

CHAPTER 9050
DEPARTMENT OF VETERANS AFFAIRS
VETERANS HOMES

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ADMISSIONS, DISCHARGES, COST OF CARE CALCULATIONS, AND MAINTENANCE CHARGES

9050.0010 SCOPE.

This chapter applies to all veterans homes facilities presently owned or controlled by the state of Minnesota and operated by the commissioner of veterans affairs, to all facilities that are or may be developed in the future for ownership or control by the state of Minnesota and operation by the commissioner of veterans affairs, and to all individuals residing in or conducting activities in the facilities unless otherwise indicated.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; L 2008 c 297 art 2 s 29*

9050.0020 APPLICABILITY.

This chapter governs the operation of the Minnesota veterans homes and establishes the standards used to determine:

A. an applicant's eligibility and suitability for admission to a facility operated by the commissioner of veterans affairs;

B. a resident's eligibility for participation in programs at a facility operated by the commissioner of veterans affairs;

C. appropriateness of a resident's continued care in a facility operated by the commissioner of veterans affairs;

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D. services to be provided in connection with residence in a facility operated by the commissioner of veterans affairs;

E. procedures to be used in effecting admissions and discharges;

F. standards of resident care and conduct; and

G. charges to be paid by or on behalf of a resident for care in the home.

This chapter must be interpreted to give effect to Minnesota Statutes, chapters 196, 197, and 198.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; L 2008 c 297 art 2 s 29*

9050.0030 COMPLIANCE WITH STATUTES, RULES, AND CODES.

The commissioner of veterans affairs shall ensure compliance by the facility and staff with applicable statutes, with applicable rules of the Minnesota Department of Health and the Minnesota Department of Human Services, and with applicable health, safety, sanitation, building, zoning, and operations codes, including the following:

A. Minnesota Department of Health licensure and operations requirements in chapters 4655 and 4660 and Minnesota Statutes, sections 144.50 to 144.56 and 144A.02 to 144A.10;

B. chapter 4605 about communicable diseases;

C. chapter 4620 about clean indoor air;

D. chapter 4638 governing health care facilities generally;

E. chapter 4642 about medical records;

F. the Fire Code in chapter 7511 and Minnesota Statutes, section 299F.011;

G. the Department of Labor and Industry safety code in chapter 5205;

H. the Building Code in chapters 1300 to 1365 and Minnesota Statutes, sections 326B.101 to 326B.151;

I. the Plumbing Code in parts 4715.0100 to 4715.6000 and Minnesota Statutes, sections 326B.43 to 326B.49;

J. the Vulnerable Adults Act in parts 9555.7100 to 9555.7700 and Minnesota Statutes, section 626.557;

K. the health care facilities grievance provisions in Minnesota Statutes, sections 144A.51 to 144A.53;

L. the patient's bill of rights in Minnesota Statutes, section 144.651 and the complaint and resident's rights provisions of Minnesota Statutes, section 144A.13;

M. the United States Department of Veterans Affairs Code M-1, part 1, chapter 3; and

N. the United States Department of Veterans Affairs Guide to Inspection of State Veterans Homes: Domiciliary Care Standards and Guide to Inspection of State Veterans Homes Nursing Home Care Standards.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; L 2007 c 140 art 4 s 61; art 6 s 15; art 13 s 4; L 2008 c 297 art 2 s 29; L 2008 c 337 s 64*

9050.0040 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Absence with notice; absence without notice.** "Absence with notice" or "absence without notice" means when a resident removes himself or herself from the particular area or level of care specified in the individual care plan with or without informing

the Minnesota veterans home facility administration or staff of departure, intended destination, and anticipated return.

Subp. 3. **Administrator.** "Administrator" has the meaning given it in Minnesota Statutes, section 198.001, subdivision 4.

Subp. 4. **Admission.** "Admission" means the act that allows an eligible applicant to officially enter a Minnesota veterans home facility as a resident.

Subp. 5. **Admissions agreement.** "Admissions agreement" means a written contract entered into by the resident or the resident's legal representative or spouse, if any, or both, and the commissioner of veterans affairs or the commissioner's designated representative at the time of admission of the resident to a facility operated by the commissioner. The agreement must:

A. identify the service obligations of the facility with respect to the resident, as determined by the commissioner of veterans affairs according to licensure requirements and applicable statutes and rules, as specified in part 9050.0030;

B. identify the responsibilities of the resident with respect to the facility and other residents; and

C. if applicable, detail the amount to be paid as maintenance charge by or on behalf of a resident toward the cost of care, subject to a change in financial status of the person responsible for payment.

The agreement must be signed by the person responsible for paying any charges.

Subp. 5a. **Admissions committee.** "Admissions committee" means the committee appointed by the administrator to review admissions.

Subp. 6. **Against medical advice.** "Against medical advice" means a resident has left the particular area or level of care at the Minnesota veterans home facility or campus specified in the individual care plan, or has chosen to terminate resident status contrary to the recommendations of the attending physician.

Subp. 7. **Annual financial status review.** "Annual financial status review" means the annual verification and assessment of income, property, and expenses used to calculate the ability of a resident or the resident's legal representative or spouse acting on the resident's behalf, if any, to pay an amount toward the resident's cost of care.

Subp. 8. **Applicant.** "Applicant" means a person seeking admission to a facility operated by the commissioner of veterans affairs.

Subp. 9. **Application.** "Application" means the applicant's written request for admission as provided in part 9050.0055.

Subp. 10. **Assessment.** "Assessment" means determination of an applicant's or resident's need for services by identifying the person's skills and behaviors and the environmental, physical, medical, and health factors that affect development or remediation of the person's skills and behavior.

Subp. 11. **Attending physician.** "Attending physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is an applicant's or resident's primary treating or supervising physician. An attending physician may be a Minnesota veterans home facility staff physician.

Subp. 11a. **Basic financial information.** "Basic financial information" means the financial information requested on the Minnesota veterans homes admission application.

Subp. 12. **Basic needs.** "Basic needs" means food, clothing, shelter, utilities, personal hygiene items, and other subsistence items, as referenced in part 9050.0750, subpart 2.

Subp. 13. **Bed change.** "Bed change" means a resident is assigned to a different bed in the same room, to another room, or to another building at the same level of care.

Subp. 14. **Bed hold.** "Bed hold" means a particular bed occupied by a Minnesota veterans home resident, or a comparable bed, that is held open for the resident during the

resident's absence from a facility operated by the commissioner of veterans affairs for medically necessary treatment at another health care facility, for a rehabilitation program, or during the resident's absence, with notice, from a facility operated by the commissioner of veterans affairs.

Subp. 15. [Repealed, L 2008 c 297 art 2 s 30]

Subp. 16. **Boarding care.** "Boarding care" means board, room, laundry, personal services, supervision over medication that can be safely self-administered, and a program of activities and supervision required by persons who are not able to properly care for themselves. Boarding care is the state equivalent of domiciliary care as that term is used by the United States Department of Veterans Affairs.

Subp. 17. **Boarding care facility.** "Boarding care facility" means a facility or unit of a facility licensed by the commissioner of health under chapters 4655 and 4660 and under Minnesota Statutes, sections 144.50 to 144.56.

Subp. 18. **Facility operated by the commissioner of veterans affairs.** "Facility operated by the commissioner of veterans affairs" means a Minnesota veterans home campus, including, but not limited to, buildings, units, and grounds, at which nursing care or boarding care is provided.

Subp. 19. **Business expense.** "Business expense" means the cost of producing income from a business, excluding capital expenditures and depreciation.

Subp. 20. **Campus.** "Campus" means the property owned or controlled by the state of Minnesota on which a Minnesota veterans home facility is located, except the part of the property leased by the state of Minnesota to any party.

Subp. 21. **Care plan review.** "Care plan review" means an assessment of a resident's physical and mental condition and treatment needs by the care plan team. Care plan review includes:

- A. a review of the resident's reason for seeking admission and treatment;
- B. a review of the resident's diagnoses and assessments;
- C. a review of the resident's individual care plan;
- D. a review of the appropriateness, duration, and outcome of treatment and care provided at the facility operated by the commissioner of veterans affairs; and
- E. a review and appropriate revision of the treatment and care recommendations of the multidisciplinary staff.

Subp. 22. **Chemical.** "Chemical" means alcohol, solvents, and other mood altering substances including controlled substances as defined in Minnesota Statutes, chapter 152.

Subp. 23. **Chemical abuse.** "Chemical abuse" has the meaning given it in part 9530.4100, subpart 5.

Subp. 24. **Chemical dependency counselor.** "Chemical dependency counselor" means a person who is licensed under Minnesota Statutes, sections 148C.01 to 148C.11, or who has met the minimum qualifications of a chemical dependency counselor under the examination process of the state of Minnesota or the Minnesota Merit System.

Subp. 25. [Repealed, 20 SR 2095]

Subp. 26. **Chemically dependent; chemical dependency.** "Chemically dependent" or "chemical dependency" has the meaning given it in part 9530.4100, subpart 6.

Subp. 26a. **Child allowance.** "Child allowance" means the amount necessary to provide the basic needs of a dependent child including clothing, food, and education.

Subp. 27. **Conservator.** "Conservator" has the meaning given it in Minnesota Statutes, section 525.539, subdivision 3.

Subp. 28. **Contract.** "Contract" means a legally enforceable agreement entered into by the commissioner of veterans affairs and an applicant, resident, or the resident's legal

representative or spouse, if any, or a provider or by a provider and a subcontractor, that sets forth the rights and responsibilities of the parties.

Subp. 29. **Cost effective.** "Cost effective" means a result that is economical in terms of the goods and services received for the money spent, given feasible alternatives or a result in which the cost is less than the value of the benefit received.

Subp. 30. **Cost of care.** "Cost of care" means the average daily per resident cost of providing care, calculated separately for a resident of a boarding care facility or nursing home facility. The cost must be calculated according to part 9050.0500.

Subp. 31. **Dependent.** "Dependent" means an individual whom a person is entitled to claim as a dependent on the Minnesota or United States income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent must be allocated equally among the persons unless the persons choose another allocation.

A "dependent" must be an unmarried person who is:

- A. either living with or receiving support contributions from the applicant or resident;
- B. a child by birth, a stepchild, an adopted child, or a child for whom the applicant or resident has been appointed legal guardian; and
- C. under 18 years of age or over 18 years of age and incapable of self-support because of physical or mental disability. A child who reaches the age of 18 while still enrolled in high school or its equivalent is considered a dependent child until the dependent is no longer enrolled in the school.

Unless specifically noted otherwise, "children" means more than one dependent child.

Subp. 32. **Detoxification program.** "Detoxification program" has the meaning given it in Minnesota Statutes, section 254A.08, subdivision 2.

Subp. 33. **Diagnostic and Statistical Manual of Mental Disorders; DSM-MD.** "Diagnostic and Statistical Manual of Mental Disorders" or "DSM-MD" means the current edition of the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-MD). This publication is incorporated by reference, is not subject to frequent change, and is available at the State Law Library, 25 Rev. Dr. Martin Luther King Jr. Blvd., Saint Paul, Minnesota 55155.

Subp. 34. **Dietitian.** "Dietitian" means a dietitian registered with the National Commission on Dietetic Registration.

Subp. 35. **Direct cost.** "Direct cost" has the meaning given it in part 9050.0500, subpart 2, item A.

Subp. 36. **Discharge.** "Discharge" means a termination of residence in the nursing home or boarding care home that is documented in the discharge summary signed by the attending physician. A discharge includes the permanent movement of a resident from the campus of one facility operated by the commissioner of veterans affairs to another, whether to the same or to a different level of care. For purposes of this definition, a discharge does not include:

- A. a transfer or bed change within a particular nursing or boarding care home;
- B. a transfer from one licensure level to another at the same Minnesota veterans home campus; or
- C. an absence from the nursing home or boarding care home for hospitalization, treatment purposes, or personal reasons when the resident is expected to return to the same nursing home or boarding care home and complies with the bed hold requirements of part 9050.0150.

Subp. 37. **Earned income.** "Earned income" means compensation from lawful employment or lawful self-employment, including salaries, wages, tips, gratuities, commissions, earnings from self-employment, earned income tax credits, incentive payments from

work or training programs, payments made by an employer for regularly accrued vacation or sick leave, employee bonuses and profit sharing, jury duty pay, picket duty pay, and profit from other lawful activities earned by the individual's effort or labor. Earned income does not include returns from capital investment or benefits that accrue as compensation for lack of employment. Earned income must be determined according to parts 9050.0700 to 9050.0740.

Subp. 38. **Educational expenses.** "Educational expenses" means the actual amounts paid for a nonskilled resident or dependent child's tuition, mandatory fees, transportation to and from school, supplies and equipment required for coursework, and child care while the person is in school or in transit. For a nonskilled resident to be eligible for educational expenses, the educational program must be part of the resident's approved care plan. If there is a dispute over whether or not an item is an educational expense, the administrator shall make a final determination on the issue.

Subp. 39. **Emergency.** "Emergency" means a life-threatening medical condition that if not immediately diagnosed and treated could cause a person serious physical or mental disability, continuation of severe pain, or death.

Subp. 40. **Equity.** "Equity" means the amount of equity in real or personal property owned by a person. Equity is determined by subtracting any outstanding encumbrances on fair market value.

Subp. 40a. [Repealed, 20 SR 2095]

Subp. 40a. **Expenses.** "Expenses" means basic subsistence expenses, including current expenses for the following:

- A. rent or mortgage for primary residence;
- B. vehicle payment for one vehicle;
- C. food for the resident's spouse or dependents;
- D. education for the applicant or resident's dependents as limited by subpart 58a;
- E. court-ordered payments for the applicant or resident's spouse or dependents, such as spousal maintenance and child support; and
- F. the average monthly expenses during the past year for the following:
 - (1) utilities and insurance for the primary residence;
 - (2) out-of-pocket medical care costs not otherwise covered by insurance for the applicant or resident spouse and dependents for medical assistance spenddown;
 - (3) taxes paid on income or personal property; and
 - (4) spousal or dependent basic or personal needs as defined by subparts 12 and 115a respectively.

Subp. 41. **Goal.** "Goal" means the desired medical alleviation or behavioral outcome of an activity that can be observed and reliably measured by two or more multidisciplinary team members.

Subp. 42. **Gross income.** "Gross income" means all earned and unearned income before any deduction, disregard, or exclusion.

Subp. 43. **Guardian.** "Guardian" has the meaning given it in Minnesota Statutes, section 525.539, subdivision 2.

Subp. 44. **Health care facility.** "Health care facility" means a hospital, nursing home, boarding care home, or supervised living facility licensed by the Minnesota Department of Health under Minnesota Statutes, sections 144.50 to 144.56 or 144A.01 to 144A.18.

Subp. 45. **Health care professional.** "Health care professional" means a licensed health professional as defined in Minnesota Statutes, section 144.4172, subdivision 7.

Subp. 46. **Health care service.** "Health care service" means a diagnostic, preventive, or corrective procedure provided in a health care facility, or by or under the supervision of a

health care professional, or by or under the auspices of a rehabilitation program as defined in subpart 99.

Subp. 47. **Home.** "Home" has the meaning given it in Minnesota Statutes, section 198.001, subdivision 8.

Subp. 48. **Homestead.** "Homestead" means a dwelling owned and occupied by the applicant or resident, or that person's spouse, as a primary residence. Homestead includes the land upon which the dwelling is situated as specified in Minnesota Statutes, section 510.02.

Subp. 49. **Hospital.** "Hospital" means an acute care institution as defined in Minnesota Statutes, section 144.696, subdivision 3, and licensed under Minnesota Statutes, sections 144.50 to 144.58.

Subp. 50. **Hospital absence.** "Hospital absence" means an absence from a facility operated by the commissioner of veterans affairs for medically necessary treatment in a hospital.

Subp. 51. **Household.** "Household" means the spouse of an applicant or resident and the applicant's or resident's dependent child or children living in the homestead.

Subp. 52. **Household income.** "Household income" means all income received by or on behalf of the applicant's or resident's spouse in a calendar year.

Subp. 53. **Inappropriate and harmful use.** "Inappropriate and harmful use" has the meaning given it in part 9530.4100, subpart 14.

Subp. 54. **Income.** "Income" means cash or in-kind benefits, whether earned or unearned, received by or available to an individual and not established as property under part 9050.0700, subpart 1, and any other income not otherwise defined as earned or unearned income.

Subp. 55. **Independent living; live independently.** "Independent living" or "live independently" means the situation of an individual living in his or her own dwelling and having the opportunity to control basic decisions about his or her own life to the fullest extent possible.

Subp. 56. **Independent physician.** "Independent physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is not the applicant's or resident's attending physician. The independent physician may be a Minnesota veterans home staff physician of a facility operated by the commissioner of veterans affairs other than the one in which the individual in question resides.

Subp. 57. **Indirect cost.** "Indirect cost" has the meaning given it in part 9050.0500, subpart 2, item B.

Subp. 58. **Individual care plan.** "Individual care plan" means a written plan developed for implementing and coordinating a resident's care and treatment that is developed and maintained by the multidisciplinary staff on the basis of assessment results for each resident. The purpose of the individual care plan is to integrate care, identify and meet the service and care needs of the resident, set treatment goals and objectives, identify outcomes or resolution of treatment for the resident, and identify responsibilities of the multidisciplinary staff for the resident's care and treatment.

Subp. 58a. **Initial admission.** "Initial admission" means the first time an individual is admitted for residency at any of the Minnesota veterans homes (MVH) facilities for services such as skilled care or domiciliary care. If a resident is admitted to a MVH facility within one calendar year of being discharged from the same or another MVH facility, the admission to the first facility is the resident's "initial admission" for the purposes of residency at both facilities.

Subp. 59. **International Classification of Diseases; ICD-9-CM.** "International Classification of Diseases" or "ICD-9-CM" means the current edition of the Clinical Manual

of the International Classification of Diseases, as published by the Commission on Professional and Hospital Activities, 1968 Green Road, Ann Arbor, Michigan. This publication is incorporated by reference and is available through the Minitex interlibrary loan system. It is not subject to frequent change.

Subp. 60. **Legal availability.** "Legal availability" means a person's right under the law to secure, possess, dispose of, or control income or property.

Subp. 61. **Legal representative.** "Legal representative" means an individual who has the legal authority to take a particular action on behalf of an applicant or resident. The legal authority can be granted by statute, by a court, or by federal or state regulation.

Subp. 62. **Level of care.** "Level of care" means the licensure level of the facility operated by the commissioner of veterans affairs in which a resident lives and is assigned an appropriate bed through the use of a patient classification system.

Subp. 63. **Level of care change.** "Level of care change" means movement of a resident from one level of care to another within a facility operated by the commissioner of veterans affairs or from one facility to another on the same campus.

Subp. 64. **Licensed psychologist.** "Licensed psychologist" means a person licensed under Minnesota Statutes, section 148.91, subdivision 5.

Subp. 65. **Licensed practical nurse.** "Licensed practical nurse" means a person licensed under Minnesota Statutes, sections 148.171 to 148.285.

Subp. 66. [Repealed, 18 SR 2254]

Subp. 67. **Life estate.** "Life estate" means an interest in real property with the right of use or enjoyment limited to the life or lives of one or more human beings that is not terminable at any fixed or computable period of time.

Subp. 68. **Lump sum.** "Lump sum" means nonrecurring income received at one time. Examples include windfalls, debt repayments, payments from the sale of property, tax refunds, payments of accrued benefits, gifts, and inheritances.

Subp. 69. **Maintenance charge.** "Maintenance charge" means the portion of the cost of care paid by or on behalf of a specific resident.

Subp. 69a. **Make available.** "Make available" means to assist a resident in obtaining information about and arrange for a resident's access to a particular service, but not necessarily assure payment for that service. The commissioner of veterans affairs shall determine annually which services will be paid for by the facilities operated by the commissioner of veterans affairs, based on appropriations.

Subp. 70. **Market rent.** "Market rent" means the rental income that a property would most probably command on the open market in an arm's length negotiation as shown by current rentals being paid for comparable space of comparable worth.

Subp. 71. **Market value.** "Market value" means the most probable price in terms of money that property should bring in a competitive open market under all conditions requisite to a fair sale. The value on the most recent property tax statement must be presumed to be the market value for purposes of calculating the maintenance charge unless the person or the commissioner of veterans affairs or the commissioner's designated representative provides convincing evidence to overcome the presumption.

Subp. 72. **Medical condition.** "Medical condition" means the diagnosis or diagnoses listed in current editions of ICD-9-CM or DSM-MD, made by the applicant's or resident's attending physician.

Subp. 73. **Medical director.** "Medical director" means a physician licensed under Minnesota Statutes, chapter 147, and employed by or under contract to the commissioner of veterans affairs who is responsible for overall direction of medical practice in a facility to ensure the appropriateness of the medical services provided to the residents.

Subp. 74. **Medical treatment plan.** "Medical treatment plan" means the plan signed by the resident's attending physician that includes the resident's primary and secondary

diagnoses, order for treatment and medications, rehabilitation potential, rehabilitation procedures if ordered, clinical monitoring procedures, and discharge potential. The medical treatment plan is a component of the individual care plan.

Subp. 75. **Medically necessary; medical necessity.** "Medically necessary" or "medical necessity" means a health care service that is consistent with the resident's diagnosis or condition and is provided pursuant to the provider's authority under state law and within the scope of licensure, if any, and:

A. is recognized as the prevailing standard or current practice by the provider's peer group;

B. is rendered:

(1) in response to a life-threatening condition or pain;

(2) to treat an injury, illness, or infection;

(3) to treat a condition that could result in physical or mental disability; or

(4) to achieve a level of physical or mental function consistent with prevailing community standards for the diagnosis or condition; or

C. is a preventive health care service.

Subp. 76. **Mental health practitioner.** "Mental health practitioner" means a person qualified under Minnesota Statutes, section 245.462, subdivision 17.

Subp. 77. **Mental health professional.** "Mental health professional" means a person qualified under Minnesota Statutes, section 245.462, subdivision 18.

Subp. 78. **Mental illness.** "Mental illness" has the meaning given it in Minnesota Statutes, section 245.462, subdivision 20, clause (a).

Subp. 79. **Month.** "Month" means a calendar month.

Subp. 80. **Multidisciplinary staff.** "Multidisciplinary staff" means the health care professionals and mental health practitioners and mental health professionals employed by or under contract to the commissioner of veterans affairs to provide clinical and evaluative services in the treatment of conditions of the residents.

Subp. 81. **Net income.** "Net income" means income remaining after allowable deductions and exclusions have been subtracted from gross income under parts 9050.0720 to 9050.0750.

Subp. 82. **Net worth.** "Net worth" means the total sum of property owned by an applicant, resident, or spouse of an applicant or resident or managed by a legal representative on behalf of an applicant, resident, or spouse of an applicant or resident less any encumbrances on the property.

Subp. 83. **Nursing care.** "Nursing care" has the meaning given it in Minnesota Statutes, section 144A.01, subdivision 6.

Subp. 84. **Nursing home.** "Nursing home" means a facility licensed by the commissioner of health under chapters 4655 and 4660 and Minnesota Statutes, chapter 144A.

Subp. 85. **Nursing staff.** "Nursing staff" has the meaning given to nursing personnel in part 4655.0100, subpart 9.

Subp. 86. **Objective.** "Objective" means a short-term treatment expectation and its accompanying measurable physical or behavioral criteria as specified in the individual care plan. An objective is set to facilitate achieving the goals in a resident's individual care plan.

Subp. 86a. **Ombudsman.** "Ombudsman" has the meaning given it in the Older Americans Act of 1965, United States Code, title 42, section 3027(a)(12), and Minnesota Statutes, section 256.974.

Subp. 87. **Outcome.** "Outcome" means the measure of change or the degree of attainment of treatment goals and objectives in the resident's individual care plan that is achieved as a result of provision of service.

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Subp. 88. [Repealed, 20 SR 2095]

Subp. 88a. **Patient.** "Patient" means a resident.

Subp. 89. **Personal absence.** "Personal absence" means an absence from a facility operated by the commissioner of veterans affairs for family visits, vacations, or other personal, nontreatment-related reasons.

Subp. 90. **Personal fund account.** "Personal fund account" means the account maintained at a facility by a resident that is solely for use of that resident and managed according to parts 4655.4100 to 4655.4170.

Subp. 90a. **Personal needs.** "Personal needs" means items upon which the resident, spouse, or dependent child makes a personal choice about whether or not to spend money.

Subp. 91. **Personal property.** "Personal property" means property other than real property.

Subp. 92. **Pharmacist.** "Pharmacist" means a person licensed under Minnesota Statutes, chapter 151.

Subp. 93. **Physical therapist.** "Physical therapist" means a person licensed under Minnesota Statutes, sections 148.65 to 148.78.

Subp. 94. **Preventive health care service.** "Preventive health care service" means a health care service that is provided to a resident to avoid or minimize the occurrence of illness, infection, disability, or other health condition.

Subp. 94a. **Provide.** "Provide" means that the facility pays for a particular service for the resident.

Subp. 95. **Psychiatrist.** "Psychiatrist" means a physician licensed under Minnesota Statutes, chapter 147, who can give written documentation of having successfully completed a postgraduate psychiatry program of at least three years duration that is accredited by the American Board of Psychiatry and Neurology.

Subp. 95a. **Psychological practitioner.** "Psychological practitioner" means a person licensed under Minnesota Statutes, section 148.91, subdivision 6.

Subp. 96. **Rate year.** "Rate year" means the state fiscal year for which a payment rate is effective.

Subp. 97. **Real property.** "Real property" means land and all buildings, structures, and improvements or other fixtures on it, all rights and privileges belonging or appertaining to it, all manufactured homes attached to it on permanent foundations, and all trees, mines, minerals, quarries, and fossils on or under it.

Subp. 98. **Registered nurse.** "Registered nurse" means a nurse licensed under Minnesota Statutes, sections 148.171 to 148.285.

Subp. 99. [Repealed, 20 SR 2095]

Subp. 100. **Reporting year.** "Reporting year" means the period from March 1 to the last day of February immediately preceding the rate year, for which the nursing home or boarding care home calculates its costs, and which is the basis for the determination of the cost of care for the following rate year.

Subp. 101. **Representative payee.** "Representative payee" means an individual designated by the Social Security Administration or an authorized payee designated by the United States Department of Veterans Affairs to receive benefits on behalf of the applicant or resident.

Subp. 102. **Reserved bed.** "Reserved bed" means a bed that has been held at the request of an applicant approved for admission, prior to admission to a facility under part 9050.0055, subpart 4.

Subp. 103. **Resident.** "Resident" has the meaning given it in Minnesota Statutes, section 198.001, subdivision 2.

Subp. 104. **Resident's financial information file.** "Resident's financial information file" means financial data collected to determine the ability of an applicant or resident to pay or have paid the amount indicated in the admissions agreement toward the resident's cost of care.

Subp. 105. **Resource.** "Resource" means any property, income, or benefit that is available to pay for the cost of care of the resident.

Subp. 106. **Social worker.** "Social worker" means a person who is licensed under Minnesota Statutes, sections 148B.18 to 148B.289, or who has met the minimum qualifications of a social worker under the examination process of the state of Minnesota or the Minnesota Merit System.

Subp. 106a. **Spousal allowance.** "Spousal allowance" means the amount necessary to meet the basic needs of the dependent spouse or household that is deducted from the resident's gross monthly income.

Subp. 107. **Staff physician.** "Staff physician" means a physician licensed to practice medicine under Minnesota Statutes, chapter 147, who is employed by or under contract to the commissioner of veterans affairs to provide services in a facility operated by the commissioner of veterans affairs.

Subp. 108. **Staff psychiatrist.** "Staff psychiatrist" means a psychiatrist who is employed by or under contract to the commissioner of veterans affairs to provide psychiatric services in a facility operated by the commissioner of veterans affairs.

Subp. 109. **Staff psychologist.** "Staff psychologist" means a person licensed under Minnesota Statutes, sections 148.88 to 148.98, who is employed by or under contract to the commissioner of veterans affairs to provide psychological services in a facility operated by the commissioner of veterans affairs.

Subp. 110. **Transfer.** "Transfer" means:

A. movement of a resident to or from another health care facility for purposes of hospitalization or other health care services if a bed is held at the particular facility operated by the commissioner of veterans affairs for the resident pending completion of medically necessary treatment and the resident's anticipated return to the same facility operated by the commissioner of veterans affairs; or

B. movement to or from a nursing home to a boarding care facility or to or from a boarding care facility to a nursing home at a particular campus, when a bed hold is not required and a return to the resident's previous level of care is not anticipated.

Subp. 111. **Treatment.** "Treatment" means the use of medically necessary health care services to prevent, correct, or ameliorate disease or abnormalities detected by diagnostic or screening procedures.

Subp. 112. **Treatment absence.** "Treatment absence" means an absence of a resident from a facility operated by the commissioner of veterans affairs, with the expectation of the resident's return to the facility operated by the commissioner of veterans affairs. The absence must be to be placed in a residential institutional setting, including a detoxification facility, a rehabilitation program, or health care facility other than a hospital.

Subp. 113. **Unearned income.** "Unearned income" means any form of gross income that does not meet the definition of earned income. Unearned income includes an annuity, retirement, pension, or disability benefit, including veteran's or worker's compensation, social security disability, railroad retirement benefits, unemployment compensation, or black lung payments; benefits under a federally funded or state-funded categorical assistance program including supplemental security income, or other assistance programs, tort settlement payments, court-mandated payments, inheritance amounts, gifts, rents, dividends, interest and royalties, support and maintenance payments, pension payments, return on capital investment, insurance payments or settlements, severance payments, employment benefits, and rewards for past employment; and educational grants, deferred payment loans, and scholarships. Unearned income must be calculated according to part 9050.0710, subpart 5.

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Subp. 114. **Unemployment compensation.** "Unemployment compensation" means the insurance benefits paid to an unemployed worker under Minnesota Statutes, sections 268.03 to 268.231.

Subp. 115. **Utilization review.** "Utilization review" means the activity or function within the facility operated by the commissioner of veterans affairs responsible for the ongoing evaluation of the necessity for and the quality and timeliness of services provided in facilities operated by the commissioner of veterans affairs, according to chapters 4655 and 4660, when the services are not under the responsibility of a professional standards review organization.

Subp. 115a. **Utilization review committee.** "Utilization review committee" means the committee appointed by the administrator to conduct utilization reviews.

Subp. 116. **Verification.** "Verification" means the process the facility financial staff or social services staff must use to establish the accuracy or completeness of information from an applicant, a resident, a third party, or other source as that information relates to a person's eligibility for admission, suitability for admission, or calculation of maintenance charge.

Subp. 117. **Veteran.** "Veteran" has the meaning given it in Minnesota Statutes, section 197.447.

Subp. 118. **Volunteer.** "Volunteer" means a person who, without compensation, gives time and effort in supportive or person-to-person services.

Subp. 119. **Vulnerable Adults Act.** "Vulnerable Adults Act" has the meaning given it in Minnesota Statutes, section 626.557.

Subp. 120. **Working days.** "Working days" means Monday through Friday, excluding state recognized legal holidays.

Statutory Authority: *MS s 144A.04; 144A.08; 198.003; 256B.431*

History: *14 SR 2355; 16 SR 1801; 16 SR 1945; 18 SR 2254; 20 SR 303; 20 SR 2095; 21 SR 196; L 1997 c 193 s 47; 28 SR 1251; L 2008 c 297 art 2 s 29,30*

9050.0050 PERSONS ELIGIBLE FOR ADMISSION.

Subpart 1. **General qualifications.** A person seeking admission to a facility operated by the commissioner of veterans affairs must meet the admission requirements in Minnesota Statutes, sections 198.01, 198.022, and 198.03, and the criteria in part 9050.0070. The person must also provide current evidence of medical need for admission and financial information as specified in parts 9050.0800 to 9050.0900.

For purposes of subparts 2 to 4, an applicant or resident has adequate means of financial support if the applicant or resident is financially able to live independently. A person is financially able to live independently if the person has assets in excess of \$3,000 or income sufficient to meet basic needs.

Subp. 2. **Veterans.** A person must meet the criteria in Minnesota Statutes, sections 197.447 and 198.022, paragraphs (1) and (2), to be eligible for admission to a facility operated by the commissioner of veterans affairs as a veteran.

Subp. 3. **Nonveterans.** A person who is not a veteran must meet the criteria in Minnesota Statutes, section 198.022, paragraphs (1) and (3), to be eligible for admission to a facility operated by the commissioner of veterans affairs.

Subp. 3a. **Residency.** For purposes of determining residency under Minnesota Statutes, section 198.022, paragraphs (2) and (3), a person is a resident of Minnesota if:

A. the person currently resides in Minnesota and intends to reside in the state permanently; and

B. the person does not own or maintain a home in another state.

Subp. 4. **Exceptions.** An applicant otherwise eligible for admission to a facility operated by the commissioner of veterans affairs under subpart 2 or 3 who has adequate means

of support may be admitted to a facility operated by the commissioner of veterans affairs if the applicant complies with the requirements in Minnesota Statutes, section 198.03. An applicant seeking admission under Minnesota Statutes, section 198.03, and this subpart must not have past unpaid bills to the state for maintenance charges for prior residence in a facility operated by the commissioner of veterans affairs. An applicant who has past unpaid bills to the state for maintenance charges for prior residence in a facility operated by the commissioner of veterans affairs must satisfy the past debt for maintenance charges before that applicant will be placed on the active waiting list. For the purpose of this part "satisfy" means that the applicant has either paid the debt or entered into an agreement to repay the debt. The agreement must conform with Minnesota Statutes, section 198.03, subdivision 3.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; 20 SR 2095; L 2008 c 297 art 2 s 29*

9050.0055 ADMISSIONS PROCESS, WAITING LIST, PRIORITY.

Subpart 1. **Process.** A person seeking admission to a facility operated by the commissioner of veterans affairs may obtain an application form and information describing the required application procedures from the facility. The social services staff of the facility operated by the commissioner of veterans affairs shall assist the person to complete the application form and process. When an application is requested, the staff shall provide a checklist of items requiring documentation, information, or verification to complete the application.

Subp. 1a. **Preadmission screening.** The staff of the facility operated by the commissioner of veterans affairs shall conduct a preadmission screening of applicants, similar to that prescribed in Minnesota Statutes, section 256B.0911, in order to determine whether the person meets the general eligibility requirements in part 9050.0050. If these requirements are met, an applicant's name and application file must be referred to the admissions committee or be placed on the waiting list for the particular facility as specified in subpart 3.

Subp. 1b. **Admission application.** Prior to admission, the staff shall obtain the following information about an applicant. Any deviation from these procedures must be approved by the administrator. If the procedures are deviated from, the administrator must obtain information that is equivalent to the following items:

- A. a signed application form;
- B. verification of eligibility in part 9050.0050;
- C. military service records or discharge information about the applicant or the applicant's spouse;
- D. medical and psychiatric information from previous or current placements and current attending physicians and, as appropriate, psychologists or psychiatrists, including level of care information from previous and current placements;
- E. information from the applicant's previous or current placements about the applicant's compliance with the applicant's medical treatment plan or individual treatment or care plan;
- F. Bureau of Criminal Apprehension reports or criminal background information or reports, as appropriate; and
- G. basic financial information on the applicant and the applicant's spouse and dependents. The data is limited to the information requested on the Minnesota veterans homes admission application. The financial information must not be used to determine eligibility for admission to the facility.

The appropriate clinical staff shall interview the applicant or the applicant's legal representative, if any, and the applicant's family members with the applicant's consent, and shall review the application for admission.

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The staff of the facility operated by the commissioner of veterans affairs shall keep a checklist on which to record the date of receipt of information for the person's application file.

Subp. 2. **Timing of review by admissions committee.** The admissions committee shall review an application for admission according to items A and B, and determine the applicant's suitability for admission to a facility operated by the commissioner of veterans affairs as determined by the criteria in part 9050.0070, subparts 3 and 4.

A. If the facility operated by the commissioner of veterans affairs to which a person has applied has no waiting list, the admissions committee shall review the application file within five working days of its completion.

B. If the facility operated by the commissioner of veterans affairs to which the person has applied has a waiting list, the admissions committee shall review the application file within five working days from the time the applicant's name reaches the first place on the active waiting list and a bed becomes available.

Subp. 3. **Waiting lists.** Each facility operated by the commissioner of veterans affairs shall maintain an active waiting list and an inactive waiting list to determine the admission priority of applicants. The active waiting list is for applicants desiring the first available bed at the level of care appropriate to the applicant's needs. The inactive waiting list is for those applicants who do not currently want to exercise their option for admission, or who have not yet met the established criteria for admission.

If an eligible applicant cannot be considered for admission to a facility operated by the commissioner of veterans affairs with an appropriate level of care due to unavailability of a bed, the applicant must be placed on either an active or inactive waiting list according to preference. An applicant shall indicate preference for the active or inactive waiting list on the application form. As part of the preadmission screening, the applicant's indicated preference for the waiting lists must be reviewed and amended if appropriate. An applicant may request movement from one waiting list to another at any time, unless the request is precluded by subpart 5. An applicant requesting movement from one waiting list to another must be placed at the bottom of the waiting list to which movement was requested. The applicant's position on the waiting list is determined by the date on which the application form is received.

Subp. 4. **Priority.** If it is determined by the utilization review committee that a current resident needs a level of care not offered at the facility operated by the commissioner of veterans affairs where the resident is staying, the current resident has priority for consideration for admission to other facilities operated by the commissioner of veterans affairs at an appropriate level of care if they meet the criteria for that level of care and a bed is available. A person who is discharged for failure to meet bed hold criteria in part 9050.0150, subpart 2 or 3, has priority for consideration for admission to a facility operated by the commissioner of veterans affairs at an appropriate level of care if the person meets the criteria for that level of care and a bed is available. A person on the active waiting list must be considered for admission and, if approved by the admissions committee, offered a bed consistent with the person's position on the active waiting list and the patient classification system and level of care needs as determined by the admissions committee. A person offered admission has three working days to consider the offer. If the person declines the offer of admission, the person's name must be put on the bottom of the active waiting list, unless the person requests removal from the active waiting list or transfer to the inactive waiting list. If the person fails to respond to the offer of admission within three working days from the date the offer is made, the person's application file must be closed and the person's name removed from all waiting lists. A person whose name is removed from all waiting lists for failure to respond to an offer for admission must reapply.

A bed must be held without charge for an approved applicant for up to three working days from the date of acceptance of the offer of admission. The bed may be held open for

an additional period of time at the discretion of the administrator. A bed held under this subpart is a reserved bed.

Subp. 5. **Limitations on refusals to exercise option for admission from active waiting list.** A person who is placed on the waiting list and who twice refuses an opportunity for admission must be removed from the active waiting list and placed on the inactive waiting list. The person is not permitted to transfer to the active waiting list for one year from the date the person refused an opportunity for admission unless the person can verify by an attending physician a significant change in health status since the date of last refusal. "Significant change" means the worsening of an applicant's medical condition due to an unexpected health condition such as a sudden stroke or heart attack.

Subp. 6. **Initial financial status review.** The facility financial staff shall evaluate the financial status of a person who has either been approved for admission or who is anticipated to be within 60 days of reaching the top of the waiting list. The purpose of the initial financial status review is to determine the person's ability to pay toward the cost of care and to calculate the person's maintenance charge. The financial status review must be conducted according to parts 9050.0800 to 9050.0900. The maintenance charge calculation must be according to part 9050.0560.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0060 ADMISSIONS COMMITTEE; CREATION, COMPOSITION, AND DUTIES.

Subpart 1. **Admissions committee appointed.** The administrator of a facility shall appoint an admissions committee for that facility to review and act on applications for admission to that facility.

Subp. 2. **Composition of admissions committee.** The admissions committee must consist of the following staff members of the facility operated by the commissioner of veterans affairs: the administrator or a designee, a registered nurse, and a social worker. The admissions committee may consult with any of the following staff members, as indicated by the diagnosis or diagnoses of the applicant to be reviewed: a chemical dependency counselor, a mental health professional or mental health practitioner, a physical therapist, an occupational therapist, a speech therapist, a dietitian, a chaplain, or a staff psychologist or psychiatrist. The applicant's attending physician must be consulted or given the opportunity to present information to the admissions committee if the physician chooses to participate.

Subp. 3. **Duties.** The admissions committee has the duties specified in items A and B.

A. The admissions committee shall review and act on all applications by reviewing the completed application and documentation in part 9050.0055. The admissions committee shall determine whether or not to admit the applicant according to the facility's ability to meet the applicant's care needs, based on the admissions criteria in part 9050.0070, subparts 3 and 4.

B. The admissions committee shall record the minutes of each committee meeting. The minutes must reflect the date of the review, the applicant's name and medical diagnosis, the current living status of the applicant, the reason for the placement request, a brief description of the applicant's physical or mental status, and the rationale behind the committee decision. The minutes must be kept by the administrator for the time specified for retention of medical records in parts 4655.3200 to 4655.3600.

Subp. 4. [Repealed, 20 SR 2095]

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; 20 SR 2095; L 2008 c 297 art 2 s 29*

9050.0070 TYPES OF ADMISSIONS.

Subpart 1. **General criteria.** Admissions must be according to the requirements in parts 4655.0400, 4655.0500, 4655.0700, and 4655.1500.

Subp. 2. **Selection of residents.** Of those applicants eligible for admission under part 9050.0050 and Minnesota Statutes, sections 198.01, 198.022, and 198.03, the admissions committee of the facility operated by the commissioner of veterans affairs, in consultation with the applicant's attending physician, shall determine whether an applicant is to be admitted by applying the criteria for each type of facility in subparts 3 and 4.

Subp. 3. **Criteria for admission to and continued stay in a boarding care facility.** The decision about admission to or continued stay in a facility operated by the commissioner of veterans affairs licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the facility operated by the commissioner of veterans affairs must be admitted, placed on the waiting list, or retained as a resident if the admissions committee or utilization review committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee or utilization review committee determines the person does not meet the criteria in items A to N.

A. The person must have or be assigned to an appropriate bed through the use of a patient classification system.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the attending physician indicating placement in a boarding care facility is a medical necessity.

C. The person's attending physician must document the person's need for the services provided in a boarding care facility. If a resident has not specified an attending physician, the attending physician must be a Minnesota veterans homes staff physician. If an applicant for admission has not specified an attending physician, Minnesota veterans homes facility staff must assist the applicant in finding a physician to provide an admitting diagnosis.

D. A person must be alert and oriented to person, place, and time, and able to function within a structure of daily monitoring by the nursing staff of the boarding care facility. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist.

E. A person must be able to recognize and appropriately react to hazards in the environment. A person who has a diagnosis of mental illness must be assessed by a staff psychiatrist or psychologist. The case mix indicator, developed under Minnesota Statutes, section 144.072, for orientation and self-preservation skills must be used to determine whether the individual has the mental judgment or physical ability necessary to function in a changing environment and a potentially harmful situation.

F. The person has the right to participate in establishing the person's individual care plan. Residents must be advised that exercising their right to refuse care may lead to their discharge if the facility is unable to care for them under part 4655.1500, subpart 2. Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

G. A person must be physically and mentally capable of providing personal care and hygiene including dressing, grooming, eating, toileting, and washing other than bathing. A person who has a diagnosis of mental illness must be assessed by an attending psychiatrist or psychologist.

H. The person must be assessed by a staff registered nurse as independent in transferring and mobility.

I. The person must require no more than twice daily face-to-face monitoring by the nursing staff of the boarding care facility. For continued stay, face-to-face monitoring for special medical needs may exceed twice daily for up to five days with approval of the director of nursing or the assistant director of nursing of the boarding care facility.

J. An attending psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist which suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

K. A person diagnosed by the attending physician as actively psychotic must require no more than twice daily face-to-face monitoring by facility nursing staff and no more than weekly face-to-face therapeutic contacts with a staff psychiatrist or psychologist.

L. A person who has an active substance use disorder must be evaluated by an attending psychologist or psychiatrist. The evaluation must include an assessment of the person's chemical health needs, the current severity of the person's disorder, and whether the facility operated by the commissioner of veterans affairs can meet the care needs of the person. If the medical records obtained by the admissions committee do not adequately document a person's substance disorder status, the person's status may be verified by a collateral contact. For purposes of this part, "collateral contact" means an oral or written communication initiated by facility staff for the purpose of gathering information from an individual or agency, other than the applicant, to verify or supplement information provided by the applicant. Collateral contact includes contact with family members, criminal justice agencies, educational institutions, and employers.

M. The person must be able to comply with Minnesota veterans homes rules in chapter 9050. Ability to comply may be demonstrated by a documented history of compliance in a prior placement, if any, or other relevant evidence that demonstrates ability to comply. Continuing compliance must be measured as specified in the care plan process in part 9050.0300.

N. An attending physician shall determine whether the person is free from any communicable disease or infection that poses a threat to the health and safety of others. Exceptions may be made, however, subject to the authority granted by a waiver issued by the Minnesota Department of Health. This subpart complies with Minnesota Statutes, section 144.50, subdivision 7.

Subp. 4. Criteria for admission to and continued stay in a nursing home facility. The decision about admission or continued stay in a facility operated by the commissioner of veterans affairs licensed as a nursing home must be based on the facility's ability to meet the care needs of the person. A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee or utilization review committee determines that the person meets all of the criteria in items A to G. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to G.

A. The person must have or be assigned to an appropriate bed through a patient classification system.

B. The person must have a medical and, if appropriate, psychiatric diagnosis from the attending physician indicating placement in a nursing home is a medical necessity. If a resident has not specified an attending physician, the attending physician must be a Minnesota veterans homes staff physician. If an applicant for admission has not specified an attending physician, Minnesota veterans homes facility staff must assist the applicant in finding a physician to provide an admitting diagnosis.

C. The person's attending physician must document the person's need for the services provided in a nursing home.

D. The person must demonstrate a history of cooperation with an individual treatment or care plan or with the medical treatment plan prescribed by the attending physician. Cooperation may be demonstrated by a documented history of cooperation in a prior placement, if any, or other relevant evidence which demonstrates cooperation. Continuing cooperation must be measured as specified in the care plan review process in part 9050.0300.

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E. An attending physician shall determine whether the person is free from any communicable disease or infection that poses a threat to the health and safety of others. Exceptions may be made, however, subject to the authority granted by a waiver issued by the Minnesota Department of Health. This subpart complies with Minnesota Statutes, section 144.50, subdivision 7.

F. An attending psychiatrist or psychologist must assess persons with a history of violent or self-abusive behavior and determine if significant risk factors currently exist that suggest that the individual poses a threat of harm to self or others to determine the facility's ability to meet the safety needs of the person and other persons at the facility.

G. A person who has an active substance use disorder must be evaluated by an attending psychologist or psychiatrist. The evaluation must include an assessment of the person's chemical health needs, the current severity of the person's disorder, and whether the facility operated by the commissioner of veterans affairs can meet the care needs of the person. If the medical records obtained by the admissions committee do not adequately document the person's substance disorder status, the person's status may be verified by a collateral contact. For purposes of this part, "collateral contact" means an oral or written communication initiated by facility staff for the purpose of gathering information from an individual or agency, other than the applicant, to verify or supplement information provided by the applicant. Collateral contact includes contact with family members, criminal justice agencies, education institutions, and employers.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 18 SR 2254; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0080 ADMISSION DECISION; NOTICE AND REVIEW.

Subpart 1. **Notice.** An applicant must be advised, in writing, of the admissions committee's decision and the reasons for the decision. The notice must be sent to the applicant no later than three working days after the admissions committee's decision. The notice must include information about the applicant's right to request a review of a denial and about the review process as specified in subpart 2 or information regarding additional actions necessary to effect admission. Nothing in this subpart precludes concurrent or prior notification by telephone.

Subp. 2. **Review.** An applicant or the applicant's legal representative may request a review of a decision of the admissions committee to deny the applicant's admission. The applicant or applicant's legal representative desiring the review shall forward the request, in writing, to the administrator of the facility within 30 days of the applicant's receipt of a notice of denial. The review must be completed within 30 days of receipt of the request. The administrator may request that the admissions committee reconsider its decision or the administrator may review the existing minutes to determine the basis for a negative decision. If a reconsideration is requested, it must be conducted at the next scheduled admissions committee meeting. The decision resulting from the reconsideration and the reasons for the decision must be forwarded to the administrator in writing. The administrator shall conduct a final review of the admissions committee's decision, based on the admissions criteria in part 9050.0070, subpart 3 or 4, and shall issue a final decision. The decision of the administrator shall constitute final agency action.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 18 SR 2254*

9050.0100 TRANSFER.

Subpart 1. **Generally.** A resident may be transferred from a facility operated by the commissioner of veterans affairs to another health care facility or rehabilitation program or detoxification program if:

- A. ordered or recommended by the attending physician or the utilization review committee as part of the resident's individual care plan;
- B. requested by the resident or the resident's legal representative, if any; or
- C. an emergency situation exists.

A resident may be transferred only with the resident's consent or the consent of the legal representative, if any, except in an emergency when obtaining consent before transfer is not possible. A resident who refuses consent for transfer to another health care facility or rehabilitation program or detoxification program on recommendation of the attending physician or the utilization review committee, or both, may be subject to discharge for noncompliance with the resident's individual care plan. The utilization review committee's decision to recommend discharge of a resident for refusing consent for transfer is limited by the Patient's Bill of Rights established in Minnesota Statutes, section 144.651, and must be based on the facility's ability to meet the person's care needs as determined by the criteria in part 9050.0070, subparts 3 and 4. A resident transferred from another facility back to the facility operated by the commissioner of veterans affairs does not need to reapply for admission.

Subp. 2. **Notice.** Unless a situation occurs that is outside the control of the facility operated by the commissioner of veterans affairs, such as a utilization review, the accommodation of newly admitted residents, a change in the resident's medical or treatment program, or the resident's own or another resident's welfare, a resident for whom the utilization review committee or the attending physician recommends a transfer must be notified of the recommendation at least:

- A. 30 days before the anticipated transfer date, if to a facility or program not operated by the commissioner of veterans affairs, according to Minnesota Statutes, section 144.651, subdivision 29;
- B. seven days before the anticipated transfer to another bed or level of care within the same facility operated by the commissioner of veterans affairs, or to another facility operated by the commissioner of veterans affairs located at the same campus, according to Minnesota Statutes, section 144.651, subdivision 29; or
- C. a reasonable time before the anticipated transfer in situations outside the control of the facility operated by the commissioner of veterans affairs. The reasonable time must be determined by the facility administrator or designee, based upon the particular facts of the situation prompting the transfer.

Subp. 3. **Mechanisms of effecting transfer.** A transfer must be effected in the manner applicable to a voluntary discharge in part 9050.0210. The party recommending or requesting transfer shall arrange for transportation for the resident to the new facility or location.

Subp. 4. **Transfers to United States Department of Veterans Affairs Medical Center.** The facility operated by the commissioner of veterans affairs must not guarantee access or admission to or treatment at the United States Department of Veterans Affairs Medical Center, nor does residence at a facility operated by the commissioner of veterans affairs grant residents preference with regard to access, admissions, or treatment at the United States Department of Veterans Affairs Medical Center. If the United States Department of Veterans Affairs Medical Center agrees to accept the resident and has an available bed, the resident must be transferred to that facility. If the United States Department of Veterans Affairs Medical Center denies the resident treatment or admission, the resident must be transferred to a hospital or other health care facility that is able to provide the appropriate service. The Minnesota veterans home facility, the Minnesota Department of Veterans

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Affairs, or the state of Minnesota are not responsible for the costs of a resident's hospitalization or treatment at a facility that is not a facility operated by the commissioner of veterans affairs.

Subp. 5. **Appeals.** A resident may appeal a transfer decision that is not based on an emergency. Appeal is to be taken in the same manner as appeal of discharge under part 9050.0220.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; L 2008 c 297 art 2 s 29*

9050.0150 BED HOLD.

Subpart 1. **Generally.** A resident's bed or a comparable bed at an appropriate level of care must be held for the resident if the resident is absent from the facility operated by the commissioner of veterans affairs for a circumstance specified in subparts 2 to 4 and continues payment as required in subpart 5 and part 9050.0540.

Subp. 2. **Hospital absence.** A resident's bed must be held during a resident's hospital absence if the treatment in the hospital is on the order of the resident's attending physician or is a result of a medical emergency. A hospital absence in excess of 30 days must be periodically monitored by facility staff with regard to the resident's progress and likelihood the resident can be cared for on return to the facility operated by the commissioner of veterans affairs as determined by the criteria in part 9050.0070, subpart 3 or 4. If satisfactory progress is not being made, discharge proceedings must be started by the utilization review committee.

Subp. 3. **Treatment absence.** A resident's bed must be held during a resident's treatment absence if the treatment is on the order of the resident's attending physician as part of the resident's individual care plan. The resident must participate in treatment on a continuing basis and make satisfactory progress as determined by the administrator of the treatment program. If satisfactory progress is not being made, discharge proceedings must be instituted by the utilization review committee.

Subp. 4. **Personal absence.** A resident's bed must be held when the person leaves the facility operated by the commissioner of veterans affairs on a personal absence. A personal absence may be no longer than 96 hours, unless the resident has made a definitive arrangement with the administrator or administrator's designee regarding a longer absence. The resident shall advise the administrator or administrator's designee of the total length of the absence and the resident shall agree to pay the maintenance charge during the absence.

Subp. 5. **Effect on maintenance charges.** A resident whose bed is held under this part shall continue to pay any maintenance charge or charges that accrued or are accruing either before or during the resident's absence from the facility operated by the commissioner of veterans affairs. Absences exceeding 96 hours with or without notice result in termination of the resident's entitlement to the per diem payment of the United States Department of Veterans Affairs retroactive to the date of departure.

Subp. 6. [Repealed, 28 SR 1251]

Subp. 7. **Monitoring of bed hold status.** The appropriateness of continued bed hold must be reviewed by the utilization review committee of the facility operated by the commissioner of veterans affairs at least once every 30 days during the resident's ongoing absence. A decision about approval of continued bed hold must be based on the resident's satisfactory progress toward recovery from the condition for which the resident was hospitalized or completion of the treatment program or rehabilitation program, and the existence of a reasonable expectation that the facility will be able to care for the resident upon return to the facility operated by the commissioner of veterans affairs and the resident's compliance with subpart 5 if applicable. Continued bed hold or continued residency with personal absences exceeding 36 cumulative days per year must be reviewed by the utilization review committee. Continued bed hold or continued residency with personal absences that are contraindicated in the resident's care plan may, upon the recommendation of the direct

care staff, be reviewed by the utilization review committee. The decision about continued residence must be based on the resident's continuing need for care as determined by the utilization review committee. The determination must be according to the criteria in part 9050.0070, subparts 3 and 4.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 18 SR 2254; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0200 DISCHARGE.

Subpart 1. **General criteria.** Discharge from a nursing care facility or a boarding care facility constitutes permanent release from that facility operated by the commissioner of veterans affairs and terminates the duties and responsibilities of the commissioner of veterans affairs and the facility staff with respect to the discharged individual. Once discharged, a former resident must reapply for admission to a Minnesota veterans home facility.

Subp. 2. **Types of discharge.** A resident must be discharged from the facility either voluntarily or involuntarily according to items A and B.

A. A discharge is voluntary if there is mutual consent between the resident, the resident's legal representative or spouse, if any, the resident's attending physician, and the administrator of the facility.

B. A discharge is involuntary if it is without mutual consent of the resident, the resident's legal representative who has the legal authority, or spouse, if any, the resident's attending physician, and the administrator of the facility.

Subp. 3. **Grounds for discharge.** Discharge procedures must be instituted with regard to a resident if one of the following grounds or circumstances exist:

A. the resident or resident's legal representative fails or refuses to comply with payment obligations in the admission agreement as provided for in part 9050.0040, subpart 5, item C;

B. the resident or resident's legal representative makes a written request for discharge of the resident;

C. the facility operated by the commissioner of veterans affairs is unable to meet the care needs of the resident, as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

D. the resident no longer has a medical need for the services provided by a facility operated by the commissioner of veterans affairs, as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

E. the resident's behavior poses an immediate threat to the health or safety of the resident, other residents, or staff of a facility operated by the commissioner of veterans affairs, as determined by the utilization review committee according to part 9050.0070, subpart 3 or 4;

F. the resident is absent without notice from the facility for more than 96 consecutive hours or a definitive arrangement has been made for an absence longer than 96 hours and the resident fails to comply with that arrangement; or

G. the resident or resident's legal representative:

(1) falsifies or incorrectly represents information on income disclosure and verification forms required in parts 9050.0800 to 9050.0900;

(2) refuses to provide information or releases; or

(3) falsifies or incorrectly represents information relating to criteria in part 9050.0070, subpart 3 or 4.

Subp. 4. **Notice of involuntary discharge.** Unless the time for the notice is extended by the administrator of a facility operated by the commissioner of veterans affairs or a situation arises that is outside the facility's control, such as a utilization review, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or

nonpayment of stay, a resident must be notified in writing by the administrator or administrator's designee of the facility of its intent to proceed with involuntary discharge of the resident at least 30 days before the scheduled date of discharge as provided by Minnesota Statutes, section 144.651, subdivision 29. In situations outside the control of the facility operated by the commissioner of veterans affairs, notice of discharge must be given a reasonable time before the discharge. The reasonable time must be determined by the facility administrator or administrator's designee, based upon the particular facts of the situation prompting the discharge.

Subp. 5. **Contents of notice.** The notice must:

- A. state that the discharge is involuntary;
- B. state the grounds for the discharge as specified in subpart 3;
- C. contain documentation supporting the grounds alleged for the discharge; and
- D. state that the resident has the right to appeal the discharge and a description of the appeal procedures.

If the involuntary discharge is immediate, the resident must be provided with a written notice of discharge and information regarding how to appeal the discharge. Any reconsideration hearing may be conducted via telephone if the resident requests it or the parties mutually decide it would be advisable. If a telephone reconsideration hearing is held, the parties must document the resident's consent for the telephone hearing and why the hearing was held via the telephone.

If the resident is to be discharged under subpart 3, item F, a notice of involuntary discharge must be sent to the resident's address, if it is known, or to the resident's last known address and to the address of a person listed by the resident as the person to be contacted during an emergency. The notice of discharge must be signed by the administrator or administrator's designee and sent by certified mail within five working days, following the determination that the resident is absent without notice.

Subp. 6. [Repealed, 28 SR 1251]

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 18 SR 2254; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0210 VOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **When used.** Voluntary discharge procedures must be used when a discharge from the facility operated by the commissioner of veterans affairs is voluntary as in part 9050.0200, subpart 2, item A, or following review of an appeal from an involuntary discharge order when a court has issued an enforcement order or the resident has agreed to comply with the order for discharge.

Subp. 2. **Responsibilities of facility staff.** The staff of the facility operated by the commissioner of veterans affairs shall effect a discharge under this part according to items A to E.

A. The discharge component of the resident's individual care plan must be updated and implemented after the resident has had an opportunity to confer with a social worker about the plan as described in subitems (1) and (2).

(1) A discharge conference must be arranged by the social worker with the resident, the resident's family with the resident's consent, the social worker, and multidisciplinary staff. The social worker shall make a referral of the resident to social or health care services identified in the resident's individual care plan as necessary for the resident's discharge.

(2) The facility staff shall make referrals to resources designed to meet the resident's financial and other needs following the resident's discharge.

B. The attending physician and facility multidisciplinary staff shall complete the resident's medical record. The resident's medical record must be retained as specified in parts 4655.3200 to 4655.4000.

C. The resident's medications must be disposed of by a pharmacist according to parts 4658.1350 and 4655.7810 to 4655.7860.

D. The facility staff shall release certified copies of the resident's record or the portions specifically requested to a requesting party subject to the requirements of the Minnesota Data Practices Act, Minnesota Statutes, chapter 13. The requesting party shall pay the actual cost of photocopying records. To release a record or information regarding a resident, the resident must sign a form that includes the:

- (1) resident's name;
- (2) date;
- (3) specific nature of information to be released;
- (4) names of persons authorized to give information;
- (5) names of persons to whom information is given;
- (6) description of information to be released; and
- (7) date the authorization expires.

A separate form is required for each release. The period of validity of an authorization may not exceed one year.

E. At the time of discharge, a description of the place and circumstances of discharge must be documented in the resident's record.

Statutory Authority: *MS s 144A.04; 144A.08; 198.003; 256B.431*

History: *14 SR 2355; 18 SR 2254; 20 SR 303; L 2008 c 297 art 2 s 29*

9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.

Subpart 1. **Generally, recommendations.** Involuntary discharge for a reason specified in part 9050.0200, subpart 3, item C, must be based on the recommendation of the utilization review committee. Involuntary discharge under part 9050.0200, subpart 3, item A, F, or G, must be based on the recommendation of the facility financial staff or social services staff.

Subp. 2. **Notice, review of recommendation.** A notice for involuntary discharge must be issued by the administrator of the facility operated by the commissioner of veterans affairs or administrator's designee if, after review of the recommendations and documentation from the utilization review committee or Management and Budget Department, the administrator agrees with the recommendations.

Subp. 3. **Reconsideration.** A resident or the resident's legal representative may request a reconsideration of the notice of involuntary discharge. The request must be made in writing within ten days of receipt of the notice of involuntary discharge. Reconsideration must be before the administrator of the facility operated by the commissioner of veterans affairs under the procedures in subpart 4. The resident may waive the reconsideration hearing and the resident may proceed directly to an appeal. The appeal must be made in writing within ten days of receipt of the notice of involuntary discharge. Any such appeal must otherwise follow the procedures in subpart 6.

Subp. 4. Reconsideration procedures, scheduling, representation.

A. A resident may be represented at a reconsideration under this part by an attorney, the resident, an advocate from the Office of the Ombudsman for Older Minnesotans, or other person of the resident's own choosing.

B. A resident or the resident's representative may question witnesses and present reasons why the resident should not be discharged.

C. The administrator shall record the proceedings electronically or stenographically. The cost must be borne by the facility.

D. The time for the reconsideration proceeding must be set by the administrator. The time may be extended for the resident for good cause shown. For purposes of this item, good cause exists when a resident cannot attend because of:

- (1) illness or injury of the resident;
- (2) illness, injury, or death of a member of the resident's family that requires the resident's presence during the time the review is scheduled;
- (3) an inability to obtain necessary assistance;
- (4) employment, school, or employment and training service obligations that are scheduled during the reconsideration and that cannot be changed to allow the resident's participation;
- (5) a judicial proceeding that requires the resident's presence in court during the hours when the reconsideration is scheduled; or
- (6) a nonmedical emergency that requires the resident's presence at a different location during the hours when the reconsideration is scheduled. "Emergency" under this subitem means a sudden unexpected occurrence or situation of a serious or urgent nature that requires immediate action.

Subp. 5. **Administrator's decision and order.** The administrator, within ten days after the reconsideration proceeding and on review of the record, shall review the question of discharge and issue an administrator's order supporting or reversing the involuntary discharge notice and state the reasons for the involuntary discharge.

Subp. 6. **Appeals process.** A resident or the resident's legal representative may appeal an administrator's discharge or transfer order. A resident or the resident's legal representative has ten working days after issuance of the administrator's discharge or transfer order to request an administrative appeal.

If a resident is voluntarily or involuntarily discharged from a facility while an appeal is pending and fails to notify the administrator in writing as to whether or not the appeal is to continue, the steps in items A to D must be taken.

A. The appeal must be placed on hold.

B. The administrator shall send the resident a written notice via certified mail to the resident's forwarding address informing the resident that if no written response is received within 30 days of the date of the letter, the appeal must be dismissed. If the resident wishes the appeal to proceed, the resident must notify the administrator in writing.

C. If the resident has left no forwarding address, the facility shall document its good faith efforts to attempt to locate the resident.

D. If the resident fails to respond to the certified letter or cannot be located despite good faith efforts, the appeal must be dismissed 30 days after the certified letter has been sent or the location efforts were commenced. If the resident notifies the facility of a desire to continue with the appeal, the appeal hearing must be scheduled as soon as feasible for all parties.

Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, Minnesota Statutes, section 14.48 et. seq., until rules are adopted under Minnesota Statutes, section 144A.135, by the commissioner of health. Once the rules adopted under Minnesota Statutes, section 144A.135, have taken effect, all appeals must be in accordance with those rules. The administrator shall inform the resident of the rules that govern the appeal in the notice provided under part 9050.0100, subpart 2, or 9050.0200, subpart 4. The final discharge order shall be issued by the commissioner of veterans affairs, after review of the entire record including the recommendations of the administrative law judge. A final discharge order issued by the commissioner of veterans affairs following the Office of Administrative Hearings' review remains in effect pending judicial review under

Minnesota Statutes, section 14.63, et. seq. Notwithstanding this provision, the administrator may, for good cause shown, waive imposition of the discharge order until all appeals have been concluded.

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 18 SR 2254; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29; L 2009 c 101 art 2 s 109*

9050.0230 ENFORCEMENT OF FINAL DISCHARGE ORDER.

A final discharge order is the order issued by the commissioner of veterans affairs following review of the administrator's discharge order under Minnesota Statutes, chapter 14, or the discharge order issued by the administrator of a facility operated by the commissioner of veterans affairs if no review was requested. A final discharge order is the final agency decision. When a resident refuses to comply with the terms of a final discharge order issued following review under Minnesota Statutes, chapter 14, and the final agency decision, the administrator may seek enforcement of the final discharge order by applying to the district court for an order enforcing the discharge order. Pursuant to Minnesota Statutes, section 198.045, the district court may order the sheriff of the county in which the facility operated by the commissioner of veterans affairs is located to remove the resident from the facility operated by the commissioner of veterans affairs and authorize the administrator to remove the resident's property and hold it until it can be returned to the former resident. Upon issuance of the court order, the procedures in part 9050.0210 regarding voluntary discharge must be followed, to the extent possible, to effect the discharge.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0300 CARE PLANNING.

Subpart 1. **Generally.** A facility operated by the commissioner of veterans affairs must have and implement a care planning procedure. Under the procedure, a resident's care plan is initiated and reviewed by the care plan team to ensure that the resident's needs are addressed and the facility has the ability to competently and safely care for the resident according to the criteria in part 9050.0070, subparts 3 and 4. The care plan team is comprised of the facility staff members who are directly involved with the resident's care, including a physician, licensed nurse, social worker, and other staff as indicated by the resident's condition.

Subp. 2. **Requirements of procedure.** A care planning procedure must provide for:

A. the resident's right to participation by the resident, a resident's advocates, legal representatives, and, with the resident's consent, the resident's family members, in the care plan review;

B. notice to the resident that a care plan review is scheduled;

C. discussion with the resident regarding methods to assist the resident to attain the care plan goals;

D. differentiated reviews and actions consistent with the frequency and seriousness of the resident's medical, psychiatric, or behavioral status to ensure that the resident's care needs are met according to part 9050.0070, subpart 3 or 4;

E. an accelerated review procedure to be used when the seriousness of the resident's behavior endangers the health and safety of the resident, other residents, or staff members of the facility operated by the commissioner of veterans affairs;

F. consideration of the resident's ability to comprehend and cooperate with chapter 9050 and with the goals contained in the resident's individual care plan; and

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G. notice to the resident that a recommendation for discharge may occur if the facility operated by the commissioner of veterans affairs is unable to meet the care needs of the resident according to part 9050.0070, subparts 3 and 4.

Subp. 3. **Responsibilities of the care plan team.** Care plan review must be conducted by the care plan team. Recommendations as to restrictions or discharges must be made to the utilization review committee. Decisions must be based on the facility's ability to care for the resident according to part 9050.0070, subpart 3 or 4.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 18 SR 2254; L 2008 c 297 art 2 s 29*

9050.0400 UTILIZATION REVIEW COMMITTEE.

Subpart 1. **Appointment and duties.** The administrator of a facility shall appoint a utilization review committee composed of persons as specified in subpart 2 who are employed by or under contract to the facility operated by the commissioner of veterans affairs or the commissioner. The committee shall have the duties specified in subpart 3.

Subp. 2. **Composition.** The utilization review committee consists of one physician and at least one of each of the following professionals: a registered nurse, the administrator or the administrator's designee, a social worker, and a medical records technician, who shall not participate in a voting capacity. Additional committee members may include any of the following staff members as indicated by the diagnosis or diagnoses of the resident to be reviewed: a chemical dependency counselor, a mental health practitioner or mental health professional, or a dietitian. The administrator or the administrator's designee, one other committee member, and at least one physician must be in attendance to hold a meeting and to take action.

Subp. 3. **Duties.** The duties of the utilization review committee are to:

A. review the necessity and appropriateness of admissions, bed holds, transfers, and the need for discharge of all residents according to the United States Department of Veterans Affairs, this chapter, and Department of Health nursing and boarding care criteria specified in parts 4655.0400, 4655.0500, 4655.0700, 4658.0030, and 4658.0140;

B. recommend to the administrator of the facility operated by the commissioner of veterans affairs criteria for use in admitting residents for care plan reviews and discharge;

C. perform medical care evaluation studies at the request of the commissioner of veterans affairs and review assessments of residents;

D. provide reports and recommendations to the administrators and the commissioner of veterans affairs;

E. provide information as required to appropriate state and federal agencies and fiscal agents, including the United States Department of Veterans Affairs, Minnesota Department of Veterans Affairs, Minnesota Department of Health, Minnesota Department of Human Services, Minnesota Department of Administration, and legislative auditor;

F. periodically evaluate the Minnesota veterans homes utilization review procedures and recommend ways to correct deficiencies in the review procedures; and

G. review each resident's case record annually to:

(1) determine the facility's ability to meet the resident's care needs;

(2) assess the resident's willingness to cooperate with an individual care plan and obey facility rules in chapter 9050;

(3) assess the appropriateness of the resident's stay; and

(4) develop and update the discharge component of the individual care plan for each resident, as appropriate.

Subp. 4. **Decisions.** Decisions must be by majority vote of the members of the utilization review committee following review at a committee meeting. Decisions about residents

must be based on the facility's ability to meet the care needs of the resident or applicant according to part 9050.0070, subpart 3 or 4.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 14 SR 2533; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

Subpart 1. **Annual calculation; effective date; notice of change.** The cost of care used to determine the maintenance charge of a resident must be calculated annually under this part. A change in the cost of care becomes effective on July 1 of the rate year following the reporting year used to calculate the cost of care. The cost of care must remain fixed for that rate year. A notice of change in the cost of care must be provided to all residents and their legal representatives 30 days before its effective date.

Subp. 2. **Costs to be included in calculating cost of care.** The calculation of the cost of care includes both the direct and indirect costs of providing resident care. These costs must be compiled separately for each facility operated by the commissioner of veterans affairs on the basis of whether nursing home or boarding care services are provided.

A. Direct costs include the costs of staff care directly attributable to boarding care or nursing home services that directly benefit the resident. An example of a direct cost is nursing service.

B. Indirect costs include costs incurred for common or joint purposes that are identified with more than one level of care and are for services that are provided on behalf of a resident of the facility or facilities. Examples are the costs of housekeeping, laundry, administration, and food services. Indirect costs must be reduced by the amount of receipts received by the facility operated by the commissioner of veterans affairs for lease or rent payments, meals, and other common purpose sources.

C. Calculation of the cost of care does not include the expenses of the commissioner of veterans affairs and capital expenditures or revenues, including federal matching funds and designated contributions, and resident fund accounts as specified in parts 4655.4100 to 4655.4170.

Subp. 3. **Method of calculating average daily per resident cost of care.** The cost of care for a nursing home or boarding care home must be calculated as follows:

A. total the direct costs for a particular campus or facility operated by the commissioner of veterans affairs for a reporting year;

B. divide item A by the number of days in the reporting year;

C. divide item B by the average number of residents in nursing home care or boarding care for a reporting year;

D. total the indirect costs for a particular campus or facility operated by the commissioner of veterans affairs for a reporting year;

E. divide item D by the number of days in the reporting year;

F. divide item E by the average number of residents at a particular campus or facility operated by the commissioner of veterans affairs for a reporting year; and

G. total items C and F. The result is the average daily per resident cost of care for nursing home care or boarding care.

Subp. 4. **Cost of care related to maintenance charge.** The cost of care as calculated in subpart 3 must be used to determine the maintenance charge to the resident. The maintenance charge must be based on the resident's ability to pay. The maintenance charge must be calculated as specified in part 9050.0560. The maintenance charge must be reviewed and adjusted as specified in parts 9050.0560 and 9050.0580. Additionally, when applicable, the resident's maintenance charge must be reduced by the amount of the per diem reimbursement paid on behalf of a resident by the United States Department of Veterans Affairs.

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Subp. 5. **Effect of bed hold on maintenance charges.** A resident who pays a maintenance charge, regardless of amount, shall continue to pay that same maintenance charge during a bed hold as specified in part 9050.0150, subpart 5.

Subp. 6. **Billing.** Billing for maintenance charges must be as specified in items A to F.

A. The maintenance charge must be billed monthly.

B. The monthly billing must be the resident's chargeable income as calculated in part 9050.0755, up to the full cost of care.

C. The maintenance charge must be billed to the address designated by the resident or the resident's legal representative on the resident's application for admission.

D. A billing for one month's service must be issued no later than the tenth of the month following the month in which the service was provided, except for billings occasioned by a maintenance recalculation based on retroactive income received according to part 9050.0550, subpart 4.

E. A resident must be charged for the day of admission but not for the day of discharge. For purposes of this item, one day is the 24-hour period ending at midnight.

F. A billing must state the date by which payment must be received.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 18 SR 2254; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0510 MAINTENANCE CHARGE; ADDITIONAL SERVICES; VETERAN EXCLUSIVE SERVICES.

Subpart 1. **Additional services at resident's own expense.** In addition to the services in the resident's admissions agreement, a resident may use additional health care services at the resident's own expense if the health care services do not exceed the level of care for which the facility is licensed and if the service provider complies with documentation requirements of the facility operated by the commissioner of veterans affairs. A resident who chooses to use additional health care services at the resident's own expense shall continue to pay the maintenance charge determined under part 9050.0560.

Subp. 2. **Veteran exclusive services.** "Veteran exclusive services" are medical benefits or services provided or sponsored by the United States Department of Veterans Affairs exclusively for veterans. Examples include the United States Department of Veterans Affairs physician services and laboratory services. Nonveteran residents are not entitled to veteran exclusive medical benefits or services. Payment of the maintenance charge does not make a nonveteran eligible for veteran exclusive benefits or services provided at the facility operated by the commissioner of veterans affairs. Nonveteran residents shall obtain necessary health care services comparable to veteran exclusive services at the resident's expense. The services must be within the confines of the level of care for which the facility is licensed.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; L 2008 c 297 art 2 s 29*

9050.0520 MAINTENANCE CHARGE; DELINQUENT ACCOUNTS; INTEREST; DISCHARGE.

Subpart 1. **Interest on delinquent accounts.** A resident's account is considered delinquent if a resident willfully refuses or willfully fails to pay the bill by the due date. Residents must be notified if payment has not been received by the due date printed on the bill. Interest must be charged on all delinquent accounts, effective the date the bill was due, as provided in Minnesota Statutes, section 334.01. For purposes of this subpart, "willful refusal or willful failure to pay" means a situation in which:

A. the decision of whether to pay is completely within the control of the resident or the resident's legal representative; or

B. a resident or the resident's legal representative has the ability or resources to pay the maintenance charge and fails to pay.

Subp. 2. **Discharge for nonpayment.** Discharge proceedings must be instituted under part 9050.0200, subpart 3, item A, when an account is delinquent. Discharge proceedings for nonpayment must be stopped when full payment, including accrued interest, is made.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; 20 SR 2095*

9050.0530 RATES AND CHARGES; AGREEMENT AT TIME OF ADMISSION.

If a person is admitted under Minnesota Statutes, section 198.03, a written admissions agreement must be made between the commissioner of veterans affairs or the commissioner's designated representative and the resident or the resident's legal representative about maintenance charges for care and services, obligations concerning payment of the resident's maintenance charge, and the commissioner's refund policy.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; L 2008 c 297 art 2 s 29*

9050.0540 NO UNPAID ABSENCE.

Residents are not excused from payment of the maintenance charge when they are absent from the facility operated by the commissioner of veterans affairs. A resident must continue to pay the maintenance charge determined under part 9050.0560 during a period of absence.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; L 2008 c 297 art 2 s 29*

9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

Subpart 1. **In general.** The applicant's or resident's ability to pay must be determined from insurance and other benefits, value of property owned, and income. The applicant's or resident's property must be used first to pay the maintenance charge. The applicant's or resident's income must be used after the applicant's or resident's property is reduced to the limits in subpart 3 and part 9050.0600 to pay the maintenance charge.

Subp. 2. **Insurance benefits.** When the investigation of the applicant's or resident's financial status discloses eligibility for insurance benefits, the applicant or resident must be determined to be able to pay the cost of care provided to the full extent of insurance benefits available. When the insurance benefits pay less than the full cost of care, the ability of the applicant or resident to pay the remaining part must be determined from the applicant's or resident's nonexcluded property and income.

Subp. 3. **Property.** If the applicant or resident owns property in excess of \$3,000 that is not excluded under part 9050.0600, subparts 2 and 3, the applicant or resident must be determined able to pay the full cost of care according to part 9050.0755. The person shall pay the full cost of care until the property is reduced to the limits in parts 9050.0560 and 9050.0600.

Subp. 4. **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the facility operated by the commissioner of veterans affairs as representative payee has been executed in favor of the facility. Residents not paying the maximum maintenance fee who receive retroactive increases in income must have their maintenance fee recalculated and the part of the increase owed to the home

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must be paid. The maintenance fee must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident. If the applicant or resident has applied for government benefits and is awarded a retroactive lump sum amount after admission to a facility, but the retroactive lump sum is not received by the resident prior to death or discharge, the maintenance charge must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident.

Subp. 5. **Property and income of spouse.** Property and income of the spouse of the applicant or resident must not be considered an available resource for payment of a maintenance charge.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0560 MAINTENANCE CHARGE DETERMINATION; TIME AND CALCULATION METHOD.

Subpart 1. **Time of determination.** The amount of the maintenance charge must be determined if:

- A. a person is admitted to a facility operated by the commissioner of veterans affairs and at least annually after admission;
 - B. there is a substantial change in the applicant's or resident's financial status or the financial status of the spouse of the applicant or resident;
 - C. a change in the applicant's or resident's living status requires recalculation of the benefits provided by the United States Department of Veterans Affairs or other source;
 - D. the resident is transferred from one level of care to another for 30 days or more;
- and
- E. the resident is being discharged.

For purposes of the subpart, "substantial change" in financial status means a change that increases the person's net worth above the \$3,000 limit or a plus or minus ten percent change in the person's total monthly expenses or income. An expense that would constitute a substantial change includes a major vehicle expense, major medical or dental expenses not covered by insurance, major home repair not covered by homeowner's insurance, or major appliance failure that requires repair or replacement. A substantial change must be reported to the facility financial officer ten days after the applicant or resident, legal representative, or spouse of the applicant or resident learns of the change. The administrator shall make the final determination of whether the change is a substantial change.

Subp. 2. **Method of calculation.** The amount that a resident must pay, or have paid on the resident's behalf, as a maintenance charge must be determined as specified in items A and B.

A. If an applicant's or residents net worth exceeds \$3,000, the person's maintenance charge must be the full cost of care for the applicant's or resident's level of care less the United States Department of Veterans Affairs per diem reimbursement, when applicable, until the applicant's or resident's net worth is reduced to \$3,000.

B. If the applicant's or resident's net worth is less than \$3,000, the applicant's or resident's income must be considered in calculating the person's maintenance charge. The person's monthly maintenance charge is the person's total chargeable income, up to the full cost of care. The person's chargeable income must be calculated according to part 9050.0755.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0570 MAINTENANCE CHARGE; NOTICE AFTER FINANCIAL STATUS REVIEW.

The facility financial staff shall notify the applicant or resident, legal representative of the applicant or resident, or spouse of the applicant or resident, of any change in the applicant's or resident's maintenance charge following a financial status review. The notice must include information about the right to a review of the maintenance charge under part 9050.0580.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355*

9050.0580 REVIEW OF MAINTENANCE CHARGE DETERMINATION.

An applicant or resident or legal representative may request that the administrator of a facility operated by the commissioner of veterans affairs reconsider a maintenance charge determination. The request must be submitted in writing to the administrator within ten days of receipt of the maintenance charge notice. The administrator shall, within ten days of receipt of the request, conduct a review of the maintenance charge determination. The review must be in the same format and time frames as the reconsideration procedures under part 9050.0220, subparts 3 and 4. The administrator's determination is final upon receipt by the applicant or resident, or legal representative, and is the final agency action.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; 20 SR 2095; L 2008 c 297 art 2 s 29*

9050.0590 MAINTENANCE CHARGE; REFUND.

If an applicant or resident who has paid, or on whose behalf payment has been made of, the maintenance charge for a billing month, is discharged from a facility operated by the commissioner of veterans affairs before the end of the month for which payment has been made, the applicant or resident is entitled to a refund. The amount of the refund to which an applicant or resident, or legal representative, is entitled must be calculated by prorating the monthly maintenance charge by the number of unused days.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; L 2008 c 297 art 2 s 29*

9050.0600 PROPERTY LIMITATIONS.

Subpart 1. **General provisions of property ownership.** The equity value of all nonexcluded real and personal property owned by an applicant or resident must not exceed \$3,000. The facility financial staff must use the equity value of legally available real and personal property, except property excluded in subpart 2 or 3, to determine the resources available to or on behalf of an applicant or resident.

A. If real or personal property is jointly owned by two or more persons, the facility financial staff shall assume that each person owns an equal share. When the owners document greater or smaller ownership, the facility financial staff shall use that greater or smaller share to determine the equity value held by or on behalf of an applicant or resident. Other types of ownership, such as a life estate, must be evaluated according to law.

B. Real or personal property owned by or on behalf of an applicant or resident is presumed legally available unless the applicant or resident documents that the property is not legally available to the applicant or resident. If real or personal property is not legally available, its equity must not be applied against the limits of subparts 2 and 3. Examples of property not available to a person are an estate that has not been probated, property owned together with one or more other people that the facility financial staff determines cannot be liquidated or reduced to cash through exercise of the applicant's or resident's legal rights, and property of an applicant or resident who is determined incompetent by a court and whose guardianship is pending. The facility financial staff shall consider as available property that property which a person has failed to make available for purposes of

gaining admission to a facility operated by the commissioner of veterans affairs or avoiding payment of the maintenance charge. An example of a person's failure to make property available occurs when the person refuses to accept a share of an inheritance.

C. Real or personal property transferred by an applicant or resident in violation of part 9050.0650 is presumed legally available.

D. The facility financial staff shall consider as available an individual retirement account, Keogh account, or other pension or deferred compensation plan account. The facility financial staff shall evaluate the accounts on the basis of the funds deposited in the account and the interest accrued on the funds less the penalty for early withdrawal.

E. The facility financial staff shall consider as available the proceeds that a person receives in a tort settlement, whether the settlement is entered into by the person or the person's guardian. If the settlement is received as a one-time payment, the facility financial staff shall treat it as a lump sum. If the settlement is structured to be paid over a period of time, the facility financial staff shall evaluate the property as those funds become available to the resident. This item applies only to settlements entered into after April 9, 1990.

Subp. 2. **Real property limitations.** Real property owned by an applicant or resident must be excluded from consideration as an available resource, subject to the limitations in items A and B.

A. The facility financial staff shall exclude the homestead of an applicant or resident from consideration as a resource according to the provisions in subitems (1) to (4).

(1) The spouse of an applicant or resident or the dependent child or children of the applicant or resident, if any, must occupy the homestead.

(2) An applicant or resident or spouse of an applicant or resident who is purchasing real property through a contract for deed and using that property as a home is considered the owner of real property.

(3) The total amount of land that can be excluded under this subpart is limited as specified in Minnesota Statutes, section 510.02. Additional contiguous platted lots must be assessed as to their legal and actual availability according to subpart 1.

(4) When real property that has been used as a home by an applicant or resident, the spouse of an applicant or resident, or the dependent child or children of an applicant or resident is sold, the facility financial staff shall treat the proceeds from that sale as excluded property for a period of two years if the person intends to reinvest them in another home and maintains those proceeds, unused for other purposes, in a separate account. If the property is held jointly, any earnings that accrue on the sales proceeds before reinvestment or any excess proceeds not used for reinvestment must be treated as joint income or property and divided according to subpart 1, item A.

B. Real property being sold on a contract for deed must be excluded if the net present value of the contract in combination with other property does not exceed the limitations in parts 9050.0560 and 9050.0600. If the present value exceeds limitations, the contract payments must be considered as income to the applicant or resident. If the contract is sold, proceeds from the sale must be treated as lump sum payments.

C. Real property that is rental property leased at a market rent and producing a net income must be excluded. If the property is sold, the proceeds must be treated as lump sum payments.

D. Real property on or in which the person operates a business that is anticipated to produce a net income must be excluded. If the property is sold, the proceeds must be treated as lump sum payments.

E. Real property that is not salable must be excluded. If the property is an asset that must be liquidated for the resident or applicant to meet the financial needs established by the maintenance charge calculations, the property must be sold within six months of the determination of financial need or within six months of the date of initial admission,

whichever is later, unless the property is not salable. For purposes of this item, "not salable" means:

(1) two neutral licensed professionals agree that the property is not salable due to a specified condition; if the nonsalable condition is due to an action taken by the applicant or resident within the 12 months prior to the initial admission, there is a presumption that the action was an improper transfer pursuant to part 9050.0650, subpart 3, and is subject to the considerations listed in that subpart; or

(2) an actual good faith sale attempt was made at a price not more than an estimate of the highest current market value obtained within six months of application for admission or since the last determination of the maintenance charge, but no offer to purchase was received. The market value price estimate must be based upon the written estimates from two licensed real estate professionals. If a purchase offer at the lowest professional market value price estimate was received but was rejected by the seller, it is presumed that the failure to sell the property was due to an improper action on the part of the seller. The lowest market price estimate must be the figure taken into account in determining the resident's maintenance charge or the spousal allowance.

For purposes of subitems (1) and (2), the source of information must be from the same geographic area as the property and knowledgeable about the value of the type of property offered for sale. For purposes of subitem (2), "an actual sale attempt" means the individual has listed the property with a licensed real estate broker or salesperson or, if the property is offered for sale by the owner, the owner has affixed to the property a prominently posted, conspicuous sign that is readable from the road or driveway entrance. The sign must include in large, legible type a notice of the sale and the address or phone number of the owner. The owner must prominently advertise the property for sale in the official newspaper of the county, the newspaper of largest circulation in the county, or the local shopper. The minimum period of an actual sale attempt is 90 consecutive days. If a property has been determined to be nonsalable, the owner of the property must offer it for sale again or establish it is still nonsalable within two years after the date of the last determination of nonsalability.

F. Other real property must be excluded if required by federal law, federal regulations, or state law.

Subp. 3. **Other property limitations.** The facility financial staff shall exclude the value of the following personal property:

A. one motor vehicle, for personal use. The motor vehicle must be kept for the primary use of the resident, spouse, or dependent child. The person for whom the vehicle is intended must have a valid driver's license. The administrator has discretionary authority to permit a waiver on the driver's license requirement;

B. the value of a prepaid burial account, burial plan, burial contract, or burial trust up to an amount set by the commissioner of veterans affairs or the entire amount of an investment made prior to the date of initial admission, whichever is greater. The commissioner of veterans affairs shall establish and annually review the items categorized under "burial account," "burial plan," "burial contract," and "burial trust" and establish maximum value allowance limits on those items. The allowance set by the commissioner of veterans affairs for total burial and funeral costs must not be below \$5,000;

C. 50 percent of property owned jointly with a spouse;

D. household goods and furniture and personal effects, wearing apparel, and jewelry regularly used by the applicant or resident in day-to-day living;

E. the value of personal property needed to produce income for a business or farm, including tools, implements, farm animals and inventory, or capital and operating assets of a trade or business necessary to income production, and if the property is sold, the proceeds must be treated as lump sum payments; and

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F. other personal property specifically excluded by federal law, federal regulation, or state law.

Subp. 4. **Separate account for excluded funds.** Funds excluded from consideration as an available resource by subpart 2 or 3 must be placed in an account separate from other funds to retain the exclusion. Upon application for admission and redetermination of a maintenance charge, the facility financial staff shall inform the person in writing of the requirement to place excluded funds in a separate account.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0650 TRANSFERS OF PROPERTY.

Subpart 1. **Generally.** A person whose application for admission is pending or a current resident of a facility operated by the commissioner of veterans affairs shall declare all transfers or sales of property within ten days of the transfer or sale. The value of property transferred or sold must be treated as an available resource for payment of the resident's maintenance charge. The value of the property transferred or sold that will be applied against the property limits in parts 9050.0560 and 9050.0600 is the market value of the property at the time of the sale or transfer less any encumbrances on the property. A transfer for purposes of preserving an estate for heirs is the same as a transfer for the purposes of establishing eligibility for admission to a facility operated by the commissioner of veterans affairs or avoiding payment of a maintenance charge, except for transfers permitted under subpart 2, item B.

Subp. 2. **Permitted transfers.** Transfer or sale of property by or on behalf of an applicant or resident is permitted if the transfer or sale:

- A. takes place more than 12 months before the person's admission to a facility operated by the commissioner of veterans affairs;
- B. is to the applicant's or resident's spouse or dependent child or children before the person's admission to a facility operated by the commissioner of veterans affairs; or
- C. is for market value with the proceeds available for payment toward the person's cost of care.

Subp. 3. **Incorrect transfers.** A transfer or sale of property for less than market value within 12 months before admission or during the resident's stay in a facility operated by the commissioner of veterans affairs, unless permitted under subpart 2, is presumed to be for the purpose of establishing or maintaining eligibility for admission to or continued residence in a facility operated by the commissioner of veterans affairs or to avoid payment of the maintenance charge, unless the person furnishes convincing evidence to show that the transfer was for another purpose. Convincing evidence must include evidence that the person had no health or economic reasons to believe that nursing home or boarding care would be needed. Upon discovery of an incorrect transfer, a retroactive adjustment must be made in the maintenance charge assessed to the resident. If the property that was incorrectly transferred was in the resident's name, the maintenance charge must be increased to the full cost of care until the facility has been paid the value of the property that was incorrectly transferred in addition to the maintenance charge that would have otherwise been received. If the property that was incorrectly transferred was in the spouse's name only, the spousal allowance must be eliminated for the number of months which, when multiplied by the amount of the spousal allowance that would have been granted but for the incorrect transfer, equals the value of the property that was incorrectly transferred.

If a resident's maintenance charge or a spousal allowance is adjusted because of a transfer for less than fair market value, the resident, spouse, dependent, or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual's health or well-being. In evaluating a request for a waiver, the administrator shall take into account whether the individual was the victim of financial exploitation, whether the

individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be appealed to the commissioner of veterans affairs. An appeal to the commissioner of veterans affairs must be handled in the same manner as a hearing under part 9050.0580.

Subp. 4. **Loans of property.** An applicant or resident who lends property or on whose behalf property is loaned is considered to have transferred the property. The facility financial staff shall evaluate the transaction as a transfer of property under subparts 1 and 2. If the person receives adequate compensation for the loan or made the loan more than 12 months before the person's entrance into a facility operated by the commissioner of veterans affairs, the facility financial staff shall honor the loan. Adequate compensation must be shown by a written loan agreement and receipt of payments according to the schedule in the agreement. If the loan is payable on demand, is due, or is otherwise negotiable, the property is presumed to be available to the applicant or resident. This presumption may be overcome by convincing evidence presented by the person that the loan will not be repaid. Interest payments made by the borrower to the person are considered income in the month received and an asset if retained. Principal payments made by the borrower to the person are considered as assets.

Subp. 5. **Unacceptable compensation for transfer of property.** Services are not considered acceptable compensation for the transfer or sale of property. For purposes of this subpart, "services" means labor performed by one person for another person or entity. Goods are not considered compensation unless supported by contemporaneous receipts or other evidence of expenditure. The purchase of paid up life insurance with no cash surrender value available to the person while the person is a resident or within 12 months before admission must be considered a transfer of an asset without acceptable compensation.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0700 INCOME.

Subpart 1. **Evaluation of income.** The facility financial staff shall evaluate only income received by or on behalf of an applicant or resident when determining the maintenance charge payable by or on behalf of an applicant or resident. All payments, unless specifically excluded in subpart 3, must be counted as income. All income must be counted in the calendar month received, except for lump sum retroactive benefit payments calculated according to part 9050.0550, subpart 4. Income becomes property if retained after the month in which it is received, unless this part specifically states otherwise.

Subp. 2. **Availability of income.** Income must be attributed to the person who earns it or to the beneficiary of the income according to items A and B.

A. Funds distributed from a trust, whether from the principal holding or sale of trust property or from the interest and other earnings of the trust holdings, must be considered income when the income is legally available to or on behalf of an applicant or resident. Trusts are presumed legally available unless an applicant or resident can document by court order that the trust is not legally available. Trusts established other than by will by the person or the person's spouse under which the person may be the beneficiary of all or part of the payments from the trust and the distribution of the payments are determined by one or more trustees who may exercise discretion about the distribution to the person must be considered an available resource. This item applies regardless of whether the trust is irrevocable or is established for purposes other than to enable a person to qualify for admission to a facility operated by the commissioner of veterans affairs or whether the discretion of the trustees is exercised. A trust fund established by the applicant or resident on behalf of another person within 12 months before admission or during the resident's stay in a facility operated by the commissioner of veterans affairs must be considered transferred property under part 9050.0650.

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B. Income from jointly owned property must be divided equally among the property owners unless the terms of ownership provide for a different distribution of equity.

Subp. 3. **Excluded income.** The facility financial staff shall exclude the following from calculation of the applicant's or resident's gross income:

A. earnings derived from participation in a work therapy program while the person is a participant in the program; and

B. 50 percent of income received by or paid to an applicant or resident and spouse, jointly.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 16 SR 1801; L 2008 c 297 art 2 s 29*

9050.0710 CALCULATION OF GROSS INCOME.

Subpart 1. **Items included.** The facility financial staff shall calculate gross income by adding together the amounts of income from sources in subparts 1a to 6 plus any income defined in part 9050.0040, subpart 54, that is not otherwise included in the calculations.

Subp. 1a. **Earned income.** Earned income is treated according to items A to C.

A. Sick leave and vacation payments for earned or accrued leave time are earned income.

B. Earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when the payments are received over a lesser period of time.

C. The earned income tax credit, whether received from an employer or from the federal government, is earned income. An applicant or resident or spouse of an applicant or resident who is eligible for the earned income tax credit is required to apply for it. An applicant or resident may choose to apply for the credit either when the applicant or resident files an income tax return for the year in which the applicant or resident was eligible or in advance through the applicant's or resident's employer. A tax refund received due to earnings from a work therapy program must not be considered a means of support.

Subp. 2. **Self-employment earnings.** The facility financial staff shall determine gross earned income from self-employment by totaling gross receipts. Gross receipts from self-employment must be budgeted in the month in which they are received. Expenses must be budgeted against gross receipts in the month in which those expenses are paid, except for items A to C.

A. The purchase cost of inventory items, including materials that are processed or manufactured, must be deducted as an expense at the time payment is received for the sale of those inventory items, processed materials, or manufactured items, regardless of when those costs are incurred or paid.

B. Expenses to cover employee federal insurance contributions act payments (FICA), employee tax withholding, sales tax withholding, employee worker compensation, business insurance, property rental, property taxes, and other costs that are commonly paid at least annually, but less often than monthly, must be prorated forward as deductions from gross receipts over the period they are intended to cover, beginning with the month in which payment for those items is made.

C. Gross receipts from self-employment may be prorated forward to equal the period of time over which the expenses were incurred except that gross receipts must not be prorated over a period that exceeds 12 months. This provision applies only when gross receipts are not received monthly but expenses are incurred on an ongoing monthly basis.

Subp. 3. **Farm income.** Farm income is the difference between gross receipts and operating expenses, subject to the provisions about self-employment income. Gross receipts include sales, rents, subsidies, soil conservation payments, production derived from live-stock, and income from the sale of home-produced foods. Farm income must be annualized.

Subp. 4. **Rental income.** Income from rental property must be considered self-employment earnings when effort is expended by the owner to maintain or manage the property. When no effort is expended by the owner to maintain or manage the property, income from rental property must be considered unearned income. The facility financial staff shall total gross rental receipts to determine rental income. When an applicant or resident or spouse lives on the rental property, the facility financial staff shall divide the expenses for upkeep, taxes, insurance, utilities, and interest by the number of rooms to determine expense per room. The facility financial staff shall deduct expenses from rental income only for the number of rooms rented, not for rooms occupied by an applicant, resident, spouse, or household member.

Subp. 5. **Unearned income.** Unearned income is treated according to items A and B.

A. An amount must be deducted for costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

B. Payments for illness or disability, except those payments described as earned income in subpart 1a, item A, must be considered unearned income whether the premium payments are made wholly or in part by an employer or by an applicant or resident.

Subp. 6. **Lump sums.** A lump sum is considered an asset immediately upon receipt unless it is a contractual payment or retroactive payment of benefits. Rebates of federal taxes and state taxes are not considered a means of support.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 28 SR 1251*

9050.0720 CALCULATION OF NET INCOME; DEDUCTIONS FROM INCOME.

Subpart 1. **Calculation method.** The facility financial staff shall calculate the net income of an applicant or resident by totaling all sources of gross income identified in part 9050.0710 and subtracting from gross income the applicable deductions allowed in subpart 2.

Subp. 2. **Deductions from income of applicant or resident.** The facility financial staff shall deduct the expenses in this part and parts 9050.0730 and 9050.0740 from gross income to determine net income. Deductible items include:

- A. state and federal income tax payments and withholdings consistent with the number of allowable exemptions;
- B. FICA payments;
- C. mandatory retirement fund payments;
- D. actual reasonable unreimbursed expenses of child care necessary to earn an income and paid to anyone other than a parent of the child;
- E. union dues;
- F. professional association dues if they are required to obtain or retain employment;
- G. health and dental insurance premiums, whether mandatory or voluntary, and supplemental health care premiums for the resident or applicant if cost effective;
- H. cost of uniforms, tools, and equipment used on the job that are required to retain a job but are not furnished by the employer;
- I. cost of meals during employment hours for each day the person is employed;
- J. public liability insurance premiums if they are required by the employer when an automobile is used in employment and the premiums are not paid by the employer;
- K. court-ordered support payments actually paid directly by the applicant or resident or withheld by the employer and transferred to a child or spouse not living with the applicant or resident or to a different former spouse of the applicant or resident;

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L. voluntary support payments for dependent spouse or household according to part 9050.0750;

M. Medicare insurance payments;

N. Medicaid spend down payments actually made according to part 9505.0065, subpart 11;

O. payment of documented medical expenses not related to long-term care, incurred prior to the person's admission to the facility operated by the commissioner of veterans affairs, for which the person is legally responsible. For the purposes of this item, long-term care expense or debt includes expenses incurred for nursing homes, hospice care, home health care, foster care, adult day care, or similar nonacute care, that were incurred more than 30 days prior to the resident's admission;

P. educational expenses actually paid by the person that are not covered by United States Department of Veterans Affairs educational expense benefits or other government or private scholarships, loans, or grants if there is demonstrated progress by the person towards completion of an educational program as part of the person's individual care plan. If there is a dispute over whether or not an item is an educational expense, the administrator shall make a final determination of the issue;

Q. guardianship or conservatorship fees to the extent allowed by Minnesota law or by court order; and

R. cost of transportation related to employment. For the person who uses public transportation or takes part in a car pool, the facility financial staff shall deduct the fare or fee the person actually pays. For the person who uses a private motor vehicle, the facility financial staff shall deduct the amount per mile allowed on the most recent federal income tax return for actual miles driven for business purposes.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 18 SR 2254; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0730 DEDUCTIONS FROM RENTAL INCOME.

In calculating net rental income, the facility financial staff shall deduct the rental property costs in items A to C from total rental receipts. The rental property costs must be prorated according to shares of ownership if the property is jointly owned. Money deducted from rental income under items A to C must be excluded as income in the month of receipt and as an asset if the funds are retained after the month of receipt. The retained funds must be placed in a separate account until used for:

A. upkeep and repairs, an annual amount equal to a maximum of two percent of the property's market value or a lesser amount as requested by the person;

B. real estate taxes, premiums for insurance on the property, and mortgage or contract for deed payments, payment of interest and principal; and

C. utilities specified as the owner's responsibility in the rental agreement.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355*

9050.0740 DEDUCTIONS FROM SELF-EMPLOYMENT INCOME.

In calculating net self-employment income, the facility financial staff shall deduct from the total business receipts the costs of producing the income as allowed on the United States income tax schedule. However, capital expenditures, depreciation, and carryover losses claimed for business purposes on the most recent federal income tax return are not deductible business expenses. Net self-employment income, if greater than zero, must be added to other earned and unearned income to determine income for purposes of calculating

the maintenance charge payable by or on behalf of an applicant or resident. Losses from self-employment income may not be deducted from other earned or unearned income.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355*

9050.0750 DEDUCTION FOR VOLUNTARY SUPPORT OF DEPENDENT SPOUSE OR HOUSEHOLD.

Subpart 1. **Generally.** The facility financial staff shall deduct from the applicant's or resident's gross monthly income calculated under part 9050.0710 the amount necessary to meet the basic needs of the dependent spouse or household as calculated under this part. The applicant or resident or spouse of an applicant or resident who requests a deduction under this part must verify the monthly expenses of the dependent spouse or household that are not met by income or resources otherwise available to the dependent spouse or household.

Subp. 1a. **Eligibility of dependent spouse for spousal allowance.** A spouse being considered for a maintenance allowance must disclose any asset, income, or expense information that is requested at the time of application or admission, at the time the maintenance allowance is requested, or at any subsequent time the maintenance is adjusted.

Subp. 1b. **Commissioner of veterans affairs authority to establish, review, and revise spousal allowance basic needs and personal needs expenditures.** The commissioner of veterans affairs shall establish and annually review the items categorized under "basic needs" and "personal needs" and allowance limits on categories of expenses covered within those definitions. The commissioner of veterans affairs shall revise the allowances as necessary to reflect a reasonable sum for the average person. If the commissioner of veterans affairs does not take action to review the allowance, the allowance must be adjusted by multiplying it by the percentage of change of the Consumer Price Index (CPI) on the first day of each calendar year. The initial recommendations presented to the commissioner of veterans affairs must be based upon a review of the actual allowances currently being used at each home, data from the Bureau of Labor Statistics, or a combination of the two. Future recommendations must be based upon the current allowances, requests for increased allowances that have been received by the homes, and data from the Bureau of Labor Statistics.

If a spouse believes that an allowance as based upon the allowance limits is insufficient to meet the spouse's needs, the spouse or a legal representative may submit a written request to the administrator for a waiver. The decision to grant or deny a waiver must be based on assets, income, or expense information provided under subpart 1a. The reasons for granting or denying the waiver must be put in writing and delivered to the spouse or the legal representative. If the waiver is granted, the administrator shall indicate the amount of the revised spousal allowance and the duration of the waiver. No waiver may be granted for more than one calendar year. A spouse may apply for an additional waiver upon the expiration of an existing waiver.

Subp. 1c. **Spousal benefit applications.** If a spouse or dependent wishes to obtain spousal allowance payments, the spouse, dependent, or legal representative must apply for the maximum of every benefit for which the spouse or dependent may be eligible that will increase the income of the spouse or dependent. The benefit must be applied for only if the spouse or dependent is eligible to receive the full amount of the benefit, without penalty for making the claim or withdrawal at that time. The facility staff shall provide a spouse, dependent, or legal representative information about possible available benefits or programs of assistance and shall assist in applying for those benefits.

Subp. 2. **Determination of spouse's or dependent's monthly expenses.** The deduction for the basic needs of the dependent spouse or household is the sum of the following

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expenses, prorated on a monthly basis as they are incurred or can be estimated with reasonable certainty:

A. expenses related to the homestead as follows:

(1) monthly rent, mortgage, or home equity loan payments, except that home equity loans obtained after the date of a resident's admission must be related to expenses of the homestead or other basic needs for which a deduction is requested;

(2) costs of supporting a dependent child or children residing with the spouse. Allowances for education of the child beyond high school or the equivalent of high school must not be considered. Student loans must not be considered as an allowance expense. If there is a dispute over whether or not an item is an education expense, the administrator shall make a final determination on the issue;

(3) real estate taxes;

(4) homeowner's or renter's insurance;

(5) home maintenance and repair costs in a reasonable amount. Allowances are provided for home maintenance to keep the homestead presentable and in good working order. Allowances are not provided for improvements such as adding space or remodeling, except as necessary for physical access for the spouse or dependent;

(6) association fees for townhouses, condominiums, or similar arrangements;

(7) electric and gas charges;

(8) water and sewer charges;

(9) solid waste removal charges; and

(10) telephone costs;

B. transportation costs, including costs of public transportation and costs of acquiring and maintaining a privately owned motor vehicle;

C. food;

D. clothing;

E. medical insurance for the spouse and the applicant's or resident's dependent child or children residing with the spouse and long-term care insurance premiums for the spouse if the policy was purchased at least 12 months before the resident's initial admission date;

F. medical expense payments, except for expenses related to long-term care treatment. For the purposes of this item, long-term care expense includes expenses incurred for nursing homes, hospice care, home health care, foster care, adult day care, or similar nonacute care;

G. personal needs of the spouse or dependent child or children;

H. payments for documented consumer debts incurred before the resident's admission to a facility operated by the commissioner of veterans affairs for which the spouse is legally responsible. The payments may be limited to the minimum monthly payment due; and

I. support payments actually paid by the spouse to a former spouse or dependents who do not reside with the spouse.

Subp. 2a. **Resources excluded.** In determining a spouse's or household's available resources, the facility financial staff shall exclude from consideration the following:

A. real property excluded under part 9050.0600, subpart 2;

B. one motor vehicle per household, for personal use;

C. household goods and furniture, personal effects, wearing apparel, and jewelry regularly used by the spouse or dependent child or children in day-to-day living;

D. the value of personal property used to produce business or farm income, including tools, implements, farm animals, and inventory, or capital and operating assets of a trade or business necessary to income production;

E. life insurance policies purchased prior to the date of initial admission for residency;

F. individual retirement accounts, Keogh accounts, or other pension or deferred compensation plan accounts;

G. burial accounts, burial plans, burial contracts, or burial trusts;

H. other personal property specifically excluded by federal law, federal regulation, or state law; and

I. savings accounts or other monetary investment instruments that are income producing.

Subp. 2b. Application of dependent spouse's or household's available resources.

If an applicant or resident, or the spouse of an applicant or resident, requests a deduction from the applicant's or resident's gross monthly income for support of a dependent spouse or household, the facility financial staff shall verify the available resources of the dependent spouse or household. All resources listed in subpart 2a must be excluded for the purposes of determining availability of resources. If the facility financial staff has verified that the dependent spouse or household has no resources available other than excluded resources, a deduction from the applicant's or resident's gross monthly income must be calculated according to subpart 3.

Available resources must be calculated to include assets belonging to the spouse as of 12 months before the date of admission. Asset transfers to the applicant are permissible. Any action by a spouse within the 12 months before the initial admission for residency that defers income from an asset, limits the liquid value of an asset, or makes an asset unusable is presumed to be improper. If property or resources have been incorrectly transferred, the spousal allowance will be adjusted in accordance with part 9050.0650, subpart 3. Any asset transfer or sales after the date of initial admission by a spouse to anyone other than the resident is an incorrect transfer and part 9050.0650, subpart 3 applies, unless the proceeds of the transfer or sale are used by the spouse or dependent for normal living expenses.

If a maintenance charge or a spousal allowance is adjusted because of an incorrect transfer, the resident, spouse, or dependent or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual's health and well-being. In evaluating a waiver, the administrator shall take into account whether the individual was a victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be appealed to the commissioner of veterans affairs. An appeal to the commissioner of veterans affairs must be handled in the same manner as a hearing under part 9050.0580.

Subp. 3. Calculation of amount of deduction. The facility financial staff shall calculate the amount to be deducted from the applicant's or resident's monthly income for support of a dependent spouse or household as follows:

A. calculate the spouse's gross monthly income using the method for calculation of the applicant's or resident's gross income in part 9050.0710, then subtract the following deductible items:

(1) state and federal income tax payments and withholdings consistent with the number of allowable exemptions;

(2) FICA payments;

(3) mandatory retirement fund payments;

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(4) voluntary retirement fund payments. The payment amounts must not exceed the average of the monthly sums paid by the spouse during the 12 to 24 months prior to the resident's initial admission;

(5) actual reasonable unreimbursed expenses of child care necessary to earn an income and paid to anyone other than a parent of the child;

(6) union dues;

(7) professional association dues if they are required to obtain or retain employment;

(8) cost of uniforms, tools, and equipment used on the job that are required to retain a job but are not furnished by the employer;

(9) public liability insurance premiums if they are required by the employer when an automobile is used in employment and the premiums are not paid by the employer; and

(10) Medicare insurance payments;

B. total the spouse's monthly expenses as determined under subpart 2;

C. subtract item B from item A; and

D. the amount by which item B exceeds item A is the amount allowed as a deduction for the dependent spouse or household.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 20 SR 2095; 28 SR 1251; L 2005 c 56 s 2; L 2008 c 297 art 2 s 29*

9050.0755 CALCULATION OF CHARGEABLE INCOME OF APPLICANT OR RESIDENT.

The chargeable income of an applicant or resident is as follows:

A. total the person's gross income according to part 9050.0710;

B. subtract from the total gross income the applicable expenses or deductions in parts 9050.0720 to 9050.0750 to get the net income;

C. subtract from net income \$90 for personal needs;

D. multiply item C by 0.05 and deduct this amount from item C; and

E. the sum calculated in item D is the applicant's or resident's monthly chargeable income.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 20 SR 2095*

9050.0760 ANTICIPATING INCOME.

Income must be anticipated on a semiannual basis for all applicants or residents. Anticipated income must be determined using the method in items A to G that most accurately reflects the circumstances of the person.

A. If income is unvarying in amount and timing of receipt, an eligibility statement or wage stub must be used to verify the amount of the income. Examples of unvarying income are social security payments, pensions, unemployment compensation, and fixed salaries. For purposes of this item, "eligibility statement" means a document from a payer informing the person of eligibility for the amount of income.

B. Income that is expected to fluctuate slightly must be anticipated by using the income in the month of admission or redetermination. Monthly income must be calculated by multiplying:

(1) average weekly income by 4.3;

(2) average biweekly income by 2.16; or

(3) average semimonthly income by 2.

C. If income is expected to fluctuate but does not follow a seasonal pattern, monthly income is the average of monthly income received during the three most recent months.

D. If income fluctuates within a seasonal pattern but is reasonably stable from year to year, monthly income is the average of monthly income during the most recently completed calendar year.

E. Except as provided in item G, monthly farm income is the average of monthly income for the three most recent years during which the farm has been in operation.

F. Zero income must be used for any month in which no source of income is reasonably certain.

G. If the applicant or resident has had a recent financial change that makes a method in item C, D, or E an inaccurate predictor of future income, the facility financial staff shall make a reasonable estimate of future income and document the income basis used.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355*

9050.0770 BENEFITS APPLICATION REQUIRED.

An applicant or resident or legal representative, if any, must apply for the maximum of every benefit for which the applicant or resident may be eligible that will increase the income of the applicant or resident. The staff of the facility operated by the commissioner of veterans affairs shall provide an applicant or resident or legal representative information about possible available benefits or programs of assistance and assistance in making application for those benefits.

If the facility staff determines that an applicant or resident is not able to manage personal financial affairs, the facility staff shall recommend that the facility be authorized to receive and disburse benefit payments for which the applicant or resident may be eligible.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 20 SR 2095; L 2008 c 297 art 2 s 29*

9050.0800 FINANCIAL INFORMATION AND INTERVIEW.

Subpart 1. **General conduct.** An applicant or resident should be present at an interview held to determine the applicant's or resident's ability to pay or to obtain financial information from the applicant or resident. If the applicant or resident is unable to participate in the meeting, the person's legal representative or the secondary source of information in part 9050.0810, subpart 2, must be present. If the legal representative or secondary source of information attends the meeting instead of the applicant or resident, the reason that the resident or applicant was not personally present must be placed in the applicant's or resident's financial information file.

Subp. 1a. **Disclosure of all assets, property, and income.** Prior to admission and whenever the resident's maintenance charge or the spousal allowance is recalculated, the applicant or resident, spouse and dependent, if any, shall disclose all of their assets, property, and income and any change in the known valuation of those items.

Subp. 2. **Rights, duties, and consequences of interview and providing information.** Before conducting an applicant's or resident's interview to determine financial status or ability to pay, the facility financial staff shall provide the following information to the applicant or resident, spouse or dependent as applicable:

A. inform the person that the person may choose an individual to assist in the determination process and any other contact with the commissioner of veterans affairs or the commissioner's designated representative by authorizing that assistance in writing;

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B. inform the person that the requested information will be used to determine ability to pay and to calculate the resident's maintenance charge or the spousal allowance;

C. inform the person that financial information obtained from or about the applicant or resident, spouse or dependent may not be released without the person's written consent, except pursuant to Minnesota Statutes, chapter 13, to specific state and federal agencies including the Minnesota Department of Veterans Affairs, Legislative Auditor, and United States Department of Veterans Affairs;

D. inform the person of the person's legal obligation to provide sufficient information, required documents, and proof necessary to determine ability to pay and the consequences of failure to do so;

E. inform the person that failure to supply the requested information must result in a determination that the person is able to pay the full cost of care and that if a person supplies false information the resident may be subject to discharge or the spousal allowance may be subject to a decrease or elimination;

F. provide the person with an information pamphlet on the cost of care and review with the applicant or resident how the commissioner of veterans affairs determines the cost of care and how the amount an applicant or resident must pay toward that cost is determined;

G. inform the person of county, state, and federal financial programs that may assist in paying the cost of care and meeting personal and family needs;

H. provide the person with forms approved by the commissioner of veterans affairs used to verify or investigate financial resources including:

- (1) statement of income and net worth;
- (2) statement of expenses;
- (3) authorization to release information;
- (4) maintenance rate affidavits; and

(5) other disclosure and verification forms the commissioner of veterans affairs reasonably requests to fully evaluate the applicant's or resident's financial status or the financial status of the applicant's or resident's legal representative or spouse, if any; and

I. request that the person complete and sign the authorization forms provided and provide verification or documentation of financial information.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 20 SR 2095; 28 SR 1251; L 2008 c 297 art 2 s 29*

9050.0810 SOURCES OF FINANCIAL INFORMATION.

Subpart 1. **Applicant or resident primary source.** An applicant or resident is the primary source of financial information to determine ability to pay except when the management of the applicant's or resident's financial affairs is in the hands of a legal representative. If the applicant or resident is not the source of financial information, the reason must be noted in the applicant's or resident's financial information file.

Subp. 2. **Secondary or alternate sources of information.** If an applicant or resident is not able to act on the applicant's or resident's own behalf, the person interviewed to obtain financial information must be, in order of priority, the applicant's or resident's legal representative or spouse, if any.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355*

9050.0820 VERIFICATION OF FINANCIAL INFORMATION.

Subpart 1. **Verification required.** Information provided by the applicant or resident, spouse, or legal representative, if any, in the financial interview, on the signed financial information form, and a financial status review under part 9050.0560, subpart 1, must be verified by the facility financial staff.

Subp. 2. **Information to be verified.** The following items must be verified:

- A. income;
- B. insurance benefits;
- C. property;
- D. expenses or deductions claimed;
- E. legal relationship between the applicant or resident and dependent spouse and children, if support will be requested under part 9050.0750;
- F. social security benefits;
- G. United States Department of Veterans Affairs benefits;
- H. pensions and annuities; and
- I. transfers of property according to part 9050.0650.

Subp. 3. **Time of verification.** The facility financial staff must request verification of the required information no earlier than 60 days before the applicant is anticipated to reach the top of the waiting list, if one exists or admission if no waiting list exists and no later than 30 days following the date of admission or date of financial status review or other review of financial status as provided in part 9050.0560, subpart 1.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 20 SR 2095; 28 SR 1251*

9050.0900 AUTHORIZATION FORMS.

Subpart 1. **Required.** An applicant or resident, spouse, or legal representative, if any, shall provide a separate signed authorization form for each verification that must be obtained from a third party.

Subp. 2. **Content.** The authorization form must contain the following information above the person's signature:

- A. person's name;
- B. date;
- C. information authorized;
- D. who is authorized to give the information;
- E. to whom the information is to be given;
- F. information's use; and
- G. date of expiration of the authorization.

A separate form must be signed and completed for each authorization of access. The period of the authorization must not exceed one year.

Subp. 3. **Refusal to sign authorization forms; consequences.** Failure to complete and sign authorization forms on or by the day of admission must result in the resident being refused admission to the facility. The applicant or resident, applicant's or resident's legal representative, or spouse must complete the following tasks within 30 days of the financial interview or other authorized request:

- A. complete and sign a financial information or authorization form;
- B. apply for insurance or other benefits for which an applicant, resident, or spouse of an applicant or resident may be eligible;
- C. complete assignment of benefits forms required by third-party payers;
- D. sign authorizations for release of medical records; and
- E. provide verification of information given on financial disclosure forms.

Providing false information relating to items A to E results in disqualification of an application for admission or in discharge of a resident under part 9050.0200, subpart 3, item E. The maintenance charge must be redetermined or the application for admission

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must be reinstated or the discharge proceeding discontinued if the applicant, resident, or spouse takes the required action.

Statutory Authority: *MS s 198.003*

History: *14 SR 2355; 28 SR 1251*

9050.1000 RESIDENT CARE PLANNING.

An individual care plan must be developed, implemented, and maintained for each Minnesota veterans homes facility resident according to Department of Health and United States Department of Veterans Affairs nursing and domiciliary care regulatory standards.

The care plan must be consistent with the resident's medical treatment plan, as defined in part 9050.0040, subpart 74. The care plan must be developed by a multidisciplinary care plan team, as defined in part 9050.0040, subparts 58 and 80, based on an assessment of the resident's functioning, attitudes, behavior, and medical condition for use in integrating care and identifying service needs.

Residents may be involved in their individual care plans according to part 9050.1070, subpart 4.

The resident's care plan must be used by the facility staff involved in the resident's care, and reviewed and updated according to the regulatory standards of nursing and domiciliary care or when there is a significant change in the resident's condition. For the purposes of this part, "significant change in a resident's condition" means a new problem or a measurable improvement or worsening of an existing problem or condition.

Statutory Authority: *MS s 198.003*

History: *16 SR 1945*

9050.1030 RESIDENT CARE SERVICES.

Subpart 1. **General.** Care services provided to residents of Minnesota veterans homes must be consistent with the overall goals and obligations of each facility as expressed in statute, the homes' mission statements, and rules governing the facilities operated by the commissioner of veterans affairs, and must be consistent with available funding and limited if the service is not reimbursable by public or private resources according to Minnesota Statutes, section 144.651, subdivision 6.

Care services are provided according to Department of Health licensure regulations and the certification requirements of the United States Department of Veterans Affairs. Laws pertaining to resident care services include chapters 4655 and 4658; Minnesota Statutes, chapters 144 and 144A; United States Department of Veterans Affairs Code M-1, part 1, chapter 3; United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner of veterans affairs.

Payment of resident care services that are made available must be authorized by the commissioner of veterans affairs. The commissioner of veterans affairs shall determine annually which services will be paid for by the facilities operated by the commissioner of veterans affairs, based on appropriations.

A resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed in writing by the admission staff of each facility operated by the commissioner of veterans affairs or the resident's social worker, before or at the time of admission and when changes occur, of services that are included in the facility's basic per diem and of other services that may be available at additional charges.

The facility staff shall assist residents in obtaining information and making application for possible benefits or programs to which the residents are entitled according to parts

9050.0770 and 9050.0800, subpart 2, item G, and Minnesota Statutes, section 144.651, subdivision 17.

Subp. 1a. Provided services.

A. Each facility operated by the commissioner of veterans affairs shall provide at least the following services:

- (1) a medical director;
- (2) an attending physician;
- (3) primary care nursing services;
- (4) dietary services, including an adequately equipped kitchen at each facility operated by the commissioner of veterans affairs, and qualified facility staff to supply the necessary food requirements of the residents;
- (5) specialized rehabilitation services, such as physical therapy, occupational therapy, and speech therapy, to improve and maintain maximum functioning;
- (6) housekeeping services to ensure a clean, sanitary, and safe physical environment for residents and to keep the facility free from offensive odors, dust, rubbish, and safety hazards;
- (7) maintenance services to ensure that the physical plant is kept in a state of good repair and operation with regard to the health, comfort, safety, and well-being of residents and others;
- (8) transportation to and from approved medical providers provided or arranged for by each facility operated by the commissioner of veterans affairs, if the providers are located within the area regularly serviced by the transportation staff of the facility;
- (9) recreational therapy services;
- (10) on-site social work services; and
- (11) chaplain services, and private space provided for residents to meet with clergy of the residents' choice.

B. For purposes of item A, subitem (2), each resident must be assigned an attending physician who is responsible for overall medical care of the resident. A resident may choose a private attending physician at the resident's own expense if the physician agrees to comply with regulatory standards governing the facility.

The attending physician shall prescribe a planned regimen of resident care based on a medical evaluation of the resident's immediate and long-term needs. The attending physician must be identified on the resident's medical chart.

The attending physician shall make arrangements for the medical care of the resident in the event of an on-site emergency or a planned absence by the attending physician.

C. For purposes of item A, subitem (4), a qualified dietitian, as defined in part 9050.0040, subpart 34, or dietary supervisor if qualified, must be employed or contracted with to supervise the food service department of each facility. A qualified dietary supervisor is a person trained or experienced in the planning and preparation of meals as stated in part 4655.8510 or 4658.0605, subpart 2. A dietitian shall ensure that nutritional care plans are developed according to each resident's nutritional needs and that an individual diet card is maintained for each resident. The dietary staff shall prepare therapeutic diets as ordered by the resident's attending physician, according to federal and state standards.

Subp. 1b. Services made available. Each facility operated by the commissioner of veterans affairs must make the following services available:

A. mental health services, either on-site or through other means such as contract services, sharing agreements, or other arrangements, with mental health services offered on request by the resident or as determined by members of the resident's individual care plan team, which may include a staff psychologist, staff psychiatrist, or chemical dependency counselor;

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B. dental care services, including, but not limited to, cleaning of teeth by a dentist or dental hygienist, an examination of the resident's teeth and mouth by the dentist, taking of necessary X-rays as determined by the dentist, proper fitting of dentures, repair of dentures, and treatment of abnormalities caused by dentures as determined by the dentist. Each facility must have a written agreement with a licensed dentist or dentists to provide emergency dental care when necessary;

C. podiatric care services, through a podiatrist or physician, with the approval of the resident's attending physician;

D. optometric care services;

E. diagnostic services on written order of the resident's attending physician, examples of which include, but are not limited to, X-rays and laboratory work, such as blood tests;

F. pharmaceutical services;

G. transportation to and from medical providers; and

H. chiropractic care services, according to Minnesota Statutes, section 198.065, on written order of the resident's attending physician.

Subp. 2. [Repealed, 20 SR 2095]

Subp. 3. [Repealed, 20 SR 2095]

Subp. 4. [Repealed, 20 SR 2095]

Subp. 5. [Repealed, 20 SR 2095]

Subp. 6. [Repealed, 20 SR 2095]

Subp. 7. [Repealed, 20 SR 2095]

Subp. 8. [Repealed, 20 SR 2095]

Subp. 9. [Repealed, 20 SR 2095]

Subp. 10. [Repealed, 20 SR 2095]

Subp. 11. [Repealed, 20 SR 2095]

Subp. 12. [Repealed, 20 SR 2095]

Subp. 13. [Repealed, 20 SR 2095]

Subp. 14. [Repealed, 20 SR 2095]

Subp. 15. [Repealed, 20 SR 2095]

Subp. 16. [Repealed, 20 SR 2095]

Subp. 17. [Repealed, 20 SR 2095]

Subp. 18. [Repealed, 20 SR 2095]

Subp. 19. [Repealed, 20 SR 2095]

Statutory Authority: *MS s 144A.04; 144A.08; 198.003; 256B.431*

History: *16 SR 1945; 18 SR 2254; 20 SR 303; 20 SR 2095; L 2008 c 297 art 2 s 29*

9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.

Subpart 1. **Scope.** Residents of each facility operated by the commissioner of veterans affairs are guaranteed all rights expressed in Minnesota Statutes, section 144.651. Residents also have the right to exercise freedom of expression and assembly as guaranteed by the United States Constitution, Amendment I, the Minnesota Constitution, and Minnesota Statutes, section 198.32.

Residents shall cooperate with facility rules as specified in this chapter.

Subp. 2. **Information about rights.** On admission, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the Patient's and Resident's Bill of Rights expressed in Minnesota Statutes, section 144.651. If changes occur in the Patient's and Resident's Bill

of Rights during the resident's stay at the facility operated by the commissioner of veterans affairs, a resident, resident's guardian, legal representative, family member, conservator, or other person designated by the resident must be informed of and given a copy of the changes.

The Patient's and Resident's Bill of Rights must be posted in a conspicuous place in each facility operated by the commissioner of veterans affairs.

Subp. 3. **Resident care.** Residents have the right to appropriate and regular medical and personal care based on individual needs to promote continuity of care by facility staff and other persons providing health care services according to Minnesota Statutes, section 144.651. "Appropriate care" means care designed to enable residents to achieve their highest level of physical and mental functioning. Residents must be treated courteously and with respect.

Competent residents have the right to refuse treatment according to Minnesota Statutes, section 144.651, subdivision 12. Residents who refuse treatment, medication, or dietary restrictions must be informed of the likely medical or major psychological results of the refusal, with documentation in the resident's medical record. If a resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or if legal requirements limit the right to refuse treatment, the conditions and circumstances must be fully documented by the attending physician in the resident's medical record.

A resident whose care needs cannot be met according to part 9050.0070, subparts 3 and 4, must be denied continued stay subject to the appeals procedures in part 9050.0220.

Resident care must meet the standards of the Vulnerable Adults Protection Act found in Minnesota Statutes, section 626.557.

Subp. 4. **Resident care plan participation.** Residents have the right to participate in care planning and implementation of the care plan according to Minnesota Statutes, section 144.651, subdivision 10, unless medically contraindicated. Medical contraindication must be documented by the attending physician in the resident's chart.

Subp. 5. **Resident handbook.** On admission, a resident must be given a resident handbook. The handbook must be reviewed by social services staff or nursing staff with the resident or the resident's representative.

After reviewing the handbook, the resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the handbook and reviewed the handbook. This statement must be kept with the resident's admission agreement.

The resident handbook must contain:

- A. general information about the facility and resident care;
- B. rules and regulations of the facility;
- C. services available at the facility;
- D. Patient's and Resident's Bill of Rights found in Minnesota Statutes, section 144.651; and
- E. grievance procedures.

If changes occur concerning the information in the resident handbook, a resident must be informed of and given a copy of the changes. The resident or resident's representative must sign a statement indicating that the resident or representative received a copy of the changes.

Subp. 6. **Resident councils.** Residents may organize, maintain, and participate in a resident advisory council with elected officers to express feelings and thoughts about the facility, facility policies, and resident care issues according to Minnesota Statutes, sections 144.651, subdivision 27, and 144A.33; United States Department of Veterans Affairs Code M-1, part 1, chapter 3; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards and Guide for Inspection of

State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner of veterans affairs.

Space for resident council meetings must be provided at each facility operated by the commissioner of veterans affairs. Staff or visitors may only attend resident council meetings at the council's invitation.

The administrator shall designate a staff person, with approval of the resident council, to assist the council and respond to written requests that result from council meetings.

Minutes of resident council meetings must be kept and made available to residents and other persons as the resident council determines. Minutes of resident council meetings must also be made available to the Department of Health and the United States Department of Veterans Affairs to show that resident council meetings are being held at each facility.

The designated staff person or other appropriate staff persons shall inform the resident council of:

- A. resident rights and responsibilities;
- B. resident council organization and maintenance;
- C. laws and rules that apply to the facility and residents;
- D. resident care in the facility;
- E. human relations; and

F. resident self-help methods to increase quality of care and quality of life at the facility.

Subp. 7. **Family councils.** Each facility operated by the commissioner of veterans affairs shall have a family council that gives members an opportunity to express feelings and thoughts about the facility and facility conditions, resident care, rules and the effect of rules, policies, and procedures according to Minnesota Statutes, sections 144.651, subdivision 20, and 144A.33.

The facility shall support and encourage development of and participation in family councils and shall provide a private meeting place and necessary administrative support through a staff liaison appointed by the administrator and approved by the council. Attendance at family council meetings of individuals other than family council members must be at council invitation only.

Minutes of family council meetings must be kept and made available to family council members and other persons as the family council determines. Minutes must also be made available to the Department of Health to show that family council meetings are being held at each facility.

Subp. 8. **Legal assistance for residents.** Residents have the right of reasonable access to outside advocacy and legal services according to Minnesota Statutes, section 144.651, subdivision 30. On a resident's request, a designated staff person shall instruct and assist that resident in obtaining advocacy and legal assistance.

The opportunity for private communication between the resident and the resident's representative must be provided at the facility operated by the commissioner of veterans affairs.

Subp. 9. **Resident grievances and complaints.** A resident may voice grievances and complaints and recommend changes in rules, policies, and services of the facility operated by the commissioner of veterans affairs without retaliation according to Minnesota Statutes, sections 198.32, 144.651, subdivision 20, and 144A.13; United States Department of Veterans Affairs Code M-1, part 1, chapter 3; and United States Department of Veterans Affairs Guide for Inspection of State Veterans Homes Nursing Home Care Standards and Guide for Inspection of State Veterans Homes: Domiciliary Care Standards. United States Department of Veterans Affairs publications shall be available for review at each facility operated by the commissioner of veterans affairs.

On admission, each resident must be informed in writing of the right to complain. A notice of the right to complain must be posted in a conspicuous place in each facility operated by the commissioner of veterans affairs.

Residents may complain through the facility grievance and complaint procedures. A resident may also voice grievances to the administrator, the commissioner of veterans affairs, the commissioner of health, facility staff, other residents, the family council, or outside representatives of the resident's choice.

The grievance procedure at each facility operated by the commissioner of veterans affairs must include the following:

- A. a list of internal resources for use by the resident, such as the resident council or a grievance committee, and a list of community resources available to the resident;
- B. resident access to use of facility-approved forms for written grievances;
- C. the time limits for decisions to be made by the facility;
- D. an offer of assistance by social services staff, at the resident's request, in development and process of the grievance;
- E. a written response to each resident filing a formal grievance; and
- F. a statement that the resident making a complaint or grievance is free from retaliation, including freedom from restraint, interference, coercion, discrimination, and reprisals.

Subp. 10. **Restraints.** A resident has the right to be free from physical and chemical restraints imposed for purposes of discipline or convenience and not required to treat the resident's medical condition according to part 4655.6600.

Chemical and physical restraints may be imposed on a resident only on written order of a physician that specifies the duration and circumstances under which the restraints are to be used, except in emergency circumstances when administrative nursing staff takes temporary emergency measures until an order can reasonably be obtained. If the resident's behavior poses a significant threat of harm to self or others, the resident may be discharged or transferred to an appropriate care facility.

Locked restraints must not be used on residents. Doors to resident rooms must not be locked in a manner that would prevent immediate opening in case of an emergency.

Use of restraints must be recorded in the resident's record. The record must include a description of the precipitating behavior, the expected behavioral outcome, the actual behavioral outcome, an assessment of the need for continued use of the restraint, and the duration of use of the restraint.

Subp. 11. **Right to associate; visitors.** A resident may meet with or refuse to meet with visitors and participate in activities of commercial, religious, political, and community groups without interference, unless the activities infringe on the rights of other residents. This subpart complies with Minnesota Statutes, section 144.651, subdivisions 21 and 26.

Residents may receive visitors during visiting hours and, on request and availability, be provided privacy for visits during visiting hours. Visiting hours must be established by the facility administrator and be posted in plain view. Visitors to each facility operated by the commissioner of veterans affairs must follow facility rules.

Residents may receive private visits at any time from the resident's personal physician, religious advisor, or attorney. Residents diagnosed as critically ill may have visits from relatives, guardians, conservators, legal representatives, and persons designated by the resident at any time according to part 4655.1910.

Subp. 12. **Identity of physician and outside service providers.** In accordance with Minnesota Statutes, section 144.651, subdivision 7, facility staff shall give a resident, in writing, the name, business address, telephone number, and specialty of the physician responsible for coordination of the resident's care.

Residents receiving services from approved outside providers must be given, on request from the resident or resident's guardian, written information about the identity of the provider, including the name of the outside provider, address, telephone number, specialty of the physician, and a description of the service to be given.

Subp. 13. **Personal and treatment privacy.** A resident has a right to respect for the resident's privacy, individuality, and cultural identity as related to the resident's social, religious, and psychological well-being.

Privacy must be respected by other residents, staff, volunteers, and visitors. Individuals must knock on the door of a resident's room and obtain the resident's consent before entering, except in an emergency or when clearly inadvisable.

A resident has the right to privacy for the resident's medical and personal care program. Privacy must be respected during toileting, bathing, and other personal hygiene activities, except as needed for resident safety or assistance. Documentation of assistance given to or needed by a resident in personal hygiene activities must be maintained in the resident's chart.

Subp. 14. **Married residents.** Married residents have a right to privacy for spousal visits according to Minnesota Statutes, section 144.651, subdivision 28. If both spouses are residents of the facility, the couple must be permitted to share a room unless medically contraindicated and documented by the attending physicians in the medical records.

Subp. 15. **Privacy of resident records.** A resident has a right to confidential treatment of personal and medical records and may approve or refuse release of the records to any individual outside the facility operated by the commissioner of veterans affairs.

Medical records must be made available to persons at the facility operated by the commissioner of veterans affairs who are responsible for the direct care of the resident. All information contained in the resident's records must be handled in a manner consistent with chapters 1205 and 4655; the Government Data Practices Act under Minnesota Statutes, chapter 13, and sections 144.291 to 144.298 and 144.651, subdivision 16.

Written consent of the resident or the resident's guardian or conservator is required for the release of information concerning the resident to persons not otherwise authorized to receive it. Written consent of the resident must be handled in a manner consistent with Minnesota Statutes, section 13.04, subdivision 2.

Information to be released is limited to the items or information specified in the consent form.

Written consent for release of information need not be given when:

- A. consent may be implied from circumstances in which a reasonable person would believe the resident would have consented had the resident been able to consent;
- B. information released does not identify the individual resident;
- C. information is to be used within the facility for routine or other legitimate purposes such as evaluation, education, research, or financial audits; or
- D. release is mandated by statute, regulation, or court order.

Subp. 16. **Resident access to records.** On request, a resident must be given access to personal, financial, and medical records concerning the resident as provided under Minnesota Statutes, sections 13.04 and 144.291 to 144.298, and Code of Federal Regulations, title 42, part 2, section 2.23.

The facility staff shall supply to a resident complete and current information concerning diagnosis and treatment of the resident in terms and language the resident can reasonably be expected to understand. If it is medically inadvisable that the information be given to the resident, as documented by the attending physician in the resident's medical record, the information may be given to the resident's guardian, representative, or appropriate third party as specified in Minnesota Statutes, section 144.292. The resident, guardian, or appropriate third party must be shown the data without any charge.

On a resident's written request, facility staff shall furnish to the resident copies of the resident's records within five days, excluding Saturdays, Sundays, and legal holidays. With the consent of the resident, a summary of the record may be furnished instead. A reasonable fee related to the costs of copying may be requested.

If facility staff is unable to comply with a resident's request for information within five days, excluding Saturdays, Sundays, and legal holidays, staff shall inform the resident and may have an additional five days within which to comply with the resident's request, excluding Saturdays, Sundays, and legal holidays. If records are required in fewer than five days, facility staff shall make all reasonable efforts to comply with the request.

Subp. 17. **Mail.** Residents have the right to send and receive mail without interference according to Minnesota Statutes, section 144.651, subdivision 21. A resident with a legal guardian or conservator shall have mail handled according to written instructions from the guardian or conservator according to part 4655.1910, subpart 5. On request by the resident, the resident shall be given a written or oral statement regarding any restrictions on the resident's mail.

Subp. 18. **Telephone access and use.** Residents must have access to a pay telephone, at a convenient location within the facility operated by the commissioner of veterans affairs, where residents can make and receive calls. There must be at least one non-coin-operated telephone accessible at all times in case of an emergency according to part 4655.1910, subpart 4. "Emergency" has the meaning given in part 9050.0040, subpart 39.

For residents who need to speak privately, reasonable arrangements must be made by facility staff to accommodate the privacy of the resident's calls.

If restrictions on telephone access are medically advisable, the restrictions must be documented by the attending physician in the resident's medical record according to Minnesota Statutes, section 144.651, subdivision 21.

Subp. 19. **Resident vehicles.** Nonskilled care residents may keep one passenger vehicle, motorcycle, or motorized bicycle on the grounds of the facility operated by the commissioner of veterans affairs in which the resident resides. "Passenger vehicle" means a passenger automobile as defined in Minnesota Statutes, section 168.002, subdivision 24; a pickup truck as defined in Minnesota Statutes, section 168.002, subdivision 26; or a van as defined in Minnesota Statutes, section 168.002, subdivision 40. "Motorcycle" has the meaning given in Minnesota Statutes, section 168.002, subdivision 19. "Motorized bicycle" has the meaning given in Minnesota Statutes, section 168.002, subdivision 20.

A resident who wants to maintain a vehicle on the grounds of the facility shall register the make, model, color, year, and license number of the vehicle with the transportation service of the facility. The resident shall comply with applicable state statutes, including Minnesota Statutes, chapter 169, regarding payment of taxes, registration of vehicles, and safety standards; Minnesota Statutes, chapter 171, regarding operators' licenses and driving privileges; Minnesota Statutes, chapter 65B, regarding insurance coverage; and relevant rules.

Resident vehicles must be parked in designated parking areas with properly displayed facility identification decals.

A resident vehicle that is an abandoned vehicle as defined in Minnesota Statutes, section 168B.02, subdivision 2, must be handled in a manner consistent with Minnesota Statutes, chapter 168B.

Subp. 20. **Pets.** The administrator at each facility operated by the commissioner of veterans affairs, after consultation with facility staff and residents, shall determine whether pets, such as dogs and cats, will be allowed in the facility and whether individual residents will be permitted to keep the pets.

If pets are allowed in the facility, the requirements in items A to C, in accordance with part 4638.0200, must be met.

A. The facility staff, in consultation with a veterinarian and physician, shall develop and implement written policies and procedures describing the types of pets allowed and the procedures for maintaining and monitoring the health and behavior of the pets, and identify areas in the facility where pets are not permitted. Pets are not permitted in kitchen areas, medication storage and administration areas, or clean or sterile supply storage areas. Guide dogs accompanying a blind or deaf individual are permitted at each facility operated by the commissioner of veterans affairs.

B. A staff person, as designated in writing by the facility administrator, shall be responsible for monitoring or providing for the care, cleanliness, and maintenance of the pets, including fish. Residents or other individuals may also provide pet care.

C. The facility staff shall ensure that pets, including fish, do not jeopardize the health, safety, comfort, treatment, or well-being of residents or others, and shall assume overall responsibility for pets in the facility.

Pets or animals brought to the facility for visits must be preapproved by facility recreation staff and comply with this subpart.

Subp. 21. **Resident work therapy programs.** A resident may take part in a resident work therapy program on approval of the resident's attending physician or as recommended by the resident's attending physician and the resident's care team as part of the individual treatment or care plan.

The labor or services that the resident performs must be for therapeutic purposes and appropriately goal-related in the resident's care plan according to Minnesota Statutes, section 144.651, subdivision 23.

The labor performed by the resident must be other than labor of a housekeeping nature with respect to the resident's own living area and the resident must be compensated appropriately and in compliance with Minnesota law and the Federal Fair Labor Standards Act.

Earnings derived from participating in a resident work therapy program while the resident is living at the home may not be considered a means of support according to part 9050.0700, subpart 3, item A, and Minnesota Statutes, section 198.03.

Subp. 22. **Resident funds.** Resident funds must be handled according to parts 4655.1910, subpart 6; 4655.4100 to 4655.4170; and Minnesota Statutes, sections 144.651, subdivision 25; and 198.265, and be in compliance with items A to E.

A. A competent resident may manage personal financial affairs, or must be given at least a quarterly accounting of financial transactions on the resident's behalf if the resident delegates the responsibility to the facility for any period of time according to law.

B. If the facility staff determines that a resident is unable to manage personal financial affairs, the administrator or designee shall take appropriate steps to ensure that the resident's personal financial affairs will be appropriately managed, including, but not limited to, having the facility authorized to receive benefit payments on behalf of the resident from the Social Security Administration and the United States Department of Veterans Affairs and seeking appointment of a conservator or guardian.

C. Residents may keep money in a personal fund account at the facility operated by the commissioner of veterans affairs, as defined in part 9050.0040, subpart 90, and according to Minnesota Statutes, section 198.265, or in fund accounts off facility premises.

Resident fund accounts at the facility are solely for the resident's use, and the facility cashier shall retain sufficient liquid funds to satisfy normal demand withdrawal requests of residents and other anticipated needs. Resident accounts of \$100 or more must be credited with interest earned from the investment of resident accounts. Interest must be credited to each resident's account on a quarterly basis. The commissioner of veterans affairs is not required to pay interest on any resident accounts of less than \$100. If the commissioner of veterans affairs does not pay interest on a resident account of less than \$100, the interest

must be used by the commissioner of veterans affairs only for the direct benefit of the residents of the homes. Before depositing money in a fund account at the facility, a resident must sign an agreement that the resident is willing to have money in an account that may not draw interest directly to the resident, if the account balance is less than \$100.

Restrictions placed on a resident's personal funds by the resident, resident's guardian, or person responsible for the resident's fund account must be documented in the resident's treatment plan.

D. The cashier at the facility shall have regular posted hours during which residents may deposit or withdraw funds. The cashier shall give a receipt to persons depositing funds and ensure that withdrawal forms are signed when funds are withdrawn.

E. Unclaimed account balances at the facility must be disposed of according to Minnesota Statutes, sections 198.23 and 198.231.

Subp. 23. **Laundry service.** Boarding care residents must have access to laundry facilities in the domiciliary units for the laundering of personal clothing. The administration of each facility may determine and post hours for use of the laundry facilities.

Each resident must be provided clean linens weekly, or as needed, according to parts 4655.8300, 4658.1405, and 4658.1410. Boarding care residents may choose to launder their own linens.

Laundry services consisting of laundering of linens and personal clothing must be provided to nursing care residents.

Subp. 24. **Resident clothing.** Each resident must have a supply of personal clothing relative to individual needs. The administrator at each facility operated by the commissioner of veterans affairs shall determine the standards for marking the resident's clothing for laundering and identification purposes.

A resident or resident's representative is responsible for the condition of the resident's personal clothing and should contact the facility for assistance in maintenance of clothing.

Subp. 25. **Resident hygiene.** Residents shall maintain a reasonable state of body and oral hygiene based on the resident's physical and mental capabilities. Each resident shall receive nursing care or personal and custodial care and supervision based on individual needs according to parts 4655.6400, 4658.0520, and 4658.0525.

Subp. 26. **Room cleanliness and conditions.** Residents shall maintain personal rooms and personal items in a manner consistent with the safety, sanitary, and health regulations required by the Department of Health, United States Department of Veterans Affairs, state fire marshal, and other regulatory agencies.

Candles, oil lamps, or other items identified as flammable or hazardous by the state fire marshal are not allowed in resident rooms.

Floors in resident rooms must be clear of boxes, luggage, debris, and other materials to prevent congestion and health and safety hazards.

Residents may have electrical personal grooming items, clocks, audio and visual equipment, and approved portable fans as space and electrical capacity of the resident's room permits. Other electrical items may be permitted on written approval of administration or on written order of the resident's attending physician, and must be documented in the resident's medical record.

Items such as unapproved extension cords, hot plates, coffee makers, and electrical food appliances are prohibited in resident rooms.

Subp. 27. **Resident facility keys.** Each resident issued a personal room key or a key to locked spaces within the room shall return those keys to the facility on transfer or discharge. The resident may be charged the cost of replacing any lost keys.

Subp. 28. **Resident and facility property.** A resident may not damage another resident's property or the facility's property. A resident may be held financially responsible for property damaged or destroyed by the resident.

Subp. 29. **Resident's personal property.** In accordance with Minnesota Statutes, section 144.651, subdivision 22, a resident may retain personal possessions in the resident's personal living area as space permits, unless to do so would infringe on rights of other residents, or unless contraindicated for documented medical or safety reasons.

Personal property of deceased residents must be handled according to Minnesota Statutes, section 198.23. Personal property of discharged residents must be handled according to Minnesota Statutes, section 198.231.

Subp. 30. **Storage of resident's property.** Storage of a resident's property must be handled in compliance with items A to C.

A. The administration of each facility operated by the commissioner of veterans affairs may determine an assigned amount of storage space for a resident needing storage space for personal property outside of the resident's personal living area. Particular kinds of personal property may be excluded from the facility for reasons of space limitations or safety.

Facility staff shall maintain an updated, itemized inventory of each resident's property in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

Residents must have access to storage areas during hours that are determined by administration and must be accompanied by the facility staff member who is in charge of storage, or that person's designee. The hours for access to storage areas must be posted in one or more conspicuous places in each of the facilities operated by the commissioner of veterans affairs.

Cash may not be placed into storage.

Secure and temporary storage of a resident's possessions may be provided during a resident's emergency absence from the facility or on a specific request to the nursing staff from a resident leaving the facility on a personal absence.

The facility shall not accept resident possessions that cannot be accommodated in the facility storage areas.

B. A central, locked depository or locked storage area over which the facility has responsibility, in which residents may store valuables for safekeeping, must be provided at each facility operated by the commissioner of veterans affairs.

Facility staff shall maintain an updated, itemized inventory of each resident's valuables in storage, including the resident's name and signature, guardian's signature, date of the inventory, a detailed listing of the resident's property, and the storage location. The list must be kept in a separate location, with one copy kept with the inventoried property and one copy given to the resident.

C. The facility may provide compensation for or replacement of lost or stolen items according to Minnesota Statutes, section 144.651, subdivision 22, if the loss was caused by the facility's negligence, as required under Minnesota Statutes, section 3.732.

Subp. 31. **Smoking.** The administrator of each facility operated by the commissioner of veterans affairs shall designate smoking and nonsmoking areas according to chapter 4620 and Minnesota Statutes, sections 144.411 to 144.417. Residents may smoke in designated smoking areas only.

Smoking in resident rooms is prohibited, except that a bedridden resident may smoke with direct assistance from a staff person and only under written orders of the resident's attending physician. The orders must be documented in the resident's care plan.

Subp. 32. **Leaving the facility campus.** Residents shall notify administration or direct care staff before leaving the facility campus. The resident shall indicate to the appropriate staff member when the resident is leaving the facility campus, the expected time of return,

and, if possible, the destination and telephone number where the resident can be contacted in case of an emergency. The resident shall notify direct care staff on return to the facility.

If a resident's departure is likely to cause immediate serious physical harm to the resident or others, reasonable efforts may be made to inform the resident of the likely consequences of the resident's actions or departure.

Subp. 33. **Coffee shop and canteen.** Depending on space, resources, and available funds, a coffee shop with posted hours may be provided at each facility operated by the commissioner of veterans affairs. A canteen with posted hours where persons may purchase personal care items may also be provided.

Where canteens and coffee shops are operated by the facility, profits derived must be used only for the direct benefit of the residents of the homes according to Minnesota Statutes, section 198.261.

Subp. 34. **Alcoholic beverages.** The sale, distribution, consumption, and possession of alcoholic beverages are not allowed on the campuses of the Minnesota veterans homes or during facility-sponsored events according to Minnesota Statutes, section 198.33, except when consumption is prescribed by the resident's attending physician and documented in the resident's chart. An alcoholic beverage is a beverage containing any amount of alcohol.

Subp. 35. **Room inspections.** A resident room is subject to routine inspections by facility staff for compliance with safety, sanitation, health, and facility rules and regulations.

Subp. 36. **Searches of resident rooms.** Residents have the right to a legitimate expectation of privacy in their persons and property against unreasonable searches and seizures. A search of a resident's room or property must be conducted when necessary to protect the residents or others from contraband or other articles that are potentially injurious to residents, staff, volunteers, and visitors. All procedures of the search must be according to Minnesota Statutes, section 198.33, subdivision 1.

Subp. 37. **Contraband.** A resident may not possess contraband items at the facility campus. Contraband includes all illegal articles, firearms, weapons, ammunition, alcoholic beverages, nonprescribed prescription drugs, including narcotics and controlled substances.

Contraband is subject to seizure according to Minnesota Statutes, section 198.33, and must be disposed of according to applicable laws. A receipt must be given to the resident and the information must be documented in the resident's chart.

Subp. 38. **Double beds.** Double beds are not allowed in resident rooms at the Minnesota veterans homes.

Subp. 39. **Photographs, voice recordings, or videotapes.** Informed written consent is required before a resident may be photographed, voice recorded, or videotaped. Consent is not needed for identification photographs of the resident that are kept in the resident's chart at the facility operated by the commissioner of veterans affairs.

Statutory Authority: *MS s 144A.04; 144A.08; 198.003; 256B.431*

History: *16 SR 1945; 18 SR 2254; 20 SR 303; 20 SR 2095; 21 SR 196; 28 SR 1251; L 2007 c 147 art 10 s 15; L 2008 c 297 art 2 s 29*