

Chapter VA 1

GENERAL

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VA 1.01 Liberal statutory construction. The department of veterans affairs shall administer the provisions of ch. 45, Stats., in an expeditious and liberal manner, resolving all reasonable doubt in favor of the veteran, to the end that available benefits are provided to veterans and their eligible dependents as promptly and effectively as possible.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; am. Register, October, 1967, No. 142, eff. 11-1-67.

VA 1.02 Application. An application for benefits from the department must be made on approved departmental forms, signed by an eligible dependent, or by the veteran and/or such other person as the department may require in connection with the specific benefit application involved. The department may require that a loan application or a credit instrument executed in connection with a loan be signed by the veteran's spouse only in a case where such requirement may legally be imposed under s. Bkg. 80.85, Wis. Adm. Code and under the provisions of the Equal Credit Opportunity Act and regulations adopted thereunder. It is unlawful for anyone to charge an applicant or spouse a commission for assisting them in completing or securing the approval of an application for benefits from the department.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; r. and recr., Register, November, 1971, No. 191, eff. 12-1-71; am. Register, August, 1972, No. 200, eff. 9-1-72; am. Register, July, 1976, No. 247, eff. 8-1-76.

VA 1.03 Procedure for appeals by applicants for benefits. (1) APPEALABLE ACTIONS. Any applicant for any benefit available through the department may appeal from a decision of the department concerning any such application. Any applicant for benefits whose benefits have been suspended pursuant to s. 45.35 (17), Stats., may appeal such suspension.

(2) APPLICATIONS PENDING APPEAL FOR DENIAL OF SUSPENSION OF BENEFITS. During the pendency of an appeal of a suspension of benefits from the department, no decision shall be issued by the department concerning any of the appellant's applications for benefits from the department which were pending in the department at the time of the decision to suspend benefits, or which are submitted by the applicant during the pendency of the appeal even if the decision is not related to the matter being appealed. If the final decision in the appeal affirms the suspension of benefits, any of the appellant's applications shall be denied by the department. If the final decision in the appeal reverses the suspension of benefits, the department shall then determine whether or not the applications should be approved.

(3) **TIME AND MANNER FOR FILING APPEAL.** An appeal shall be in writing and shall be filed with the state of Wisconsin, Department of Veterans Affairs, 30 W. Mifflin St., Madison, WI 53703. An appeal must be received by the department within 60 calendar days after the date of the department decision appealed. Any questions about time computations for procedural matters shall be resolved by reference to s. 801.15 (1), Stats.

(4) **CONDUCT OF HEARING.** The hearing on the appeal shall be held before a hearing examiner designated by the secretary. The hearing examiner shall have the powers enumerated under s. 227.46, Stats. The department shall present evidence first unless the hearing examiner 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. 227.45, Stats., the hearing examiner 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 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 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 shall issue a proposed written decision to the secretary, including findings of fact, conclusions of law, order and opinion pursuant to s. 227.46 (2), Stats. The proposed decision shall be served on all parties at least 20 calendar days before it is submitted to the secretary 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 secretary at the time scheduled for a hearing.

(8) **FINAL DECISION.** The secretary shall issue in writing the final decision, findings of fact, and conclusion of law. The board shall be furnished with a copy of the final decision, findings of fact and conclusions of law and a brief explanation of the case involved.

(9) **PETITION FOR REHEARING.** A party aggrieved by a final decision may petition the secretary for rehearing pursuant to s. 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.

History: Cr. Register, March, 1965, No. 111, eff. 4-1-65; r. and recr., Register, January, 1984, No. 337, eff. 2-1-84; am. (4) to (7) and (9), Register, February, 1989, No. 398, eff. 3-1-89; am. (7) to (9), Register, May, 1990, No. 413, eff. 6-1-90; correction in (3) made under s. 13.93 (2m) (b) 6, Stats., Register, June, 1992, No. 438.

Register, June, 1992, No. 438

(3) **CO-APPLICANTS.** Subject to the provisions of subs. (1) and (2), the department shall consider the income, assets and debts of any applicant who is willing to sign all required credit instruments to be executed in connection with the loan for which application has been made and upon whom a complete application has been submitted to the department for the purposes of ss. 45.351 and 45.71 (9), Stats., for the purpose of determining the creditworthiness of the application and for the purpose of determining its compliance with the provisions of ss. 45.351 (2), and 45.74 (1), (2), (3) and (5), Stats. An application must always be completed on the veteran applicant.

(4) Notwithstanding the provisions of subs. (1) to (3), if a veteran applicant is married and not separated or in the process of obtaining a divorce, such applicant's spouse shall be a co-applicant for any department loan and must complete and sign the loan application and all credit instruments required to be executed in conjunction with the loan. If a veteran applicant is separated or in the process of obtaining a divorce, such veteran's spouse shall not be required to be a co-applicant for loan under s. 45.351 (2) or subch. II of ch. 45, Stats., and such spouse's income, assets and debts shall not be considered by the department. In order to be considered "separated" for the purposes of this subsection, a veteran and spouse must either be legally separated or must have been living in different dwellings for at least 3 months immediately next preceding the veteran's application for a loan. In order to be considered in the process of obtaining a divorce for the purposes of this subsection, a petition for a divorce of the veteran and spouse must have been filed with a court.

(5) **ECONOMIC ASSISTANCE LOANS.** There must be a minimum of 3 signers on guaranteed economic assistance loan notes, not more than 2 of whom may be makers and at least one of whom must be a guarantor.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; r. (4), Register, December, 1979, No. 288, eff. 1-1-80; cr. (4), Register, February, 1981, No. 302, eff. 3-1-81; correction in (3) made under s. 13.93 (2m) (b) 7, Stats., Register, April, 1986, No. 364.

VA 1.13 Discrimination prohibited. Discrimination against properly qualified persons in the provision of veterans assistance under ch. 45, Stats., on the basis of age, race, creed, color, disability, sex, national origin or ancestry, sexual orientation, political affiliation or beliefs or arrest or conviction records, is prohibited, and except that all persons employed by the department shall if possible be veterans as defined in s. 45.35 (5), Stats., and that preference shall be given to disabled veterans, discrimination against qualified persons in the employment of staff on the basis of age, race, creed, color, disability, sex, national origin or ancestry, sexual orientation, political affiliation or beliefs or arrest or conviction records is prohibited.

History: Cr. Register, October, 1976, No. 250, eff. 11-1-76; r. and recr., Register, December, 1979, No. 288, eff. 1-1-80; am. Register, August, 1993, No. 452, eff. 9-1-93.

VA 1.14 Lebanon withdrawal. The date of withdrawal of U.S. armed forces from Lebanon is established as August 1, 1984 for the purposes of s. 45.34, Stats.

History: Cr. Register, April, 1986, No. 364, eff. 5-1-86.

VA 1.15 Definitions. For the purposes of this chapter and chs. VA 2 to 9:

- (1) "Department" means the department of veterans affairs.
- (2) "Board" means the board of veterans affairs.

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

History: Cr. Register, April, 1986, No. 364, eff. 5-1-86; cr. (3), Register, February, 1989, No. 398, eff. 3-1-89.