

CHAPTER 9055
DEPARTMENT OF VETERANS AFFAIRS
ADMINISTRATION AND OPERATION

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9055.0010 PURPOSE.

This chapter governs the administration and operation of the Department of Veterans Affairs and must be interpreted to give effect to Minnesota Statutes, chapters 196 and 197.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0015 DEFINITIONS.

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

Subp. 2. **Accredited claims representative.** "Accredited claims representative" means a person recognized by the United States Department of Veterans Affairs for the purpose of helping people make claims for federal veterans benefits defined in United States Code, title 38.

Subp. 2a. **Administering entity.** "Administering entity" means a nonprofit or governmental entity including, but not limited to, an incorporated county or municipality, a housing development authority, or a community action organization, that provides local administration of public, not-for-profit housing programs.

Subp. 3. **Assets.** "Assets" means money in bank accounts, or cash or financial instruments readily convertible into cash. "Assets" does not include proceeds available from life insurance or burial insurance policies.

Subp. 4. **Claim.** "Claim" means a formal or informal communication in writing requesting a determination of eligibility for federal benefits defined in United States Code, title 38.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of veterans affairs.

Subp. 6. **Congressionally chartered veterans organization.** "Congressionally chartered veterans organization" means a veterans organization granted a national charter by the United States Congress to assist veterans in making claims.

Subp. 7. **Contested claim.** "Contested claim" means a claim by more than one party that is based on a single person's eligibility.

Subp. 8. **County veterans service officer.** "County veterans service officer" means a person employed by a county in Minnesota to assist veterans and their dependents in making claims.

Subp. 9. **Department.** "Department" means the Department of Veterans Affairs.

Subp. 10. **Department claims division.** "Department claims division" means the accredited claims representatives and their support staff.

Subp. 11. **Dependent.** "Dependent" means a spouse, a widow or widower, an unmarried child under the age of 19 years, a child who is a student under the age of 25 years and who

is financially dependent upon the parent, a child of any age who is disabled and dependent upon the parent, or a parent of the applicant or applicant's spouse who lives in the applicant's household and is financially dependent upon the applicant. "Child," as used in this subpart, includes legally adopted children, financially dependent stepchildren, foster children, and children under the guardianship of the applicant or the applicant's spouse.

Subp. 12. **Deputy commissioner.** "Deputy commissioner" means the deputy commissioner of veterans affairs for veterans services.

Subp. 13. **Discharge papers or equivalent.** "Discharge papers or equivalent" means a federal form issued at the time of separation from the armed forces of the United States indicating dates of service, character of service, and other pertinent data relating to the individual's military service. This may include, but is not limited to, form DD 214, form DD 215, or a report of separation.

Subp. 14. **Emergency medical treatment.** "Emergency medical treatment" means an unexpected occurrence or a set of circumstances demanding immediate professional medical attention to alleviate pain and suffering.

Subp. 15. **Income.** "Income" means earned and unearned income from any source, including windfalls, income tax refunds, property tax refunds, and rebates, reduced by amounts paid or withheld for federal and state income taxes, and social security taxes.

Subp. 16. **Institution of university grade.** "Institution of university grade" means the University of Minnesota, a state university, a community college, a technical college, or any other school of higher learning within the state accredited by the North Central Association of Colleges and Secondary Schools, a law college approved by the supreme court, a nursing school approved by the State Board of Nursing, a trade, business, or vocational school in the state approved by the State Department of Education, or a theological seminary.

Subp. 17. **Schedule of allowances.** "Schedule of allowances" means the schedule of maximum monthly allowances created by the department to determine the amount of assistance authorized under the state soldiers assistance fund. The schedule is incorporated by reference, is available in the state law library or from the commissioner at the Department of Veterans Affairs, Veterans Building, St. Paul, Minnesota 55155, and is subject to frequent change.

Subp. 18. **United States Department of Veterans Affairs.** "United States Department of Veterans Affairs" means that federal agency formerly known as the Veterans Administration, which administers federal benefits for veterans and their dependents arising out of service in the armed forces of the United States.

Subp. 19. **Utilities.** "Utilities" means electricity and fuels, including heating oil, natural and liquid propane gas, wood used for heating or cooking, coal used for heating or cooking, water service, whether provided through a common line or from a privately owned well, trash removal, and sewerage, whether provided through a common line or through a privately owned system.

Subp. 20. **Veteran.** "Veteran" has the meaning given in Minnesota Statutes, section 197.447. A veteran with more than one period of active duty military service must have at least one period of active duty military service which is characterized as having been under honorable conditions.

Subp. 21. **War orphan.** "War orphan" means the child of a veteran who has died as a result of active duty service in the armed forces of the United States, as determined by the United States Department of Veterans Affairs or other instrumentality of the United States.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0020 STATE SOLDIERS ASSISTANCE FUND.

Subpart 1. **Use of fund.** The commissioner shall administer the state soldiers assistance fund to financially assist veterans who reside in Minnesota and their dependents. The assistance may be in the form of temporary emergency assistance, payments for the costs of emergency medical treatments and services, and maintenance of the veteran's dependents during the time the veteran is disabled and without adequate means of supporting the veteran or the veteran's dependents.

Subp. 2. **Financial need.** Veteran applicants and their dependents shall demonstrate financial need for the assistance available under the state soldiers assistance fund. Need must be determined based on the schedule of allowances and the financial assets and income of the applicant, as stated on the application for assistance.

Subp. 3. **Medical need.** An applicant shall demonstrate medical disability severe enough to preclude the applicant from pursuing a normal occupation. The medical disability must be of at least 30 days' duration and must be verified by the applicant's physician. Continued medical disability must be demonstrated for continued financial assistance beyond the initial eligibility period.

Subp. 4. **Veteran status required.** An applicant must be a veteran as defined in Minnesota Statutes, section 197.447, or the surviving spouse or dependent of a veteran.

Subp. 5. **Residency required.** An applicant for assistance must reside in Minnesota at the time of application.

Subp. 6. **Assistance not to be used to supplement.** Benefits available to individuals under the state soldiers assistance fund must not be used to supplement or to add to assistance available to or received by the applicant from the general assistance or aid to families with dependent children programs.

Subp. 7. **Inpatient chemical dependency treatment; eligibility.** Applicants admitted to an approved inpatient chemical dependency treatment program may be eligible to receive temporary financial assistance in the form of shelter and utility payments, if they qualify for financial assistance under department income and asset limitations, as specified in the schedule of allowances, while the applicant is in an approved inpatient chemical dependency treatment program. Applications made while the applicant is in an approved inpatient chemical treatment program must be made effective the date of admission.

Upon successful completion of an approved inpatient chemical dependency treatment program, applicants may be eligible to receive financial assistance for one 30-day assistance period. For continued assistance beyond 30 days, applicants must meet the eligibility criteria in subparts 1 to 6. Applications submitted under this part more than 30 days after completion of an approved inpatient chemical dependency treatment program must include a written justification for the delay.

Subp. 8. **Assistance to widows, widowers.** Widows and widowers of veterans may apply for assistance without proof of disability any time within 12 months of the date of the death of the veteran.

Widows or widowers who apply for assistance more than 12 months after the death of the veteran must provide medical evidence of a disability severe enough to preclude their following their normal occupation for at least 30 days.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 17 SR 1279; 18 SR 273*

9055.0025 STATE SOLDIERS ASSISTANCE FUND; HOW SPENT.

The state soldiers assistance fund must be spent to temporarily assist eligible veterans and their dependents. Payments must be made in 30-day increments, beginning with the date of eligibility, as determined by the application.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0030 STATE SOLDIERS ASSISTANCE FUND; AMOUNT OF ASSISTANCE GRANTED; HOW CALCULATED.

Subpart 1. **Comparison.** The amount of assistance granted must be calculated by comparing the applicant's income and assets to the amount appropriate for the applicant's household size on the schedule of allowances.

Subp. 2. **Subtract income from schedule amount.** The amount of assistance granted must be calculated by subtracting the applicant's income from the amount appropriate for the applicant's family size, as determined from the schedule of allowances.

EXAMPLE: A veteran with a spouse and dependent child applies for assistance. Total income available to the household is \$75 per week, which is the spouse's take-home pay.

\$75 times 4.3 weeks per month equals \$322.50 average monthly income to the household. Schedule of allowances for a family of three is \$490. \$490 minus \$322.50 equals \$167.50, which would be issued to the veteran and family. In addition, current utility bills would be paid upon submission.

Subp. 3. **Asset limitation.** A person who has assets at or in excess of the maximum allowance according to the schedule of allowances may not receive financial assistance from the department under the state soldiers assistance fund.

Subp. 4. **Assistance limited to six consecutive months.** Applicants may not receive more than six consecutive months of financial assistance under the state soldiers assistance fund unless assistance beyond six months is authorized by the commissioner.

Subp. 5. **Assistance beyond six consecutive months.** Assistance beyond six consecutive months may be authorized only when the applicant has applied for long-term benefits such as Social Security retirement or disability benefits, workers' compensation, United States Department of Veterans Affairs disability compensation or pension benefits, private pension benefits, or similar benefits and a determination of eligibility for those benefits has not been rendered or benefits have not been paid by the responsible agency.

Subp. 6. **Shared households; calculation of utility allowance.** Applicants who share a household may be eligible to receive assistance under the state soldiers assistance program. Only the income and the assets of the eligible veteran and the eligible veteran's dependents may be considered in the calculation of income and assets used to determine eligibility under subparts 1 to 5.

Allowances for shelter and utility payments must be prorated based on the number of individuals residing in the shared household. Assistance must be authorized only for the amount of the prorated share of shelter and utility payments used by the eligible veteran and the eligible veteran's dependents.

Utility bills submitted for payment under this part must be in the name of the veteran or claimant. If the bill submitted for payment is in the name of someone other than the veteran or claimant, reimbursement for the applicant's prorated portion of the bill must be considered on submission of a copy of the bill and proof of payment of the bill.

Subp. 7. **Written recommendation of county veteran's service officer.** If immediate financial assistance is required to assist an eligible veteran or an eligible veteran's dependents and a statement of the applicant's qualifying medical disability cannot be furnished in a timely manner with the application, the department may authorize a single 30-day subsistence grant to the eligible veteran or eligible veteran's dependents, based on the written recommendation of a Minnesota county veteran's service officer.

The statement of the applicant's qualifying disability must be forwarded to the department as soon as possible, but in no instance later than 30 days after the date of the application.

Continued assistance beyond the initial 30-day period of assistance based on the recommendation of a Minnesota county veteran's service officer requires a completed application as outlined in part 9055.0055. The application will be completed by the county veteran's service officer.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0035 DETERMINING INCOME FROM SELF-EMPLOYMENT.

Subpart 1. **Gross income.** Gross income from self-employment includes, but is not limited to, income from the sale of goods or services, crops, livestock, produce, and machine rental, including wages paid to the owner or operator and capital gains or losses. Income must be calculated by subtracting allowed expenses from gross income.

Subp. 2. **Allowed expenses.** Allowed expenses include:

- A. interest paid on mortgages and loans;
- B. employee wages, other than wages paid to members of the applicant's household or paid to another person who must contribute to the applicant;
- C. FICA paid on employee wages;
- D. costs of raw materials, including seed and fertilizer;

- E. maintenance and repairs that are not capital expenditures;
- F. tools and supplies that are not capital expenditures;
- G. rent, utility payments, and insurance costs; and
- H. other expenses normally allowed by the Internal Revenue Service, except as specifically excluded in subpart 3.

Subp. 3. **Self-employment expenses not allowed.** Expenses from self-employment specifically not allowed are:

- A. net losses from another period of operation, federal, state, and local income taxes;
- B. the employer's own share of FICA;
- C. money set aside for the self-employed applicant's own retirement;
- D. work-related personal expenses, such as meals consumed on the premises;
- E. payments on loan principal;
- F. capital expenditures;
- G. charitable contributions;
- H. depreciation;
- I. wages or other benefits paid to members of the applicant's household or to persons who must contribute to the applicant;
- J. personal business and entertainment expenses;
- K. the costs of building an inventory; and
- L. any other expenses not specifically allowed by the Internal Revenue Service.

Subp. 4. **Determining monthly income.** Self-employment income must be averaged over 12 months. If the business has been in operation less than 12 months, income and expenses must be averaged over the number of months the business has been in operation to determine the average monthly income.

Subp. 5. **Irregular income periods.** If the applicant does not receive income on a monthly basis, the applicant's income and expenses must be averaged over the number of months the applicant earned the income to determine the average monthly income. No more than 12 months may be used to calculate monthly income.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0040 CALCULATION OF INCOME; EFFECT OF COURT-ORDERED CHILD SUPPORT PAYMENTS.

Subpart 1. **Inclusion in calculation.** Court-ordered child support payments, whether received or paid by the applicant's household, must be included in the calculation of household income and assets unless the applicant specifically asks that they not be included in the calculation of household income as outlined in this part.

Subp. 2. **Child support payments received.** Child support payments received by the applicant's household must be included in the calculation of income and assets if the child for whom support is received is included in the total number of members of the applicant's household for whom assistance is sought under the state soldiers assistance program. Child support payments under this calculation are considered available to the entire household.

Subp. 3. **Child support payments disregarded.** An applicant may elect not to include a child for whom support is received and who is a member of the applicant's household in the computation of the total number of members of the applicant's household. If the child is excluded from this computation, child support for payments for that child must also be excluded from the calculation of household income and assets.

Subp. 4. **Child support payments excluded.** An applicant for the state soldiers assistance program who is paying court-ordered child support payments may exclude the full amount of payments in the calculation of household income and assets if the following conditions are met:

- A. the applicant shall provide a current copy of the court order that orders child support payments; and

B. court-ordered child support payments made by the applicant must be current and up to date as of the date of the application. The applicant shall provide a written statement from the recipient of the claimed court-ordered child support payments that all support payments are current as of the date of the application for assistance under the state soldiers assistance program.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0050 METHOD OF PAYMENT.

Payments authorized by the commissioner must be made by the Department of Finance.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0055 ASSISTANCE AUTHORIZED.

Upon receipt of a properly completed application for assistance, verification of the veteran's eligibility, and a determination of the financial need for assistance, the department shall authorize the issuance of assistance according to the schedule of allowances.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0060 TYPES OF ASSISTANCE AUTHORIZED.

Subpart 1. **Payments to be made.** Upon approval by the department, the payments in subparts 2 to 6 must be made to temporarily assist applicants.

Subp. 2. **Shelter payments.** Shelter payments must be made in the lesser amount of either the shelter allowance as determined by the schedule of allowances or the actual cost of the applicant's housing as determined by the application.

A shelter payment may not be authorized prior to the receipt by the department of a completed, current landlord statement. In the case of applicants who reside in public housing, a statement from the administering entity that contains a statement of the amount and current status of rent or mortgage payments must be accepted in lieu of a landlord statement if a landlord statement cannot be provided with the application.

Subp. 3. **Room and board, rent payments.** Payments for room and board and rent for the applicant's housing unit must be made in the lesser of the following amounts: the actual charges for room and board or rent, or the allowance for room and board or rent as established by the schedule of allowances. Payment for room and board or rent may be made to the applicant's landlord, following receipt of a properly completed Landlord's Statement, Department of Veterans Affairs form number 0003-02.

Subp. 4. **Utility payments.** Payment of the cost of utilities is limited to current utility bills only. No payment may be authorized or made on any utility bills that are past due or in arrears. Delivery of bulk utilities, such as heating and cooking fuels including liquid propane gas, heating oil, coal, and wood, must be limited to a normal one-month supply, as determined by the applicant's past usage rates, unless the commissioner determines that it is more beneficial to either the applicant or the department to authorize the delivery of a greater amount. Prior authorization for delivery of bulk utilities must be received from the commissioner.

Subp. 5. **Utility payments not to include durable goods.** Payment of the cost of utilities must not include any amounts included on utility bills for purchases of durable goods, such as, but not limited to, water heaters, refrigerators, heating units, and similar products. Payment must be authorized only for the purchase of expendable heating and cooking fuels.

Subp. 6. **Health insurance payments.** Payment for health insurance premiums is limited to current bills for health insurance premiums. No payment may be authorized or made on any health insurance premiums that are past due or in arrears. Payments must not be authorized or made for any other types of insurance.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0070 NOTICE REQUIRED; ASSISTANCE GRANTED.

Applicants granted financial assistance must be notified in writing that assistance will be granted. The notification must include the amount of assistance to be issued, the time periods covered by the assistance, and any requirements of the applicant for further assistance.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0075 NOTICE REQUIRED; ASSISTANCE DENIED.

Applicants whose claim for assistance has been denied must be notified of that denial in writing. The notice must state the reasons for the denial and must inform the applicant of the right to appeal the decision to deny assistance.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0080 APPEAL PROCEDURE; DENIAL OF ASSISTANCE.

Subpart 1. **Right to appeal.** An applicant may appeal a decision by the department not to grant assistance. Appeals must be in the manner described in this part.

Subp. 2. **Submitting appeals.** Appeals must be submitted to the commissioner in writing within 60 days of the applicant's receipt of the denial letter.

Subp. 3. **Appeal options.** An applicant may elect to pursue either a written appeal or a personal hearing.

Subp. 4. **Reasons.** An applicant shall state any reasons why the applicant disagrees with the decision to deny assistance. The applicant may submit any additional evidence or documentation for consideration.

Subp. 5. **Personal hearing.** An applicant may request a personal hearing before the commissioner to present further evidence or documentation or to request a reconsideration of an original application. All expenses incurred by the applicant are the obligation of the applicant. The commissioner shall provide a room for the personal hearing at no cost to the applicant. A request for a personal hearing to appeal a decision to deny assistance must be filed, in writing, with the commissioner within 60 days of the applicant's receipt of the denial letter.

Subp. 6. **Determination.** The commissioner shall issue a determination to grant or deny the assistance sought within seven working days of the review or personal hearing. All determinations of the commissioner are final.

Subp. 7. **Issuance of assistance.** If the commissioner determines that the issuance of assistance is appropriate, the assistance must be issued within 14 working days of the commissioner's decision. If the commissioner determines not to issue the requested assistance, the applicant must be informed of this determination in writing, stating the commissioner's reasons for this determination.

Subp. 8. **Failure to appeal.** Failure by the applicant to appeal a decision by the department not to grant assistance within the 60-day period allowed for appeals is a bar to further appeals.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0085 STATE SOLDIERS ASSISTANCE FUND; DENTAL OR OPTICAL ASSISTANCE.

Subpart 1. **Dental or optical needs.** The commissioner may provide financial assistance to applicants to meet basic dental or optical needs, according to the schedule of allowances.

Subp. 2. **Excess assets a bar to assistance.** Assets at or in excess of the maximum allowance according to the schedule of allowances for the number of eligible persons in the applicant's household are a bar to receiving assistance under this part.

Subp. 3. **Excess income a bar to assistance.** Income at or in excess of the maximum allowance according to the schedule of allowances for the number of eligible persons in the applicant's household is a bar to receiving assistance under this part.

Subp. 4. **Amount of assistance.** The amount of financial assistance granted under this part must be determined by the schedule of allowances and dental and optical benefits schedule, according to Department of Human Services maximum payment standards and procedure codes.

Subp. 5. **Frequency of assistance.** Applicants must be eligible to receive assistance under this part once every 12 months from the date of the exam for the type of assistance sought.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0090 STATE SOLDIERS ASSISTANCE FUND; EMERGENCY MEDICAL TREATMENT.

Subpart 1. **Emergency medical assistance.** The commissioner may provide financial assistance, limited to the cost of treatment provided or the maximum allowed under the schedule of allowances, to veteran applicants who require emergency medical treatment and who lack the financial resources or insurance to defray the cost of this treatment.

Applications for emergency medical assistance must be received by the department within 90 days of the date of the occurrence of the medical emergency. Complete, final medical bills, showing all payments and credits, must be received by the department within 180 days of the date of the occurrence of the medical emergency to be considered for payment.

Subp. 2. **Excess assets a bar to assistance.** Assets at or in excess of the maximum allowance according to the schedule of allowances for the number of eligible persons in the applicant's household are a bar to receiving assistance under this part.

Subp. 3. **Excess income a bar to assistance.** Income at or in excess of the maximum allowance according to the schedule of allowances for the number of eligible persons in the applicant's household is a bar to receiving assistance under this part.

Subp. 4. **Amount of assistance.** The amount of financial assistance granted under this part must be determined by the schedule of allowances, medical benefits schedule, according to the Department of Human Services maximum payment standards and procedure codes.

Subp. 5. **Burial expenses not paid.** Expenses associated with the burial of veterans or dependents of veterans must not be paid under the emergency medical treatment assistance program rules in subparts 1 to 4.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0095 STATE SOLDIERS ASSISTANCE FUND; CLOTHING ALLOWANCE.

Subpart 1. **Clothing needs.** The commissioner may provide financial assistance to applicants to meet minimal clothing needs under one or more of the conditions in subparts 2 to 4.

Subp. 2. **Catastrophic loss.** Financial assistance may be given if the applicant has lost all available clothing as a result of a fire or other disaster and the loss is not covered by insurance.

Subp. 3. **Suitable clothing required.** Financial assistance may be given to clothe children of veterans who are currently receiving assistance from the department under the state soldiers assistance fund in suitable clothing to attend school.

Subp. 4. **Amount of assistance.** The amount of assistance granted under this part must be according to the schedule of allowances.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0100 CLAIMS DIVISION.

Subpart 1. **Purpose of division.** The department's claims division has been established to assist veterans and their dependents with claims.

Subp. 2. **Representation.** The claims division shall represent veterans or their dependents upon the request of the veteran or veteran's dependent. The representation is without charge. The claims division shall also represent a veteran or a veteran's dependent who has

designated a federally recognized veterans organization as the veteran's or dependent's representative if the veterans organization has requested in writing that the department provide the claims representation on its behalf.

Subp. 3. **Termination.** The department's claims division may terminate its representation of individuals who threaten the personal safety of employees of the department.

Subp. 4. **Federal law to govern procedure.** The department's claims division operates under the regulations of the United States Department of Veterans Affairs as to methods of operation in the representation of a veteran claimant and as to the presentation of claims.

Subp. 5. **Citation.** The specific federal law governing the federal oversight of the operation of the department's claims division is at Code of Federal Regulations, title 38, chapter 1, sections 14.628(b) to 14.669.

Subp. 6. **Contested claims not accepted.** The claims division shall not act as accredited claims representative for more than one party to an action or claim based upon a single individual's eligibility.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0105 EDUCATION.

Subpart 1. **State education benefits.** The legislature has established educational programs to assist veterans and the dependents of veterans who were killed in the line of duty or who died as a result of wounds, illness, or injury incurred in the line of duty.

Subp. 2. **Veteran.** Veteran residents who have exhausted through use all federal education benefits to which they may have been entitled are eligible for a single educational grant from the department in an amount approved by the legislature. Veterans who lost four or more months of entitlement to federal veterans educational benefits due to the termination of eligibility by the United States Department of Veterans Affairs effective December 31, 1989, are also eligible for this benefit.

Subp. 3. **Veteran; defined.** For purposes of this part, "veteran" has the meaning given it in Minnesota Statutes, section 197.447.

Subp. 4. **Residence required.** For purposes of this part, a veteran applicant must have been a resident of Minnesota before the applicant's entrance into the armed forces of the United States and for six months immediately before the applicant's application for this benefit.

Subp. 5. **Application required.** Veteran applicants are required to submit the following forms and documentation:

A. a completed and signed Department of Veterans Affairs form VA-00024-02;

B. a copy of the veterans discharge papers or equivalent; and

C. a statement from the United States Department of Veterans Affairs that the veteran applicant has exhausted through use all educational benefits to which the veteran may have been entitled, as provided by federal law.

Subp. 6. **Approval; notification.** Upon verification of eligibility of the veteran applicant, and approval of the request, notice must be sent to the veteran applicant and to the veteran applicant's educational institution that payment has been approved.

Subp. 7. **Disapproval; notification.** Veteran applicants who do not meet the eligibility requirements prescribed in Minnesota Statutes, section 197.75, must be notified in writing to that effect. This notification must state all reasons why the veteran's application has not been approved. Veteran applicants must also be notified of their right to appeal a determination not to grant educational benefits, as well as of the appeals process.

Subp. 8. **Appeals process.** Veteran applicants who have been denied educational benefits under this part may appeal this determination to the commissioner. The written appeal must cite any errors in the original determination, as well as any arguments that the veteran applicant may wish to offer, detailing why the educational benefits should be granted.

Subp. 9. **Commissioner's determination.** The commissioner shall review the veteran's written statement and the original application and supporting documentation. The commissioner shall issue a final determination to grant or deny the benefit sought within seven

working days of the commissioner's receipt of the veteran's appeal. The commissioner's determination is final.

Subp. 10. **Approval; payment.** Upon verification of eligibility, payment, within budgetary constraints, must be made directly to the educational institution the veteran is attending. Upon receipt of proof of payment of tuition costs, this payment must be made directly to the veteran applicant.

Subp. 11. **Effective date of award.** The effective date of an award of educational benefits is the date that the applicant begins the current school term or semester within which the completed application and required supporting documentation is received by the department. Payment is not authorized for attendance prior to the effective date of the award.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709; 18 SR 273*

9055.0110 EDUCATIONAL ASSISTANCE; WAR ORPHAN.

Subpart 1. **Free tuition.** The children of veterans who died as the result of active duty service in the armed forces of the United States are eligible to attend state universities and community colleges in Minnesota free of tuition until they receive a bachelor's degree or its equivalent.

Subp. 2. **Grant for costs of education.** Children of veterans who died as a result of active duty service in the armed forces of the United States are also eligible for a grant each fiscal year, in an amount approved by the legislature, to defray the costs of tuition, fees, room and board, books, and supplies.

Subp. 3. **Residency required.** Applicants under this part must have resided in Minnesota for at least two years before the date of their application for benefits under this part. The deceased veteran parent must also have been a resident of Minnesota at the time of entrance into the armed forces of the United States.

Subp. 4. **Application required.** Applicants under this part shall complete the same forms and provide the same documentation as required for a veteran applicant, as provided in part 9055.0105, subpart 5.

Subp. 5. **Proof required.** Applicants for war orphan benefits under this part shall also provide evidence from the United States Department of Veterans Affairs of the service-connected death of the veteran parent.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0115 FILES AND RECORDS.

Subpart 1. **Information on individuals.** The department generates and maintains information on individuals who apply for benefits, programs, and services administered by the department. Release of or access to all information on individuals held by the department is governed by the Government Data Practices Act under Minnesota Statutes, chapter 13.

Subp. 2. **Classed as confidential.** Information on individuals, gathered or generated by the department pertaining to any claims or benefits is confidential and privileged under Minnesota Statutes, section 196.08. Release of this information is also governed by the Government Data Practices Act, under the definition of private data on individuals.

Subp. 3. **Release of private data.** Information on individuals held by the department that meets the definition of private data on individuals must be released only under the conditions in part 9055.0120.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0120 NO DISCLOSURE.

Subpart 1. **Exceptions.** Records maintained by the department may not be disclosed without the written consent of the individual named in the records, except:

- A. when the individual has been adjudicated incompetent; or
- B. as in subparts 2 to 4.

Subp. 2. **Release to individuals.** Records maintained by the department must be released to the claimant personally, a duly appointed guardian, an attorney in fact, a duly authorized representative, and as to personal matters, when the commissioner has determined that disclosure would not be injurious to the mental or physical health of the claimant.

Subp. 3. **Release to organizations.** Records maintained by the department must be released to the duly certified representatives of veterans organizations recognized by the United States Department of Veterans Affairs.

Subp. 4. **Release under court order.** Records maintained by the department must be released when ordered by a court of competent jurisdiction in Minnesota, and then only in open court as evidence, only after a judge has ruled that the records are relevant and competent evidence in an action or proceeding according to the laws and statutes of Minnesota.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0125 ADJUSTED COMPENSATION; MERCHANT MARINERS, WORLD WAR II.

Subpart 1. **Eligible persons.** Former members of the United States Merchant Marine with wartime ocean-going service in a combat zone during World War II have been determined to be veterans by the United States Secretary of Defense. As veterans, they are eligible for adjusted compensation payments from the state as were other veterans of World War II. Public Law Number 95-202, section 401, established that members of the United States Merchant Marine who were in active ocean-going service during World War II from December 7, 1941, to August 15, 1945, are eligible to receive discharge certificates from the United States armed forces. The discharge confers full veteran status.

Subp. 2. **Eligibility.** To qualify for an adjusted compensation payment for service in the Merchant Marine during World War II, an applicant must meet all of the following requirements.

A. The applicant must possess an honorable discharge certificate issued by a branch of the United States armed forces, indicating the member served in ocean-going service.

B. The applicant must have been a Minnesota resident at the time of entry into the Merchant Marine and for six months immediately before the time of entry.

C. The applicant must have had at least one period of 30 consecutive days of active ocean-going service.

Subp. 3. **Applicants not eligible.** Applicants who had five or more years of service in the Merchant Marine before December 7, 1941, are not eligible for payments under this program.

Subp. 4. **Amount of payment; how calculated.** Eligible applicants must be paid at the rate of \$15 per month for each month or major portion (15 days or more) of a month of active duty or ocean-going service as determined by the secretary of defense during the effective dates of the bonus period. Periods of service of less than 15 days per month must be combined. This combined total must be divided by 30 to determine the number of months of eligibility. Remainders after this calculation of less than 15 days must be disregarded in calculating the total number of months of eligibility.

Subp. 5. **Proof of residency; acceptable verification.** Applicants for this payment shall provide verification of resident status at the time of entry into the Merchant Marine and for the six months immediately before. Acceptable forms of verification are:

- A. copies of voting records;
- B. tax records;
- C. school records if entry immediately followed school;
- D. affidavits from three persons not related to the applicant attesting to the applicant's resident status for six months immediately before entry; or
- E. other forms of verifiable evidence.

Subp. 6. **Maximum payment.** The maximum amount payable under this program is \$400 per applicant.

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Subp. 7. **Other groups recognized under Public Law Number 95–202, section 401.** Adjusted compensation payments to members of other groups recognized as veterans under Public Law Number 95–202, section 401, must be calculated using the same methods of calculation as outlined in this part.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*

9055.0130 COMMISSIONER'S TECHNICAL STAFF.

Subpart 1. **Definition.** "Commissioner's technical staff" means those persons whose primary job duties are those detailed in Minnesota Statutes, section 196.05.

Subp. 2. **Requirements.** Individuals on the commissioner's technical staff must have the same qualifications as the commissioner, as outlined in Minnesota Statutes, section 196.02, subdivision 1.

Statutory Authority: *MS s 196.04*

History: *16 SR 1709*