

## **STATE OF MINNESOTA**

### **MINNESOTA DEPARTMENT OF VETERANS AFFAIRS**

**STATEMENTS OF NEED AND REASONABLENESS OF PROPOSED RULES, PARTS 9055.0010 TO 9055.0130, GOVERNING THE ADMINISTRATION AND OPERATION OF THE DEPARTMENT OF VETERANS AFFAIRS, AS MANDATED BY MINNESOTA STATUTES 196 AND 197.**

#### **I. INTRODUCTION**

The intent of these proposed rules, Parts 9055.0015 to 9055.0130 is to amend existing department rules governing the internal functioning and operation of the Minnesota Department of Veterans Affairs. These proposed rules commit to written form the practices currently in use within the Department of Veterans Affairs. These practices were developed in response to state law and the needs of Minnesota's veterans and their dependents.

These rules were developed through analysis of current and past practices, policies and procedures of the department, consultations with staff, and with the Association of Minnesota County Veterans Service Officers Rules Committee, and a thorough analysis and review of the policies procedures and regulations of the United States Department of Veterans Affairs.

Numerous drafts of these proposed rules were written, and were reviewed by staff. The final draft of these proposed rules was forwarded for review and comment to each of Minnesota's County Veterans Service Officers, representatives of the United Veterans Legislative Council and the Commanders of the Congressionally Chartered Veterans Organizations.

##### **A. Background:**

The original rules governing the operation of the Department of Veterans Affairs were adopted in 1991; the amendments to these rules are necessary to refine the application process for and to enhance the delivery of, benefits to Minnesota's veterans and their eligible dependents.

#### **II. STATEMENT OF COMMISSIONER'S AUTHORITY**

The Commissioner's authority to adopt these proposed rules is found in Minnesota Statutes at 196.04, which states that the "commissioner shall adopt reasonable and proper rules to govern the procedure of the divisions of the department and to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same, in order to establish the right to benefits provided for by the law." This statute gives the commissioner the authority to adopt these rules.

### **III. IMPACT ON SMALL BUSINESS**

The impact of these rules on small business has been considered. These rules will not have an impact on small business as contemplated by Minnesota Statutes, section 14.115.

### **IV. STATEMENT OF NEED**

Minnesota Statutes, chapter 14.23 (The Administrative Procedures Act) and Minnesota Rules 1400.0500 govern the promulgation and adoption of rules. This statute also requires the commissioner to demonstrate the need for, and the reasonableness of, the proposed rules. To the extent that need and reasonableness are separate issues, need has come to mean that a problem exists which is addressed by the proposed rules and reasonableness has come to mean that the proposed rules are appropriate. Need for the proposed rules is discussed below.

The proposed rules contained in parts 9055.0015 to 9055.0105 represent the commissioner's attempt to modify existing rules to better serve the veterans of Minnesota and their dependents, while meeting the legislative requirements for these rules.

### **V. STATEMENT OF REASONABLENESS**

The commissioner is required by Minnesota Statutes, chapter 14.23 to make an affirmative presentation of the facts which establish the reasonableness of the proposed rules. Reasonableness means that the proposed rules are neither arbitrary nor capricious; that there is a rational basis for the commissioner's proposed rules. The reasonableness of the proposed rules is discussed below.

The Minnesota Department of Veterans Affairs administers programs and services which are unique to Minnesota's veteran population. The rules as proposed will not place an unreasonable burden on veterans and their dependents who seek benefits and services, while still meeting the legislative intent of the rules. To maintain consistency and order with regard to the broad range of persons served and services offered, these rules, whenever possible, use definitions and standards already in use by other state agencies and programs and the standards of eligibility already in use by the United States Department of Veterans Affairs.

#### **A. REASONABLENESS OF THE RULES AS A WHOLE**

The rules as proposed require decisions and determinations based upon identifiable, objective criteria. Adherence to identifiable criteria is required to eliminate arbitrary decision making and abuse of discretion. All decisions are subject to an appeals process, as defined in these proposed rules.

The extent possible, these proposed rules follow definitions already contained in statute or used by other agencies in their rule text and utilize, either wholly or as a modified to fit the particular needs of the department, rules previously implemented by other agencies.

## **B. REASONABLENESS OF INDIVIDUAL RULES DETAIL BY SECTION**

### **9055.0015 Definitions.**

Subp. 11. This rule is necessary and reasonable as it adds those individuals who are widows or widowers of veterans to the definition of "dependent" for the purposes of these rules.

Subp. 20. This rule is necessary and reasonable to make the definition of the term veteran as used in these rules conform with the existing State definition of the term veteran, as found in Minnesota Statutes 197.447, and federal law.

### **9055.0020 State Soldiers Assistance Fund.**

#### **Subp. 5. Residency required.**

This proposed rule is necessary as it restricts eligibility to benefits under this section to residents of the state. It is reasonable as it does not make the residency requirement more restrictive than that currently used by other state agencies in determining eligibility for benefits and services.

#### **Subp. 7. Inpatient chemical dependency treatment; eligibility.**

This rule is both reasonable and needed to clearly establish eligibility requirements for this benefit and the extent of benefits to which an applicant is eligible.

### **9055.0020 State Soldiers Assistance Fund.**

#### **Subp. 8. Assistance to widows, widowers.**

This rule is necessary to establish the time limits within which the spouse of a deceased veteran may apply for benefits. The rule is reasonable in that it provides an ample window of opportunity for application, while clearly establishing the requirements for applications filed later than the window period.

9055.0030 State Soldiers Assistance Fund; Amount of Assistance  
Granted; How Calculated.

Subp. 3. Asset limitation.

This rule is necessary and reasonable to clearly establish the amount of assets an applicant may possess and still qualify for assistance. This limit is based upon the United States Department of Veterans Affairs pension rate for a single veteran, which is already established in federal law. This amount is readily available to interested individuals.

9055.0030 State Soldiers Assistance Fund; Amount of Assistance  
Granted; How Calculated.

Subp. 6. Shared households; calculation of utility allowance.

This rule is necessary to establish the method by which the department will provide a utility payment benefit to an applicant who shares a household with a individual to whom the applicant is not related. The rule is reasonable as it provides a benefit to a qualified applicant while not providing benefit to non-qualified individuals.

9055.0030 State Soldiers Assistance Fund, Amount of Assist  
Granted; How Calculated.

Subp. 7. Written recommendation of County Veteran's Service  
Officer.

This rule is necessary to allow the department to provide benefits to a qualified applicant in immediate need of assistance, in those instances wherein all required proofs of eligibility cannot be furnished within usual timeframes.

The rule is reasonable in that it does not waive any eligibility requirements, nor does it create a dual system of eligibility; it allows assistance to be provided to meet the immediate needs of an applicant. All necessary proofs must still be provided; assistance beyond an initial 30 day period requires that all necessary proofs be furnished.

9055.0030 Types of Assistance Authorized.

Subp. 2. Shelter payments.

This rule is necessary to allow the department to assist eligible applicants who, through no fault of their own, are unable to provide written verification of housing costs. In some instances, an applicants landlord is a quasi-governmental agency located out of state; obtaining the necessary evidence in these instances creates an undue hardship on the applicant and delays the delivery of assistance.

This rule is reasonable as it allows the local administrator of the housing authority to provide the necessary documentation which will qualify the applicant.

**9055.0080 Appeal Procedure; Denial of Assistance.**

**Subp. 3. Appeal Options.**

This rule is necessary to allow the department to avoid duplication of the appeals process; it is reasonable in that it does not deny an applicant either appeal option.

**9055.0085 State Soldiers Assistance Fund; Dental or Optical Assistance.**

**Subp. 2. Excess assets a bar to assistance.**

This rule is necessary and reasonable to clearly establish the amount of assets an applicant may possess and still qualify for assistance. This limit is based upon the United States Department of Veterans Affairs pension rate for a single veteran, which is already established in federal law. This amount is readily available to interested individuals.

**Subp. 3. Excess income a bar to assistance.**

This rule is necessary and reasonable to clearly establish the amount of income an applicant may possess and still qualify for assistance. This limit is based upon the United States Department of Veterans Affairs pension rate for a single veteran, which is already established in federal law. This amount is readily available to interested individuals.

**Subp. 5. Frequency of assistance.**

This rule is necessary and reasonable to clearly establish the frequency of benefits provided by this section.

**9055.0900 State Soldiers Assistance Fund; Emergency Medical Treatment.**

**Subp. 1. Timely application required.**

This rule is necessary to establish a time limit within which applications for emergency medical treatment benefits must be received by the department. This rule also establishes an additional time limit within which all documentation necessary to perfect the claim must be submitted to the department.

The rule is reasonable in that it follows the ninety day time line already in use by the medical assistance program. The rule also provides a total window of 180 days from the date of the medical emergency to submit all necessary documentation required.

**9055.0900 State Soldiers Assistance Fund; Emergency Medical Treatment.**

**Subp. 2. Excess assets a bar to assistance.**

This rule is necessary and reasonable to clearly establish the amount of assets an applicant may possess and still qualify for assistance. This limit is based upon the United States Department of Veterans Affairs pension rate for a single veteran, which is already established in federal law. This amount is readily available to interested individuals.

**Subp. 3. Excess income a bar to assistance.**

This rule is necessary and reasonable to clearly establish the amount of income an applicant may possess and still qualify for assistance. This limit is based upon the United States Department of Veterans Affairs pension rate for a single veteran, which is already established in federal law. This amount is readily available to interested individuals.

**Subp. 5. Burial expenses not paid.**

This rule is necessary to inform potential applicants that burial expenses will not be paid under the auspices of the State Soldiers Assistance Fund. The department has no program to provide payment of funeral expenses; this rule provides a reasonable basis for denial of such claims.

**9055.0095 State Soldiers Assistance Fund; Clothing Allowance.**

This rule is necessary and reasonable as it allows the department to allocate resources to that aspect of the benefit which assists the greatest number of applicants: the children of eligible veterans who require suitable clothing to attend school.

**9055.0105 Education**

**Subp. 11. Effective date of award.**

This rule is necessary to provide the department and applicants a clearly established and readily definable eligibility period. The rule is reasonable as it neither restricts eligibility nor denies benefits, while allowing the department to manage available resources within the current fiscal year or biennium.