APPRAISALS. (1) GENERAL. Appraisals must be submitted with all housing loan applications and, in the case of applications for ~~direct~~ primary loans, must be completed on an appraisal form prescribed by the department by an appraiser selected by the authorized lender from appraisers approved by the department. Appraisals submitted with applications for secondary loans may be submitted on either the department's appraisal form or on appraisal forms prescribed by the department by a department approved appraiser.

SECTION 31. VA 4.08 (title) is amended to:

VA 4.08 (title) PRIMARY LOAN PROGRAM REGULATIONS.

SECTION 32. VA 4.08(1)(a) (2), (3) and (9) are amended to read:

VA 4.08 (1) CERTIFICATE OF ELIGIBILITY. (a) Application. An application for issuance of a certificate of eligibility for a ~~direct~~ primary loan shall be submitted to the department through the applicant's county veterans service officer and shall be in the same form as an application for the establishment of eligibility for general benefits from the department but shall contain a specific request for issuance of such certificate.

(2) CONTRACTS. The department shall enter into contracts with authorized

lenders willing to participate in the ~~direct~~ primary loan program before such lenders may process direct loan applications. Such contracts shall delineate or include reference to the responsibilities of the authorized lenders and other matters set forth in s. 45.79(5)(a) 1., Stats., shall vest authorized lenders with such powers as the department deems necessary to enable them to properly carry out their servicing responsibilities, shall specify the minimum number of days notice required by the department of anticipated closing or first disbursement dates, and shall specifically require such lenders to execute warranties and servicing agreements in connection with ~~direct~~ primary loans closed by them, the provision of which warranties and agreements shall be deemed to be incorporated in such contracts.

(3) APPLICATION. Application for a ~~direct~~ primary loan shall be made through the authorized lender of the applicant's choice. The application shall be completed on forms prescribed by the department, and shall include the applicant's certificate of eligibility, a fact-built credit report, appraisal report, employment and deposit verifications and, where appropriate, plans, specifications, a construction contract, a survey, water analysis report, purchase agreement, and such other instruments and exhibits as the authorized lender deems necessary to complete the application.

(9) PARTIAL RELEASES. An authorized lender may, with the consent of the department, release a portion of the property mortgaged to it or the department or the authority under a ~~direct~~ primary loan if the release of such property will not unduly diminish the value of the remainder of the property. The authorized lender will require that any funds received by a mortgagor from the sale of property released be applied to reduction of the mortgage loan balance unless it is proposed that a part or all of such funds will be used to improve the property, in which case the authorized lender may approve such use and supervise the disbursement of funds for improvements.

SECTION 33. VA 4.08(8)(a) is repealed.

SECTION 34. VA 4.09(3) is repealed and recreated to read:

VA 4.09(3) REAL ESTATE EQUITY. If the applicant's equity in other owned real estate together with other funds which the applicant proposes to retain exceed the amount of the applicant's annual shelter payment plus \$1,000, the applicant's equity or interest in the real estate shall either be assigned or mortgaged to the department or sold. If the applicant's interest in real estate is to be sold, the net proceeds from the sale shall be considered a part of the applicant's funds and the sale of this interest must close before the department housing loan is closed.

SECTION 35. VA 4.09(4) and (7) are repealed.

SECTION 36. VA 4.09(11)(c) and (d) are created to read:

VA 4.09(11)(c) The following criteria must be met for approval of all subordination agreements:

1. Minimum of 5% equity remaining after subordination.
2. A satisfactory repayment record on the secondary loan.
3. Loan is not currently delinquent.
4. Shelter cost ratio is not excessive based upon the criteria established by the department for the approval of primary loans.

(d) In those cases where the proceeds of the mortgage to which the department is requested to subordinate will be used for any purpose except refinancing an existing first mortgage, including the cost of refinancing, the request will be denied if:

1. The veteran's and spouse's total income is greater than \$34,000; and,
2. The veteran's equity in the home after the subordination is greater than 20% as derived from the current appraised value and the outstanding mortgage principal balance; and,
3. One-twelfth of the veteran's calculated anticipated annual shelter

payment after the subordination would be less than 20% of the veteran's and spouse's combined gross monthly income.

SECTION 37. VA 4.11(2), (3) and (4) are amended to read:

VA 4.11(2) NOTICE OF HEARING. If a written request for a hearing filed with the department by the affected party meets the four-fold test of s. ~~227.075(4)-(a)-(d)~~ 227.42(1)(a) to (d), Stats., and if such request is not denied by the department under s. ~~227.075(2)~~ 227.42(2), Stats., the hearing granted by the department shall be treated as a "class 3 proceeding" as defined in s. ~~227.04(2)(e)~~ 227.01(3)(c), Stats., and written notice complying with s. ~~227.07(1), (2)-and-(3)~~ 227.44(2), Stats., will be sent to the affected party by certified mail, return receipt requested, at least 10 days prior to the date of hearing.

(3) CONDUCT OF HEARING. The hearing shall be held before a hearing examiner who shall be designated by the secretary. The hearing examiner will have the powers enumerated under s. ~~227.09~~ 227.46, Stats. Every party to the hearing shall be afforded adequate opportunity to present evidence and to rebut evidence presented or offer countervailing evidence. A stenographic, electronic or other record shall be made of the hearing. The record shall be transcribed by the department, and free copies of the written transcript may be provided to any party in interest upon request.

(4) FINAL DECISIONS. Under s. ~~227.09(3)~~ 227.46(3), Stats. the department may, by order, direct that the hearing examiner's decision be the final decision of the department. Alternatively, the decision of a majority of officials of the department appointed by the secretary shall be final. Whether the hearing examiner's decision, or the decision of the officials appointed by the secretary is final, such decision shall be based solely on the evidence presented at the hearing and on matters officially noticed. The decision will be based on the standard of substantial evidence. It shall be in writing and

contain findings of fact and conclusions of law. The findings of fact shall treat each material issue of fact. The final decision shall be served by personal delivery or mailing to each party to the hearing or to the party's attorney of record.

SECTION 38. VA 6.01(8) is repealed and recreated to read:

VA 6.01(8) READMISSION. A former member may be readmitted to the home only if a new application has been submitted and approved by the commandant on the basis of the commandant's determination that the home can provide suitable care for the applicant and that the applicant had demonstrated a satisfactory ability to adjust to the home environment during the applicant's previous admission or admissions to the home. A former member who was given an undesirable or dishonorable discharge may be readmitted only if the commandant is satisfied that the conduct leading to such discharge will not be repeated. The commandant shall also require that an applicant for readmission shall have paid all moneys which the applicant owed to the home.

SECTION 39. VA 6.01(15) is created to read:

VA 6.01(15) ADMISSION, DENIAL OR DEFERRAL. Notwithstanding the other provisions of this section, the department may defer or deny an applicant's admission to the home when the commandant determines that the home will be unable to provide complete medical care.

SECTION 40. VA 8.01 (intro) is amended to read:

VA 8.01 CLASSES OF COUNTIES. Counties shall be divided into 8 county veterans' service officer pay range classes, based upon state pay schedule no. 46 1 for general non-represented administrative and management positions. These classes shall be determined by the general population of the county as based upon the latest census compiled by the bureau of census, as follows:

SECTION 41. The title of Chapter VA 9 is amended to read:

VA 9 (title) FULL-TIME EDUCATIONAL GRANTS.

SECTION 42. VA 9.01(2), (5), (8), (9), (12), (14) and (18) are amended to read:

(2) "Block course of instruction" means a course of instruction of 52 weeks or less in length given by a ~~proprietary~~ school whose academic year does not conform with the usual semester, quarter or trimester.

(5) "Earned income" means all anticipated monthly and academic year take home earnings from employment including armed forces reserve and national guard pay, after all payroll deductions of the veteran and the veteran's spouse except payroll deductions for savings plans and payment of debts, and includes work study payments.

(8) "Full time undergraduate" means a veteran who has not received a baccalaureate degree and who is either enrolled at a college, university, or public vocational-technical school in a course of instruction which such ~~school~~ school's veterans official or financial aids officer certifies to be full time or is enrolled at a proprietary trade or technical school in a course of instruction which qualifies as a full time ~~course-under-Title-38-US-Code, Section-1684-(a)-(4)-or-(a)-(2)-(1970)~~ for VA educational benefits.

(9) "Grant" means a ~~Vietnam-era-veterans~~ full-time educational grant.

(12) "Savings" means all savings belonging to the veteran or the veteran's spouse, including, but not limited to, savings accounts, checking accounts, and bonds, stocks, other securities and trusts that can be converted to cash without loss, and equity in real estate other than the veteran's principal residence, but shall not include ~~the-veteran's~~ savings ~~on-his~~ from the veteran's summer earnings or parental contributions to savings.

(14) "Unearned income" means the estimated amount the veteran and spouse will receive during the academic year from VA educational assistance allowance (G.I. Bill) benefits, scholarships, fellowships, grants, tuition and fee waivers, all other definite awards other than loans, including amounts paid to

the veteran or to the school on behalf of the veteran for vocational rehabilitation by the VA or any other agency, ~~armed-forces-reserve-or national-guard-pay~~, income from trusts or inheritances, unemployment compensation, ~~workman's~~ worker's compensation, social security payments, net rentals from real estate, interest or dividend income or other unearned income but shall not include disability compensation paid to the veteran by the VA for service-connected disabilities, armed forces disability retirement pay, or parental contributions.

(18) "Veteran" means a Vietnam era veteran or post-Vietnam veteran as defined in s. 45.28(1)(b), Stats.

SECTION 43. VA 9.02(3) and (4) are amended to read:

VA 9.02(3) DETERMINATION OF ENTITLEMENT. The FAO shall compute and verify the amount of the applicant's income and financial need and shall determine the amount of the applicant's unmet need. Financial need shall be based upon the standard student budget applicable to the applicant. If an applicant's unmet need for an academic year is less than the maximum amount of the grant, the amount of unmet need so determined will be rounded off to the next highest \$10 which shall be the entitlement to a grant approved for the academic year. The FAO of any state of Wisconsin school shall also verify that the applicant is a resident student as defined in s. 36.27, Stats. Unless the FAO's determination of an applicant's unmet need is unreasonable on its face or is based upon incorrect computation of income or financial need, the department shall accept such computation and, if applicable, the FAO's determination that the applicant is a resident student, as the basis for determining the entitlement of the applicant for a grant if such applicant is a veteran.

(4) TIME FOR APPLYING, PAYMENT. An application must be submitted to the FAO before the end of a block course of instruction or of an academic year in order for a grant to be approved therefor. The amount of a grant check will be

based upon the entitlement to a grant approved or the maximum academic year grant payable to an applicant, whichever is less, divided by 1/3 if the school term involved is a quarter or trimester and by 1/2 if the school term involved is a semester or a block course of instruction of more than 6 months in length or in the amount of the full academic year entitlement if ~~his~~ the first application is made prior to the end of the academic year and ~~he~~ the veteran has been in attendance for the full academic year. A grant check will be made payable to the applicant and mailed to the school cashier or bursar upon condition that it will be released only upon verification that no refund of tuition and fees has been paid or is payable to the applicant.

SECTION 44. VA 9.03 is amended to read:

VA 9.03 Standard student budgets. Standard single and married student educational budgets shall include standard living expenses budgets for single or married students, to which shall be added ~~\$408.00~~ \$117.00 per dependent other than spouse per month, and all actual expenses for tuition, course fees, and book and materials costs for the academic year. Standard living expenses budgets shall be based upon 9 months living expenses of ~~\$6,843~~ \$7,355 for single veterans or upon 9 months living expenses of ~~\$10,458~~ \$11,289 for married veterans, per academic year. Standard living expenses budgets and amounts to be added to these budgets for dependents shall be increased on July 1 of every year by the amounts computed on the basis of the percentage of the increase in the consumer price index for all urban consumers during the preceeding calendar year rounded to the nearest dollar.

The repeals, amendments, repeals and recreations and creation of rules contained in this order shall take effect as provided in Section 227.22(2) (intro), Stats.

Date: December 15, 1988

STATE OF WISCONSIN,  
DEPARTMENT OF VETERANS AFFAIRS

BY:

  
\_\_\_\_\_  
JOHN J. MAURER, Secretary

**RECEIVED**

DEC 16 1988

Revisor of Statutes  
Bureau