

Clearinghouse No. 23-XXX

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
AMENDING AND ADOPTING PERMANENT RULES

The statement of scope for this rule, SS 006-23, was approved by the Governor on January 12, 2023, published in Register No. 805A4 on January 23, 2023, and approved for implementation by the Secretary of the Department of Veterans Affairs on February 6, 2023.

PROPOSED ORDER

A proposed order of the Department of Veterans Affairs *to repeal* VA 13.01 (2), 13.02 (2) (b), 13.03 (title) and (5), 13.04 (3), and 13.05 (2); *to renumber* VA 13.02 (2) (d) and (e), 13.03 (intro.) and (1) to (4), and 13.04 (2); *to renumber and amend* VA 13.02 (2) (intro.), (a), (c), and (3), and 13.04 (intro.) and (1); *to amend* VA 13 (title), 13.01 (1), (3), and (4), 13.02 (title), (1), and (2) (title), and 13.05 (title) and (intro.), and 13.05 (1); *to repeal and recreate* VA 13.06; *and to create* VA 13.01 (2m) and (5), 13.02 (3) (b) and (4), 13.035, and 13.04 (1) (c), (2m), (3m), and (Note); relating to veterans housing and recovery program.

Analysis prepared by the Department of Veterans Affairs.

ANALYSIS

Statutes interpreted:

Sections 45.43

Statutory authority:

Sections 45.03 (2)

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:

Chapter VA 13 encompasses the Department's program that provides transitional and supportive housing and services to homeless veterans. This program, the Veterans Housing and Recovery Program (VHRP), is funded largely by the U.S. Department of Veterans Affairs (USDVA) GPD program. The VHRP provides temporary housing, training, and supportive services to veterans who are homeless or at risk of becoming homeless in order to help them obtain permanent housing. The VHRP also helps homeless veterans in Wisconsin receive the job training, education, counseling,

and rehabilitative services they need to obtain steady employment, affordable housing, and the skills to sustain a productive lifestyle.

The assisted living program, referenced in the current rule, formerly provided state funds to enable indigent veterans to remain in the assisted living center operated at Union Grove. The assisted living program was eliminated in 2019.

The proposed rule repeals references to the assisted living program, updates the chapter to reflect current administrative practices and improve administrative of the Veterans Housing and Recovery Program, and makes the following substantive changes:

- Changes chapter title from *Veterans Assistance Program* to *Veterans Housing and Recovery Program*.
- Repeals a redundant definition (as definitions in VA 1 apply to all chapters).
- Repeals references to single room occupancy and assisted living facilities.
- Repeals references relating to financial assistance to pursue vocational opportunities.
- Repeals monetary references relating to rent and amend provisions to reflect that the program uses the HUD Fair Market rent values and is regulated and funded by Grant and Per diem (GPD) program.
- Updates eligibility requirements and discharge conditions.

This rule also makes general updates, revises outdated provisions, and amends certain provisions for clarity and conformity with current drafting standards for style and format.

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

The USDVA's GPD program is the VA's largest transitional housing program for veterans experiencing homelessness and is permanently authorized under Public Law 109-461 and governed under 38 C.F.R. part 61. Since 1994, the GPD Program has awarded funding to organizations to provide transitional housing with wraparound supportive services to assist vulnerable veterans move into permanent housing.

U.S. Department of Housing and Urban Development (HUD) annually estimates Fair Market Rents, as defined in 24 CFR 888.113. The VHRP program uses HUD Fair Market rent values that are regulated and funded by the GPD program.

Since guidance and regulations for this program change frequently, it is vital that the rules under chapter VA 13 reflect the most current USDVA regulations and directives.

Comparison with rules in adjacent states:

Illinois: A review of Illinois statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin's Veterans Housing and Recovery Program. The State of Illinois has a specially adapted housing grant for veterans who qualify for the federal veterans' specially adapted housing grant. Under the 330 ILCS 65/Disabled Veterans Housing Act, eligible veterans may be granted a single lump sum payment not to exceed \$15,000 to provide assistance in acquiring a suitable dwelling unit with special fixtures and/or movable facilities made necessary by the veteran's permanent and total disability. To be eligible, the veteran must be certified eligible by the VA for the federal Specially Adapted Housing Grant and the veteran must have been a resident of the State of Illinois at the time he or she entered the service. Veterans eligible for the federal grant for Specially Adapted Housing may be provided a State of Illinois grant of up to \$3,000 to help pay the cost of remodeling made necessary by the veteran's permanent and total disability.

Iowa: A review of Iowa statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin's Veterans Housing and Recovery Program. The Iowa Department of Veterans Affairs provides minimal transitional housing assistance through the Iowa Veterans Trust Fund. Assistance for transitional housing may be provided to veterans who are displaced from their home during a period of repairs related to a disaster, vandalism, home accident, or other reason that makes staying in the home hazardous to the health of the residents. The maximum amount that may be paid under this program for any consecutive 12-month period may not exceed \$1,000 for transitional housing.

Michigan: A review of Michigan's statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin's Veterans Housing and Recovery Program. The Department of Military and Veterans Affairs provides grants up to \$2,000 per year for qualified veterans and their families through the Military Family Relief Fund that provides financial assistance for necessities of daily living, including housing. The requirements may be waived in emergency cases upon a written request to the Adjutant General.

Minnesota: A review of Minnesota's statutes, rules, and websites did not reveal a similar state-funded housing program as Wisconsin's Veterans Housing and Recovery Program. The Minnesota Department of Veterans Affairs provides a Property Management Incentive Fund, which provides a one-time incentive payment of up to \$2,000 to property managers that agree to accept a one-year rental application from veterans with complex rental barriers. The High-Barrier Landlord Incentive Program provides \$1,000 per month for up to 12 consecutive months to landlords who rent to veterans with the highest barriers to obtain housing. This program is limited to serving 25 veterans. The Veteran Temporary Emergency Housing Voucher Program provides reimbursement to Community Service Providers covering the cost of a temporary hotel room or non-congregate temporary unit for veterans or former service members and their households, who are actively experiencing homelessness and have no other sheltering options available to them.

Summary of factual data and analytical methodologies:

The current policies and administration the Veterans Housing and Recovery Program were closely reviewed to develop the proposed rule revisions. 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.

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

The permanent rule will be posted for 14 days to solicit economic impact comments from stakeholders.

Fiscal Estimate and Economic Impact Analysis:

The Fiscal Estimate and Economic Impact Analysis document is attached.

Effect on small business:

The proposed rules do not have an anticipated economic impact and have no effect on small businesses, as defined in s. 227.114 (1), Stats.

Agency Contact:

Mindy Allen, Administrative Rules Coordinator, Email: DVAAdminRules@DVA.Wisconsin.gov

Place where comments are to be submitted and deadline for submission:

Comments may be submitted to the contact information listed above no later than the date of the public hearing. The date, time, and place of the public hearing will be published in the Wisconsin Administrative Register.

TEXT OF RULE

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

VA 13 (title) VETERANS ASSISTANCE HOUSING AND RECOVERY PROGRAM

SECTION 2. VA 13.01 (1) is amended to read:

VA 13.01 (1) “Applicant” means a person who requests assistance under the ~~veterans assistance~~ program by filing a written application with the department.

SECTION 3. VA 13.01 (2) is repealed.

SECTION 4. VA 13.01 (2m) is created to read:

VA 13.01 (2m) “Homeless” means for a veteran to be any of the following:

(a) Being without a full-time or adequate nighttime residence.

(b) Having a full-time nighttime residence that is not intended to be a regular place for people to sleep, including a car, park, abandoned building, bus or train station, airport, or camping ground.

(c) Residing in a shelter, including a hotel or motel, designated as a temporary living arrangement.

(d) Residing in a place not meant for human habitation or having exited an institution in which the veteran temporarily resided.

(e) Being at risk of imminently losing their housing, including housing they own, rent, or live in without paying rent or are sharing with others, as well as rooms in hotels or motels.

(f) Fleeing or attempting to flee domestic violence, dating violence, sexual assault, stalking, or other dangerous or life-threatening conditions in their current housing situation.

SECTION 5. VA 13.01 (3) and (4) are amended to read:

VA 13.01 (3) “Veteran” means ~~a veteran as defined in s. 45.01 (12), Stats~~ an individual who served in the U.S. armed forces or in forces incorporated as part of the U.S. armed forces and who was discharged under conditions other than dishonorable.

VA 13.01 (4) “~~Veterans assistance program~~ Program” means the veterans housing and recovery program authorized under s. 45.43, Stats.

SECTION 6. VA 13.01 (5) is created to read:

VA 13.01 (4) “VHRP facility” means a program site that provides temporary housing for eligible veterans.

SECTION 7. VA 13.02 (title) is amended to read:

VA 13.02 (title) ~~Eligibility~~ Applicant eligibility.

SECTION 8. VA 13.02 (1) is amended to read:

VA 13.02 (1) VETERAN STATUS. The department shall verify an applicant's veteran status ~~during the assessment conducted under s. VA 13.03.~~

SECTION 9. VA 13.02 (2) (title) is amended to read:

VA 13.02 (2) (title) ~~NEED~~ ASSESSMENT TO DETERMINE NEED FOR ASSISTANCE.

SECTION 10. VA 13.02 (2) (intro.) and (a) are renumbered VA 13.02 (2) (br) (intro.) and 1. and amended to read:

VA 13.02 (2) (br) (intro.) Assistance shall be provided to a veteran under the ~~veterans assistance~~ program when the veteran's need for assistance arises because of any of the following circumstances:

1. ~~Homelessness~~ Homeless or conditions which indicate that the veteran is at risk of becoming homeless.

SECTION 11. VA 13.02 (2) (b) is repealed.

SECTION 12. VA 13.02 (2) (c) to (e) are renumbered VA 13.02 (2) (br) 2. to 4., and VA 13.02 (2) (br) 4., as renumbered, is amended to read:

VA 13.02 (2) (br) 4. Insufficient monthly income and resources, as determined by the department, to pay for the cost of ~~care provided at an assisted living facility established at a veterans home~~ housing.

SECTION 13. VA 13.02 (3) is renumbered VA 13.02 (3) (a) and amended to read:

VA 13.02 (3) PROVISION OF ASSISTANCE. (a) A veteran who establishes a need for assistance under this section shall enter into a written agreement with the department identifying the assistance that the veteran shall receive and the veteran's responsibilities under the ~~veterans assistance~~ program. ~~The department may terminate assistance whenever the veteran fails to fulfill his or her responsibilities under the agreement.~~

SECTION 14. VA 13.02 (3) (b) and (4) are created to read:

VA 13.02 (3) (b) An applicant may be denied assistance under any of the following circumstances:

1. The applicant does not meet the definition of homeless.
2. The applicant's needs exceed the capabilities of the program.
3. The applicant is on the sex offender registry.
4. The applicant has an outstanding active warrant.

5. The applicant was previously discharged for cause from the program by the department. The department may require a veteran to meet certain conditions prior to applying for assistance if the veteran was previously discharged from the program by the department.

(4) ADDITIONAL BENEFIT. Assistance provided 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.

SECTION 15. VA 13.03 (title) is repealed.

SECTION 16. VA 13.03 (intro.) and (1) to (4) are renumbered VA 13.02 (2) (ag) (intro.) and 1. to 4.

SECTION 17. VA 13.03 (5) is repealed.

SECTION 18. VA 13.03 (6) and (7) are renumbered VA 13.02 (2) (ag) 5. and 6.

SECTION 19. VA 13.035 is created to read:

VA 13.035 Program participation. (1) WRITTEN AGREEMENT. The department may provide assistance under the program upon determination of an applicant's eligibility under s. VA 13.02 and after completing a written agreement between the veteran and the department.

(2) AGREEMENT REQUIREMENTS. The department shall specify all of the following in the written agreement:

(a) The veteran's demographic information.

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

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

1. The veteran's right to voluntarily withdraw from the program at any time.

2. The veteran's right to appeal a department decision to discharge a participant from the program as specified under s. VA 13.04 (3m).

(d) The assistance the veteran is eligible to receive based on the assessment conducted under s. VA 13.02 (2).

(e) The conditions of discharge as specified under s. VA 13.04 (2m).

Note: A copy of the written agreement may be obtained on the department's website at www.WisVets.com, or by request from the Department of Veterans Affairs, P.O. Box 7843, Madison, WI 53707-7843, or call 800-WIS-VETS (947-8387).

(3) TERMS OF AGREEMENT. The term of the initial agreement may be up to 2 years as determined by the USDVA and may be extended by the department.

(4) TERMINATION OF AGREEMENT. The department may terminate assistance only for reasons specified under s. VA 13.04 (2m). The veteran may terminate the agreement at any time for any reason.

SECTION 20. VA 13.04 (intro.), (1), and (2) are renumbered VA 13.04 (1) (intro.), (a), and (b), and VA 13.04 (1) (intro.) and (a), as renumbered, are amended to read:

VA 13.04 Assistance. (1) ASSISTANCE PROVIDED. (intro.) Upon completion of an assessment conducted under s. VA ~~13.03~~ 13.02 (2), and pursuant to a written agreement between the department and the eligible veteran, the following assistance shall be provided:

(a) Transitional housing at a VHRP facility.

SECTION 21. VA 13.04 (1) (c) and (2m) are created to read:

VA 13.04 (1) (c) Support services to enable independence and ability to secure permanent housing. Appropriate supportive services, including permanent housing, medical and mental health treatment, counseling, supervision, and other services essential for achieving independent living.

(2m) DISCHARGE FROM PROGRAM. The department may discharge a veteran from the program whenever any of the following occurs:

(a) The department determines that the veteran no longer meets the eligibility requirements of the program under s. VA 13.02 (2).

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

(c) The veteran fails to participate in the responsibilities outlined in the written agreement under s. VA 13.03 (1).

(d) The department finds that the veteran willfully made or caused to be made false statements relating to the participant's eligibility during the assessment conducted under s. VA 13.02 (2).

(e) The department determines that the veteran is no longer in need of assistance under the program.

(f) The veteran voluntarily withdraws from the program.

(g) The veteran is incarcerated in jail or prison.

SECTION 22. VA 13.04 (3) is repealed.

SECTION 23. VA 13.04 (3m) and (Note) are created to read:

VA 13.04 (3m) APPEAL PROCEDURES. An applicant that is denied admittance or a veteran 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, P.O. Box 7843, Madison, WI 53707-7843.

SECTION 24. VA 13.05 (title) and (intro.) are amended to read:

VA 13.05 (title) Program fees and rental charges. (intro.) The department ~~or regional transitional housing site vendor~~ may collect a monthly fee ~~or rental charge~~ from a ~~veterans assistance program participant~~ veteran residing in a ~~regional transitional housing site~~ VHRP facility in an amount calculated under the following schedule:

SECTION 25. VA 13.05 (1) is amended to read:

VA 13.05 (1) RESIDENTS OF REGIONAL TRANSITIONAL HOUSING SITES A VHRP FACILITY. A resident of a ~~regional transitional housing site~~ VHRP facility who is employed or who is receiving supplemental security income, social security disability insurance payments or any other disability or pension benefits, other than compensated work therapy or industrial/incentive therapy payments paid at a rate below the prevailing minimum wage, may be assessed a monthly program ~~rental charge~~ fee of not more than ~~30% percent~~ 30 percent of the veteran's monthly net income, after ~~a deduction~~ deductions for VA overpayments, medical expenses child care expenses, court-ordered child support payments, or any other court-ordered payment.

(2g) ASSESSMENT OF PROGRAM FEES. The ~~assessment~~ amount assessed shall be uniformly applied to each resident of a specific site.

(a) The total amount of the monthly assessments at a particular site may not exceed the ~~site's monthly unfunded operational costs~~ program's set maximum rate in accordance with 38 CFR 61.82 (a).

~~(b) An individual assessment~~ The amount assessed to a resident may begin upon the resident's receipt of a second pay or benefit check except when the resident receives a retroactive lump sum award of pension, compensation, or other entitlement payments. ~~In that case, an assessment may be made against the lump sum award but shall be limited to the number of months the resident resided at the site prior to the month of receipt of the lump sum award.~~ When a lump sum is received for a retroactive payment, 30 percent or program fee max will be paid for all prior benefit months received in lump sum. The assessment will begin upon receipt of the pay or benefit check.

(c) The determination for the monthly assessment and the collection process and procedures shall be documented in the department's program operating procedures.

SECTION 26. VA 13.05 (2) is repealed.

SECTION 27. VA 13.06 is repealed and recreated to read:

VA 13.06 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 applicant data and the veteran's personal information collected are secure and maintained in accordance with state and federal confidentiality and privacy laws, rules, and regulations.

SECTION 28. 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)

Dated: _____

Agency _____

James Bond, Secretary-designee
Department of Veterans Affairs