

STATE OF MINNESOTA

MINNESOTA DEPARTMENT OF VETERANS AFFAIRS

STATEMENTS OF NEED AND REASONABLENESS OF PROPOSED RULES, PARTS 9055.0020 TO 9055.0610, 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 changes to rules, Parts 9055.0020 to 9055.0610 is to amend existing department rules governing the internal functioning and operation of the Minnesota Department of Veterans Affairs.

These rule changes were developed through analysis of current and past practices, existing department rules, policies and procedures of the department, consultations with department staff, and with the Association of Minnesota County Veterans Service Officers Rules Committee.

Numerous drafts of these proposed rule changes 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, ie; the American Legion, the Veterans of Foreign Wars, the Disabled American Veterans, the Military Order of the Purple Heart, the Jewish War Veterans, the Marine Corps League, the Paralyzed Veterans of America and AmVets.

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 clarify and simplify existing department rules.

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." Specific Legislative direction to promulgate rules governing the County Veterans Service Officer Operational Improvement Grant Program is contained in the enabling legislation, Minnesota Statutes 197.608. These statutes give 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 and are more reasonable than the other alternatives considered.

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 proposed change to the rule governing Inpatient Chemical Dependency Treatment are intended to make this rule conform more closely with established practices in the chemical dependency treatment field.

The rules proposed by the department to administer the County Veterans Service Officer Operational Improvement Grant Program are unique to the County Veterans Service Officer system. The rules as proposed will not place an unreasonable burden on county veterans service officers who seek a grant, 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. The proposed changes to existing rules are intended to clarify and simplify existing rules.

A. NEED AND 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 Minnesota Rules 9055.0540.

To 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. NEED AND REASONABLENESS OF INDIVIDUAL RULES DETAIL BY SECTION

9055.0020. State Soldier's Assistance Fund.

Subp. 7. Inpatient Chemical Dependency Treatment; Eligibility.

This rule change is needed to ensure that applicants who receive after care on an outpatient basis are eligible to receive assistance, as are those applicants who receive after care on an inpatient basis. Written verification of successful completion of the treatment plan is necessary to ensure that applicants meet the requirement of successful completion in order to receive the benefit. This requirement will also ensure that funds are only provided to eligible applicants.

The requirement that applicants provide written verification of successful completion of a treatment plan is reasonable because it provides the department with verification of successful completion and does not place an added burden on the applicant, all of whom receive a certificate of successful completion if they successfully complete treatment.

9055.0510 Notice.

This rule change is necessary to allow the department to publish the notice more frequently than on an annual basis. The rule is reasonable as it imposes no hardship on applicants; rather it would allow the department to distribute any additional funds available more frequently than annually.

9055.0520 Eligibility.

Subp. 3. Ineligible Projects. This rule is necessary to clearly define those projects that are not eligible to be considered for funding under the grant program. The rule is reasonable as it establishes categories of projects for which funding will not be approved, while not unduly limiting projects for which funding might be considered.

9055.0530 APPLICATION

Subpart 1. Required elements. This rule is necessary to notify applicants of the information which must be provided in the application process. The rule is reasonable because it does not require unnecessary information and only requires the County Veteran Service Officer's name, signature and a description of the proposed grant project, and the name of the individual who has been given the legal authority, by the respective County Boards of Minnesota, to enter into an contractual agreement between the county requesting the grant and the state.

Subp. 2. Format of applications. This rule is needed to further establish the information which is required to be submitted in the grant application. The proposed changes will eliminate the requirement that applicants provided information that is not needed to determine eligibility for a grant, while eliminating the requirement that applicants duplicate information that is provided elsewhere in the grant application. This information is needed to establish the priorities by which applications will be ranked. The rule is reasonable because all grant applications will be reviewed using the same criteria.

9055.0540 APPLICATIONS; REVIEW, APPROVAL, REJECTION.

Subpart 1. Review. This rule is necessary to ensure applicant counties that applications which are approved will continue in the funding process. It is also necessary to clearly establish that grants will be made subject to the availability of funding, as required in the enabling legislation. The rule is reasonable because it does not require any additional information from the applicant other than the initial application.

Subp. 2. Approve and accept. The rule is necessary to ensure that applications which are approved continue in the grant award process. The rule is reasonable because it requires no further action on the part of the applicant to continue the process.

Subp. 3. Total Rejection. The rule is necessary to define the process by which applications which are not approved will be returned to the applicant county. The requirement that the department provide a written statement of the reason(s) for rejection is necessary to ensure that applicants are made aware of the reason(s) for the rejection.

The rule is reasonable in that it requires that the reason(s) for the rejection be specified, which should suggest possible remedies to the applicant. The proposed rule change will also ensure that successful appeals of a grant application rejection will guarantee that the application will its' position on the funding priority list.

The rule is necessary to establish a reasonable appeal period and procedure whereby applicants can appeal the commissioners decision to reject an application for a grant.

Subp. 4. Partial Approval/Partial Rejection. This rule change is necessary to allow the commissioner to reject part, but not all, of a grant application. Without this change, the commissioner will not have the ability to accept those parts of an application which substantially, but not fully, meets the requirements for a successful application.

The rule change is reasonable in that it allows the applicant the option of accepting a grant without the rejected elements, but which meets part of the grant proposal, while retaining their priority position on the funding list. Without this change applicants would be forced to submit a new application which might not result in a grant, based upon the position of the newly submitted grant application on the priority funding list.

Subp. 5. Resubmitted applications. The rule is necessary to ensure that resubmitted applications will be reviewed using the same criteria as that applied to initial applications and that resubmitted applications which are approved will be ranked in priority with other approved applications. The rule is also necessary because it puts applicants on notice that applications will be funded only so long as funds remain available in the applicants funding category.

The rule is reasonable because it requires no further action on behalf of an applicant who resubmits an application which is approved. The proposed rule change also ensures that resubmitted applications will be reviewed using criteria identical to that used for review of initial applications.

Subp. 6. Priority counties. This proposed rule change is necessary to eliminate superfluous, redundant language. The proposed rule change is reasonable in that it makes no imposition on either the applicant or the department, while still meeting the legislative requirement, as found in Minnesota Statute 197.608, that applicant counties which have not previously received a grant shall be provided priority for funding over those counties which have previously received a grant. The rule is reasonable because it ensures applicant counties that their application will receive priority for funding if they have not previously received a grant.

9055.0560 GRANT SPENDING PLAN.

Subpart 1. Final Step. The rule is necessary to put applicant counties and the department on notice that a spending plan for the grant must be executed between the department and the applicant county. The rule is reasonable in that it will ensure that both parties to the spending plan will be provided written documentation of their obligations under the grant.

Subp. 2. Contract Spending Plan. The rule is needed to clearly establish the required elements, rights and obligations contained in the spending plan between the department and the applicant county. The rule is reasonable because it protects the rights of both parties to the spending plan equally.

Subp. 3. Amendments. The rule is necessary to establish the fact that amendments to the spending plan must be in writing and approved by both parties to the spending plan. The rule is reasonable because it protects the rights of both parties to the spending plan equally by allowing either party to make changes to the spending plan by the mutual consent of both parties.

Subp. 4. Resolution of Support. This rule is necessary because it establishes the requirement that a spending plan will be executed between the department and the applicant county if the grant application is supported by the county board of the applicant county. The rule is reasonable in that it is the least restrictive method to obtain this needed evidence of support.

Need and reasonableness of the proposed rule change governing the Spending Plan as a whole.

This proposed rule change is a language change only; it will not change any intent, requirement, outcome or effect of the existing rules governing the County Veterans Service Officer Operational Improvement Grant. When originally conceived, the County Veterans Service Officer Operational Improvement Grant Program anticipated that individual contracts would be executed between the department and the applicant counties.

In discussions with the Department of Finance it was determined that this requirement for individual contracts between the applicant counties and the department would be an extremely burdensome and time consuming procedure which could unnecessarily delay the issuance of approved grants.

These discussions resulted in the determination that the best alternative to the individual contract requirement was the creation of a spending plan whereby the individual grants would be issued to the applying counties whose applications were approved. This spending plan was approved by all state agencies whose approval was required.

This rule change is necessary to bring existing rules into agreement with current practices. The proposed rule change is reasonable in that it makes not imposition upon the applicant while reducing the time and procedures required by the department to issue the grant. The rule is also reasonable in that it still meets all legal requirements necessary, while protecting both parties to the spending plan.