

Clearinghouse Rule 20-013

STATE OF WISCONSIN
Department of Veterans Affairs

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

PROPOSED ORDER OF THE
DEPARTMENT OF VETERANS AFFAIRS ADOPTING RULES

PROPOSED ORDER

A proposed order of the Department of Veterans Affairs *to create* ch. VA 11; relating to the veterans outreach and recovery program.

The scope statement for this rule, SS 104-19, was approved by the Governor on October 3, 2019, published in Register No. 766A1 on October 7, 2019, and approved for implementation by the Secretary of the Department of Veterans Affairs on October 17, 2019.

ANALYSIS

Analysis prepared by the Department of Veterans Affairs.

Statutes interpreted:

Section 45.48, Stats.

Statutory authority:

Section 45.03 (2), Stats.

Explanation of agency authority:

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

Related statute or rule:

None

Plain language analysis:

The objective of the proposed rule is to create a new rule chapter designated as Wisconsin Administrative Code Chapter VA 11, *Veterans Outreach and Recovery Program*. The proposed rule establishes rules for the implementation and administration of the veterans outreach and recovery program.

The goal of the veterans outreach and recovery program is to assist and support veterans who are homeless or at risk of homelessness, have a mental health or substance use disorder, and to assist the veterans with all aspects of daily living with a focus on home, health, recovery, purpose, and community.

The proposed rules define terms and specify application procedures, eligibility requirements, assessment of applicants, terms of assistance provided, and create other provisions necessary to administer the program.

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

38 U.S. Code §§ 2021-2023 provides for USDVA officials to develop a coordinated plan for outreach to veterans at risk of homelessness. The outreach plan is required to include strategies to ensure that mentoring programs, recovery support groups, and other support networks are optimally available to veterans to increase access to case management services, employment services, and the appropriate referral sources for mental health and substance abuse services. In developing and carrying out the program, the USDVA is required to consult with public and private organizations for assistance in identifying and contacting veterans who are homeless or at risk of homelessness and to coordinate appropriate outreach activities and services provided by those organizations.

Comparison with rules in adjacent states:

Illinois: Illinois statutes provide appropriations for grant programs to entities for establishing mobile assistance units to provide mental health and preventive health screenings and services, crisis intervention, with an emphasis on targeting homeless veterans and other veterans facing obstacles, including those in rural and medically underserved areas. Additionally, Illinois statutes provide for the Illinois Veterans Assistance Fund, which is funded, in part, from revenue from the Illinois veterans scratch-off game for the purpose of funding grants, services, and programs, and projects relating to veterans post-traumatic stress disorder and homelessness.

Iowa: Iowa statutes provide appropriations for the Iowa Veterans Trust Fund for the benefit of veterans and the spouses and dependents of veterans. Moneys may be expended on individual counseling or family counseling programs, rental housing assistance for veterans who meet the definition of homeless or monetary assistance on a one-time basis to prevent homelessness, and expenses related to survivor outreach activities.

Michigan: Michigan statutes provide appropriations for the Michigan Veterans Trust Fund and may be used to provide temporary financial assistance to veterans.

Minnesota: The Minnesota Department of Veterans Affairs administers a subsistence aid program that provides temporary financial assistance with certain living expenses for eligible veterans. The Minnesota "Support Our Troops" is a special revenue fund that may be used for outreach to underserved veterans and to provide services and programs for veterans and their families.

Summary of factual data and analytical methodologies:

The Wisconsin Department of Veterans Affairs designed the Veterans Outreach and Recovery Program (VORP) to connect veterans to community services and provide case management and support, with a focus on treatment and recovery.

In 2014, WDVA collaborated with the Department of Health Services to develop the initial veterans outreach and recovery program that covered 49 counties in Wisconsin using two one-time federal grants. The federal grants expired, resulting in the termination of the program at the end of 2017.

The 2017 Wisconsin Act 295, enacted on April 16, 2018, made an appropriation, and created the Veterans Outreach and Recovery Program as a pilot program, enabling the Department to expand the program to include all 72 counties, expand eligibility, and provided a more stable funding source. The program was coordinated by 2 supervisors and 11 regional veterans outreach and recovery coordinators. The pilot program sunset on July 1, 2019.

The 2019 Wisconsin Act 9, enacted on July 3, 2019, created s. 45.48, Stats., and provides a permanent appropriation for the program under s. 20.485 (2) (qs), Stats., requiring the Department to administer a program for the provision of outreach, mental health services, and support to Wisconsin veterans.

Pursuant to ss. 45.03 (2m) and 227.14 (2) (a) 6m., Stats., administrative rules prepared by the Department of Veterans Affairs must be provided to the Board of Veterans Affairs. The Board may prepare a report containing written comments and its opinion regarding the proposed rules. The Board voted unanimously to approve the proposed rules and offered no additional comments.

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

The Fiscal Estimate and Economic Impact Analysis is attached.

Fiscal Estimate and Economic Impact Analysis:

The department posted the rule on the department's website for 14 days to solicit economic impact comments. The Department received comments from one individual. The comments were not directly related to the economic impact of the proposed rules.

Effect on small business:

The proposed rules do not affect small business.

Agency Contact:

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Place and deadline for the submission of public comments:

The deadline to submit public comments was April 17, 2020.

TEXT OF RULE

SECTION 1. Chapter VA 11 is created to read:

**Chapter VA 11
VETERANS OUTREACH AND RECOVERY PROGRAM**

VA 11.01 Purpose. The purpose of this chapter is to establish rules for the implementation and administration of the veterans outreach and recovery program that provides case management, referrals for services, or assistance for all aspects of daily living to eligible individuals who may have a mental health or substance use disorder and reside in this state.

VA 11.02 Definitions. In this chapter:

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

(2) “Community provider” means an individual or public or private agency that is approved by the department to provide services to a participant.

(3) “Participant” means an individual who is enrolled in the program by entering into a written agreement with the department and meets the eligibility requirements under s. VA 11.03.

(4) “Program” means the veterans outreach and recovery program authorized under s. 45.48, Stats.

VA 11.03 Eligibility criteria. (1) **RESIDENCY, VETERAN STATUS, AND NEED.** An individual eligible for enrollment in the program shall reside in this state, may have a mental health condition or substance use disorder, and shall meet one of the following conditions:

(a) Is serving in the national guard of any state or a reserve component of the U.S. armed forces.

(b) Served on active duty in the U.S. armed forces, forces incorporated as part of the U.S. armed forces, a reserve component of the U.S. armed forces, or the national guard of any state and was discharged under conditions other than dishonorable.

(2) **ASSESSMENT.** The department shall conduct a pre-enrollment assessment to determine an individual’s eligibility for enrollment in the program and the appropriate level of assistance to be provided.

(3) **NEED FOR ASSISTANCE.** An individual is eligible for enrollment if the department determines after conducting an assessment that the individual meets the requirements specified in sub. (1) and may have any of the following needs:

(a) Homelessness or conditions that indicate that the veteran is at risk of becoming homeless.

(b) Substance use issues.

(c) Unemployment or underemployment that significantly limits a veteran's ability to be self-supporting.

(d) Affliction with acute or chronic physical, behavioral, or mental health problems that significantly limit a veteran's ability to be self-supporting.

(e) Insufficient monthly income and resources, as determined by the department, to pay for emergency assistance, such as any of the following:

1. Emergency housing.
2. Rental assistance.
3. Transportation.
4. Food.
5. Treatment.
6. Other assistance approved by the department.

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

(5) INELIGIBILITY. An individual who is incarcerated in prison or whose needs exceed the scope or capabilities of the program is not eligible for enrollment in the program.

VA 11.04 Enrollment. (1) WRITTEN PARTICIPATION AGREEMENT. The department may enroll a participant in the program upon determination of eligibility under s. VA 11.03 by completing a written participation agreement between the participant and the department.

(2) TERMS OF AGREEMENT. The term of the initial agreement shall be one year and automatically renew every six months thereafter unless terminated by the department or by the participant. The department may only terminate the agreement for the reasons specified under s. VA 11.06 (3). The participant may terminate the agreement at any time for any reason. The department shall specify all of the following in the agreement:

- (a) The participant's enrollment and demographic information.

(b) The participant's responsibilities under the program and the consequences of the participant's failure to comply with those responsibilities consistent with s. VA 11.06 (3).

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

1. The participant's right to voluntarily participate in the program.
2. The participant's right to voluntarily withdraw from the program at any time.
3. The participant's right to appeal a department decision to discharge a participant from the program as specified under s. VA 11.06 (4).

(d) The assistance the participant is eligible to receive based on the assessment conducted under s. VA 11.03 (2). If financial assistance is provided, the agreement shall indicate the maximum amount of financial assistance the participant may receive during the term of the agreement.

(e) The expectation of the participant to participate in progress assessment interviews and the frequency of the interviews.

(f) The conditions of discharge as specified under s. VA 11.06 (3).

(g) The conditions in which the department may authorize a participant to re-enroll in the program after the participant has been discharged from the program by the department.

Note: A copy of the Participation Agreement may be obtained on the Department's website at dva.wi.gov, or by request from the Department of Veterans Affairs, 2135 Rimrock Road, P.O. Box 7843, Madison, WI 53707-7843, or call 800-WIS-VETS (947-8387).

VA 11.05 Provision of services. (1) CASE MANAGEMENT. The department shall develop a case management plan for each participant. The plan shall specify the type and amount of service to be provided, the manner of service delivery, and the level of assistance to be provided by a community provider.

(2) TYPES OF ASSISTANCE. The department may provide assistance to a participant or refer a participant to a community provider for assistance for any of the following services:

- (a) Claims and benefits assistance.
- (b) Counseling.
- (c) Education.
- (d) Financial assistance.
- (e) Housing and utility assistance.

- (f) Insurance.
- (g) Job training and placement services.
- (h) Mental or behavioral health services.
- (i) Rehabilitation and recovery services.
- (j) Transportation assistance.
- (k) Treatment services for mental health or substance use disorders with appropriate diagnosis.
- (L) Other services as approved by the department.

VA 11.06 Program participation. (1) VOLUNTARY PARTICIPATION.

Participation in the program is voluntary and may be discontinued by the participant at any time without penalty. Refusal by a participant to enroll in the program does not result in the loss of any other benefits to which the participant is otherwise entitled.

(2) REASSESSMENT. The department shall conduct a progress assessment interview at least every 6 months to determine a participant's level of need, evaluate progress, and monitor compliance. If discharge from the program is indicated following the progress assessment interview, the basis of the discharge shall conform to sub. (3). The department may conduct a discharge assessment interview upon discharge and a post discharge assessment interview 60 days after discharge to assess a participant's well-being following discharge from the program.

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

(a) The department determines that a participant no longer meets the eligibility requirements of the program under s. VA 11.03.

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

(c) A participant fails to participate in the services outline in the case management plan developed for the participant under s. VA 11.05 (4).

(d) The department finds that a participant willfully made or caused to be made, false statements relating to the participant's eligibility during the assessment conducted under s. VA 11.03 (2) or the reassessment conducted under sub. (2).

(e) The department determines that a participant is no longer in need of assistance under the program based on a progress assessment conducted under sub. (2).

(f) A participant voluntarily withdraws from the program.

(g) A participant is incarcerated in prison.

(h) A participant's contact with the participant's regional coordinator exceeds 90 days from the last encounter if the department has made reasonable attempts to contact the participant.

(4) Appeal procedures. A participant discharged from the program may appeal a department decision by submitting a written appeal to the department's office of legal counsel. An appeal must be received by the department within 60 calendar days after the date of the department decision.

Note: The address to deliver an appeal is: Department of Veterans Affairs, Office of Legal Counsel, 2135 Rimrock Road, P.O. Box 7843, Madison, WI 53707-7843.

VA 11.07 Administration. (1) FUNDING. The department may provide funding to facilitate the provision of services under the program.

(2) OUTREACH AND RECOVERY REGIONAL COORDINATORS. The department shall employ regional coordinators to assist with the administration and coordination of the program.

(3) OPERATIONAL REQUIREMENTS. (a) *Policies and procedures.* The department shall establish written policies and procedures for administering the program. The written policies and procedures shall include the eligibility criteria, but only those authorized under s. VA 11.03, and the discharge criteria, but only those authorized under s. VA 11.06 (3).

(b) *Training.* The department shall provide training and materials to all individuals involved in the operations of the program and ensure these individuals are thoroughly familiar with the requirements and operational procedures of the program.

(c) *Annual review of program.* The department shall review the program's policies, procedures, and training materials at least annually and update the materials on a continuous basis to reflect current operations. The department shall maintain documentation of the review.

(4) PROTECTION OF PERSONAL INFORMATION. Any person or entity involved with the operations of the program or who provides services under the program shall ensure that all participant data and personal information collected is secure and maintained in accordance with state and federal confidentiality and privacy laws, rules, and regulations.

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

(END OF RULE TEXT)

