



STATE OF MINNESOTA DEPARTMENT OF VETERANS AFFAIRS



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June 21, 2021

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RE: In the Matter of the Proposed Amendments to Rules Governing the Administration and Operation of the Minnesota Department of Veterans Affairs; Minnesota Rules Chapter 9055; Request to Schedule a Rules Hearing, and Request for Review and Approval of the Dual Notice of Intent to Adopt Rules With or Without a Public Hearing and the Additional Notice Plan; OAH Docket No. 21-9054-37589; Revisor's ID Number R-4659.

Dear Librarian:

The MDVA proposes to amend Minnesota Rules, chapter 9055. The proposed rules establish the necessary regulations governing the conduct and operation of the Programs and Services Division of the MDVA. The rules are needed to effectively represent veterans and veterans dependents in claims for federal veterans benefits, and to efficiently administer the SSAP in a consistent and transparent manner while responsibly distributing state soldiers' assistance funding to veterans, veterans dependents, and eligible members of the armed forces. The proposed rules are the MDVA commissioner's response to needed changes in the administration of veterans programs and services and the disbursement of state soldiers' assistance funding driven mainly by changes in the demographic composition and the needs of the Minnesota veteran population and members of the armed forces. The proposed rules provide:

- Standard definitions used throughout the chapter;
- Establishment of the Claims and Benefit Divisions of MDVA Programs and Services;
- Application procedures and eligibility criteria;
- Procedures for calculating monthly household income and household assets;
- Maximum monthly household income and maximum household asset limits and maximum benefit amounts; and
- Procedures for administering the following individual SSAP activities:
 - The dental and optical program activities;
 - The voucher deposit assistance program activity;
 - The disaster relief program activity;
 - The subsistence program activity;
 - The veterans education program activity;
 - The surviving children and spouses education activity; and
 - The veterans relief grant program activity.

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This document will be made available upon request in an alternative formats by contacting the MDVA Office for Diversity and Equality at 612-548-5961 or at diversity.mdva@state.mn.us.

We plan to publish a Dual Notice of Intent to Adopt Rules without a Public Hearing Unless 25 or More Persons Request a Hearing in the June 21, 2021 State Register, Volume 45, Number 51.

The Department has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Department is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are emailing our Dual Notice of Intent to Adopt Rules.

If you have questions, please contact me at telephone (651) 757-1558; mobile (612) 219-6067; or email: eric.eversman@state.mn.us.

Respectfully,

s/ Eric Eversman

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Enclosure: Statement of Need and Reasonableness

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Minnesota Department of Veterans Affairs

STATEMENT OF NEED AND REASONABLENESS

Proposed Amendments to Rules Governing the
Administration and Operation of the Minnesota Department of Veterans Affairs,
Minnesota Rule Chapter 9055
Revisor No.: R- 4659

April 6, 2021

The *State Register* notice, this Statement of Need and Reasonableness (SONAR) and the proposed rule will be available during the public comment period on the Minnesota Department of Veterans Affairs webpage <https://mn.gov/mdva/about/reports.jsp>

Alternative Format:

Upon request, this Statement of Need and Reasonableness (SONAR) can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact Valerie Klitzke at the Minnesota Department of Veterans Affairs, 20 West 12th Street, Room 206, St. Paul, Minnesota 55155 telephone 612-548-5961 or email: Diversity.MDVA@state.mn.us or your preferred telecommunications relay service.

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Acronyms or abbreviations

Administrative Procedures Act	APA
Administrative Law Judge	ALJ
Chapter	ch.
Code of Federal Regulations	CFR
Consolidated Omnibus Budget Reconciliation Act	COBRA
General Assistance Program	GA
Minnesota Department of Human Services	DHS
Minnesota Department of Veterans Affairs	MDVA or department
Minnesota Family Investment Program	MFIP
Minnesota Management and Budget	MMB
Minnesota Rules	Minn. R.
Minnesota Statutes	Minn. Stat.
Office of Administrative Hearings	OAH
Section	§
Statement of Need and Reasonableness	SONAR
United States Department of Veterans Affairs	USDVA
Voucher Deposit Assistance Program	VDAP

1. Introduction and statement of general need

A. Summary of proposed amendments

The Minnesota Department of Veterans Affairs (MDVA) is proposing to amend Minnesota Rules, chapter 9055, governing the administration and operation of the MDVA, Programs and Services Division. The MDVA proposes to repeal Minn. R. 9055.0010 to 9055.0120, and to add new parts 9055.0150 to 9055.0455.

The needs of Minnesota's veterans, veterans' dependents, and members of the armed forces called to extended federal active duty, along with the fiscal environment in which the MDVA operates including how state soldiers' assistance funding is administered and expended have changed dramatically since chapter 9055 was adopted in 1991. To meet the changing needs of those who rely on assistance from state soldiers' assistance funding, the MDVA has created new programs, modified programs already in place, and ceased programs that no longer meet the needs of those who require assistance.

The proposed rules are the MDVA's commissioner's response to the changes that have taken place since 1991. The proposed administrative rules set forth the principles and establish the regulations governing the conduct and operation of the Programs and Services Division of the MDVA as it administers and provides veterans programs and services by way of the state soldiers' assistance program and use of state soldiers' assistance funding.

The proposed rules commit to writing policies, procedures, and processes currently in use by the commissioner to determine a person's eligibility and need for services and assistance provided under Minn. Stat. chs. 196 and 197, and to administer veterans programs that were created or modified after 1991, while remaining within the confines of the prevailing conditions of state law.

This administrative rule writing process is ongoing. Several drafts of the proposed rules have been written and reviewed by MDVA staff and leadership. The proposed rules are the result of: 1) continuous analysis of past and present needs of veterans and veterans' dependents and the policies, procedures, and processes in place to meet these needs; 2) consultations with MDVA staff and leadership; and 3) the solicitation of comments from the Association of Minnesota County Veterans Service Officers and other organizations and agencies that provide services to veterans, veterans' dependents, and members of the armed forces called to extended federal active duty.

B. Need for the proposed rule amendments as a whole

Minnesota's rulemaking process requires the MDVA to explain the facts establishing the need for and reasonableness of the rules as proposed, and to address specific procedural requirements (Minn. Stat. ch. 14). In general terms, this means that the MDVA must not be arbitrary or capricious in proposing rules. However, to the extent that need, and reasonableness are separate,

“need” has come to mean that a problem exists that requires administrative attention, and “reasonableness” means that the solution proposed by the MDVA is appropriate.

Background

In 1991 the MDVA adopted its first administrative rules. The function and intent of these rules was to provide an authoritative basis for the internal functioning and operation of MDVA and to put in place basic procedures for determining the eligibility of veterans, veterans’ dependents, and members of the armed forces called from reserve status to extended federal active duty for the services and assistance provided under Minn. Stat. chs. 196 and 197.

The administrative rules adopted in 1991 reflect the then commissioner’s assessment of the needs of veterans and veterans’ dependents in the context of the social and economic conditions of 1991, and the commissioner’s then capabilities in providing assistance and services given the level of state soldiers’ assistance funding available at that time. However, the demographics of Minnesota veterans, veterans’ dependents, and reserve members of the armed forces have changed, along with drastic changes in the social and economic conditions of the state and the nation that have taken place since 1991. Due to these changes, the rules of 1991 and programs they govern are obsolete and ineffective in providing the services and assistance necessary to have a meaningful impact on the lives of veterans, veterans’ dependents, and reserve members of the armed forces.

The 1991 rules provide for the administration of the subsistence and dental and optical program activities in ways that do little for today’s veterans and their dependents and absolutely nothing for reserve members of the armed forces.

The 1991 rules and administrative procedures provide for calculating an applicant’s income and assets and for calculating amounts of assistance provided under the subsistence program. The results of these calculations are unrealistically low assistance amounts and fall far short of what is needed to sustain a household in the reality of today’s economic conditions. The 1991 rules for determining assistance amounts under the dental and optical program are so cumbersome and labor intensive that they are no longer being followed.

The provisions and administrative procedures from 1991 that govern the now defunct emergency medical and clothing allowance program activities are so out of touch with the needs of present-day veterans, veterans’ dependents, and reserve members of the armed forces that the commissioner has ceased to operate these programs.

Finally, the provisions for the “war orphan” education program activity as it is called in the 1991 rules (the program is now the surviving children and spouses education benefit) do not mention the benefit as including the surviving spouses of eligible veterans, though Minn. Stat. § 197.75, subd. 2 clearly states the benefit is also for surviving spouses.

The 1991 rules contain no provisions or administrative procedures for providing assistance and services in individual situations when the circumstances of an applicant's situation are dire, but the applicant does not meet the eligibility requirements of the subsistence program nor would the assistance provided under the subsistence program be of benefit to the applicant. Further, the rules do not contain provisions or administrative procedures for providing expanded services and assistance in response to a declared emergency or something as simple as a person in need of permanent housing but who cannot afford the requisite deposits and fees.

The evolving needs of veterans, veterans' dependents, and reserve members of the armed forces, changes in the social and economic conditions from 30 years ago, plus changes in the fiscal environment in which MDVA operates have called for substantial changes in how state soldiers' assistance funding is administered and expended, how services and assistance are provided under Minn. Stat. chs. 196 and 197, and how the commissioner determines eligibility and need for services and assistance.

Statement of need

Chapter 9055 as adopted in 1991 is not salvageable through the process of simply amending the current rules. Of the current rules less than a fraction remain useful for administering state soldiers' assistance program activities and disbursing state soldiers' assistance funding. There is so much rule language that needs to be changed and new rule content that must be added the idea of simply amending the current rules is untenable. The need for the proposed rules as a whole is described below. The reasonableness of the proposed rules as a whole is described in Section 4.

Chapter 9055 makes specific the intentions of the legislature as reflected in laws governing the MDVA and the administration of veteran's rewards and privileges.

As the demographics of Minnesota veterans, veterans' dependents, and reserve members of the armed forces have changed, along with drastic changes in the social and economic conditions of the state and the nation since the current rules were adopted, new eligibility criteria and evidentiary requirements along with upgraded policies, procedures, and processes must be adopted to operate the MDVA in a more efficient and effective manner and to provide the types of benefits and services to those persons eligible.

The MDVA believes the proposed rules are needed based on the following:

1. There are statutory mandates to create rules found in Minn. Stat. § 196.04 and Minn. Stat. § 14.06 (a).
2. The proposed rules are necessary to ensure all of the commissioner's duties can be fulfilled in a manner that prevents the waste and unnecessary spending of state soldiers' assistance funding.
3. The existing rules adopted in 1991 are outdated, obsolete, and ineffective in providing relevant workable policies, procedures, and processes that can be used by the commissioner to efficiently operate and to administer state soldiers' assistance funding.

4. The proposed rules are needed to ensure the commissioner administers the state soldiers' assistance program and disburses state soldiers' assistance funding according to standard policies, procedures, and processes that implement but do not exceed the provisions of Minn. Stat. chs. 196 and 197.
5. The proposed rules are needed to put in place the different state soldiers' assistance program activities responsible for disbursing state soldiers' assistance funding, and to set forth the policies, procedures, and processes that must be followed in administering each state soldiers' assistance program activity.
6. The proposed rules are needed to ensure the administration of each state soldiers' assistance program activity and the disbursement of state soldiers' assistance funding is consistent and transparent and all persons applying of or receiving assistance from a state soldiers' assistance program activity are aware of how the MDVA operates and how the MDVA establishes the eligibility and evidentiary requirements an applicant must meet in order to receive benefits and services from the MDVA.
7. The proposed rules are needed to ensure every person in need of benefits and services from the MDVA is fully aware of what is required of them from the beginning of the application process through the denial or award of benefits or services.
8. The proposed rules are needed to ensure only those persons authorized by statute to receive benefits and services from the MDVA through the use of state soldiers' assistance funding are the only ones who receive benefits and services.

2. Public participation and stakeholder involvement

The MDVA conducted outreach activities while developing these rule amendments. This was done in part to comply with the requirements of Minnesota's rulemaking process, but also to notify, engage, and inform potentially interested parties about this rulemaking and solicit their input on the MDVAs proposal to amend the rules. This section describes the MDVA's public outreach efforts and the steps it took to develop and solicit input on the rule amendments.

Chapter 9055 governs the operation and administration of the MDVA in its administration of the state soldiers' assistance program and its disbursement of state soldiers' assistance funding. With the exception of veterans' education benefits and surviving children and spouses education benefits, which can be applied for by a veteran or surviving child or spouse on their own, chapter 9055 requires that any time a veteran, dependent of a veteran, or an eligible member of the armed forces wishes to apply for benefits and services from the state soldiers' assistance program activities the individual must do so through a County Veterans Service Officer.

The County Veterans Service Officers serving in Minnesota's eighty-eight counties are the number one source of information to the Department on the needs of veterans, veteran's

dependents, and eligible members of the armed forces. The County Veterans Service Officers are also the primary source of information to the public regarding the services provided by the Department and the benefits and services available through the state soldiers' assistance program. The County Veterans Service Officers are the conduit through which the right combination and types of benefits and services from the state soldiers' assistance program flow and will always flow to veterans, dependents of veterans, and eligible members of the armed forces.

The MDVA works in close association with the Minnesota Association of County Veterans Service Officers to provide the benefits and services Minnesota veterans, veterans' dependents, and reserve members of the armed forces are entitled to and depend on as provided in Minn. Stat. ch. 197. This close cooperation results in ongoing discussions pertaining to how benefits and services can best be provided through the different state soldiers' assistance program activities and how state soldiers' assistance funding is most effectively disbursed. Many parts of the proposed rule language are the result of discussions between County Veterans Service Officers and the MDVA.

In addition, since public notice in the Minnesota *State Register* of the Request for Comments on its possible amendments to rules governing the operation and administration of the State Soldiers Assistance Program and other funding benefits for veterans, the MDVA conducted biannual briefings to members of the Minnesota Association of County Veterans Service Officers at the Department's spring and fall conferences. These briefings included updates on the rule drafting process and continued solicitation of comments and input on the draft rules. The MDVA will continue to conduct biannual briefings to members of the Minnesota Association of County Veterans Service Officers at the spring and fall conferences. These briefings will include updates on the rule drafting process and continued solicitation of comments and input on the proposed rules.

After the notice of the Request for Comments was published in the *State Register*, the Deputy Commissioner for Programs and Services sent an email on April 9, 2018, directly to each County Veterans Service Officer requesting comment on the MDVA's possible amendments to chapter 9055.

Webpage

The MDVA maintains the following webpage that is publicly accessible and relevant to this rulemaking:

- Rulemaking Docket – <https://mn.gov/mdva/about/reports.jsp>
The rulemaking docket contains information and links related to current rulemaking activities of the MDVA.

Notifications

Notification of interested parties, specifically the Minnesota Association of County Veterans Service Officers, and solicitation of comments and input have been carried out via email to each

County Veterans Service Officer and in-person mass briefings at the MDVA's spring and fall conferences.

3. Statutory authority

The MDVA is authorized by Minn. Stat. § 196.04 and Minn. Stat. § 14.06 (a) to adopt rules to govern the procedure of the divisions of the MDVA.

The MDVA's statutory authority to adopt these rules is set forth in Minnesota Statutes as follows:

196.04 RULES.

Subdivision 1. *Promulgation.*

"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."

14.06 REQUIRED RULES.

(a) "Each department shall adopt rules, in the form prescribed by the revisor of statutes, setting forth the nature and requirements of all formal and informal procedures related to the administration of official department duties to the extent that those procedures directly affect the rights of or procedures available to the public."

Under the state statutory provision, the MDVA has the necessary statutory authority to adopt the proposed amendments into Minnesota Rules.

The MDVA's statutory authority to adopt rules governing the operation and administration of the State Soldiers' Assistance Program and the administration of State Soldiers' Assistance Funding is set forth in Minn. Stat. § 197.03 which states:

197.03 STATE SOLDIERS' ASSISTANCE FUND CREATED.

"There is created a state soldiers' assistance fund to aid and assist any citizen of Minnesota or resident alien residing in Minnesota who served in the military or naval forces of the United States, in securing compensation, insurance or other relief or benefits to which the server may be entitled from the United States or any other government or state and for the emergency relief, hospitalization, treatment and maintenance of all such persons who were bona fide residents of the state at the time their need arose and their dependents as provided by §§ 196.05 and 197.04 to 197.07."

And Minn. Stat. §196.05, subd. 1, item (5) which states:

196.05 DUTIES OF COMMISSIONER.

“The commissioner shall administer the state soldiers' assistance fund and veterans' relief fund and other funds appropriated for the payment of other benefits to veterans.”

And, Minn. Stat. § 197.06 which states:

197.06 SOLDIERS' ASSISTANCE AGENT.

“The commissioner of veterans affairs shall have charge of activities as provided in this section and may employ assistants and incur other expenses as may be necessary for the administration of the state soldiers' assistance fund and carrying out the provisions of sections 197.03 to 197.07. No expense shall be incurred under the provisions of sections 197.03 to 197.07 in excess of the moneys available to the state soldiers' assistance fund.

The duties and powers of the commissioner of veterans affairs, in addition to those provided elsewhere by law, shall be to:

(1) administer the state soldiers' assistance fund;”

Statutory authority to specifically create and administer the Dental and Optical Program activities and to promulgate rules for their operation and administration lies in Minn. Stat. § 197.06 items (1) and (3) which state:

“The duties and powers of the commissioner of veterans affairs, in addition to those provided elsewhere by law, shall be to:

(1) administer the state soldiers' assistance fund;

(3) establish and provide assistance to former soldiers and their dependents who are in need of assistance with optical, dental, or other emergency medical needs.”

Statutory authority to specifically create and administer the Voucher Deposit Assistance Program activity, the Disaster Relief Program activity, and the Veterans Relief Grant Program activity and to promulgate rules for their operation and administration lies in Minn. Stat. § 196.05, subd. 1, item (8) which makes it one of the commissioner's responsibilities to,

“cooperate with United States governmental agencies providing compensation, pensions, insurance, or other benefits provided by federal law, by supplementing the benefits prescribed therein, when conditions in an individual case make it necessary.”

And, Minn. Stat. § 197.06 (4) which states that it is within the powers and duties of the commissioner to,

“cooperate with United States government agencies providing compensation, pensions, insurance or other benefits provided by federal law, by supplementing the benefits prescribed by federal law, when exceptional conditions in an individual case make it necessary.”

Statutory authority to specifically create and administer the Subsistence Assistance Program activity and to promulgate rules for its operation and administration lies Minn. Stat. § 197.05 (a) which states:

197.05 FUND, HOW EXPENDED.

“(a) The state soldiers' assistance fund shall be administered by the commissioner of veterans affairs and shall be used to locate and investigate the facts as to any Minnesota resident or resident alien residing in Minnesota who served in the military or naval forces of the United States and who is indigent or suffering from any disability whether acquired in the service or not; ... to provide maintenance and relief for any person suffering from disability who was a bona fide resident of the state at the time the need arose and the person's dependents, as hereinafter provided;”

Statutory authority to specifically create and administer the Veterans Education and Surviving Children and Spouses Education benefits and to promulgate rules for their operation and administration lies in Minn. Stat. § 197.75.

Under the state statutory provisions listed above, the MDVA has the necessary statutory authority to adopt the proposed rule parts into Minnesota Rules.

4. Reasonableness of the amendments as a whole

The Minn. Stat. ch. 14 requires the MDVA to explain the facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the MDVA must not be arbitrary or capricious in proposing rules. However, to the extent that need, and reasonableness are separate, “need” has come to mean that a problem exists that requires administrative attention, and “reasonableness” means that there is a rational basis for the MDVA’s proposed action.

Reasonableness of the administrative rules as a whole

Minn. Stat. chs. 196 and 197 give the commissioner multiple duties and responsibilities all of which are directly related to the operation of the MDVA and the administration and expenditure of state soldiers’ assistance funding.

The commissioner is not only responsible for operating the MDVA and managing state resources as efficiently as possible, but also administering state soldiers’ assistance funding to provide benefits and services to Minnesota veterans, veterans’ dependents, and reserve members of the armed forces while preventing the waste or unnecessary spending of public money.

Minn. Stat. §§ 196.04 and 14.06 (a) mandate that the commissioner adopt rules governing how the MDVA is going to operate as it fulfills the duties and responsibilities of the commissioner and what evidence is required to confirm a person's eligibility for the benefits and services provided in Minn. Stat. chs. 196 and 197.

How successful the commissioner is in carrying out the duties and responsibilities of the commissioner depends on how efficiently the MDVA operates and how effective the programs providing benefits and services to veterans, veterans' dependents, and reserve members of the armed forces are administered including the eligibility and evidence requirements are for receiving benefits and services.

The greatest opportunity for success in fulfilling the duties and responsibilities of the commissioner lies in establishing objective attainable eligibility requirements and reasonable evidentiary standards to prove a person's eligibility for benefits and services, and by administering state soldiers' assistance program activities in ways that are consistent and transparent and efficient and effective in meeting the needs of veterans, veterans' dependents, and reserve members of the armed forces while remaining accountable to the public.

The proposed rules are drafted to include clear and objective criteria for proving a person's eligibility for the benefits and services provided in Minn. Stat. chs. 196 and 197. The eligibility requirements adopted by the commissioner are included in the proposed rules to inform the public, ensure consistency and transparency, and to ensure that state soldiers' assistance funding is provided only to whom it is intended, and that funding is used only as intended according to chs. 196 and 197.

To ensure public accountability and to relieve any burden caused by ambiguity and inconsistency, it is vital to expressly state and clearly identify in the proposed rules all of the information requirements and documentation standards necessary for determining program eligibility, to include the types of individual documents that are recognized by the commissioner as acceptable for proving eligibility.

The proposed rules are drafted for clarity and are of sufficient detail to ensure public accountability and to eliminate inconsistent and unpredictable decisions while giving the commissioner enough flexibility to meet the changing needs of veterans, veterans' dependents, and reserve members of the armed forces. The provisions of each rule part and subpart are written to ensure the public and persons applying for or receiving assistance as well as vendors and contractors performing work or providing services understand how decisions are reached and benefit amounts are arrived at and what measures are necessary to ensure prompt disbursement and payment of state soldiers' assistance funding.

The proposed rules and the provisions therein implement programs and policies that address the current needs of veterans, veterans' dependents, and reserve members of the armed forces. The provisions of each rule part and subpart put forth standardized procedures and processes that ensure department operation and program administration are consistent and transparent and that

decisions are made based on reasonable and objective criteria that are equitable and relevant to the situations and circumstances of persons applying for and receiving benefits and services.

Statement of reasonableness

The MDVA believes that the proposed rules are reasonable as appropriate solutions to the problems and requirements stated above are as follows:

1. The reasonable solution to the need for administrative rules created by statutory mandate is to comply with the mandate and adopt administrative rules.
2. The reasonable response to the existing rules, which are outdated, obsolete, and ineffective in providing what the commissioner need to function effectively and efficiently within the scope of the governing statutes is to repeal the existing rules and adopt new rules that do provide the policies, procedures and processes required by the commissioner to efficiently manage state resources and effectively and efficiently operate and administer the programs while ensuring state soldiers' assistance funding is used as it is intended and for whom it is intended.
3. The reasonable response to the need to establish eligibility and evidentiary requirements, and to implement policies, procedures, and processes for administering state soldiers' assistance program activities created or modified since the current rules were adopted is to adopt new and up to date administrative rules that do establish the evidence required to prove a person's eligibility for state soldiers' assistance funding and do put forth necessary policies, procedures, and processes to effectively and efficiently administer new and modified program activities.
4. The reasonable approach to ensure the commissioner's duties can be fulfilled in a manner that prevents the waste and unnecessary spending of state soldiers' assistance funding; to ensure consistency and transparency in the establishment of eligibility and evidentiary requirements for benefits and services, the administration of state soldiers' assistance program activities and the disbursement of state soldiers' assistance funding; to ensure every person in need of benefits and services from the commissioner is fully aware of what is required of them; and to ensure only those persons authorized by statute to receive benefits and services are the ones to them is to adopt new administrative rules of sufficient detail and clarity to prevent ambiguity and misinterpretation.

5. Rule-by-rule analysis: proposed changes and specific reasonableness

Minn. Stat. ch. 14 requires the MDVA to explain the facts establishing the reasonableness of the proposed rules. "Reasonableness" means that there is a rational basis for the MDVA's proposed action. Explained in this section is the specific reasonableness of the proposed rules, together

with an explanation of the need for each change. The specific reasonableness of each change is discussed below.

As explained in the previous sections, the commissioner's duties and responsibilities are to administer state soldiers' assistance program activities and disburse state soldiers' assistance funding to provide benefits and services to Minnesota veterans, veterans' dependents, and reserve members of the armed forces without wasting or unnecessarily spending public money.

The reasonableness of each section of rules is grounded in the fact that the provisions of each rule part, subpart, paragraph, and item individually and collectively serve to fulfill the duties and responsibilities of the commissioner by:

1. Addressing the current needs of veterans, veterans' dependents, and reserve members of the armed forces.
2. Recognizing the limited nature of state soldiers' assistance funding and ensuring public trust by preventing the unnecessary spending of state soldiers' assistance funding and by ensuring that state soldiers' assistance funding is provided only to whom it is intended, and that funding is used only as intended.
3. Ensuring the MDVA is operating and managing state resources as efficiently as possible and is administering programs in ways that are efficient and effective in providing benefits and services to veterans, veterans' dependents, and reserve members of the armed forces.
4. Ensuring MDVA operation and program administration are consistent and transparent and that decisions are arrived at through standardized procedures and processes based on sound policies and on reasonable and objective criteria that are equitable and relevant to the situations and circumstances of persons applying for and receiving benefits and services.
5. Informing the public and persons applying for or receiving assistance as well as vendors and contractors performing work or providing services how decisions are reached, and benefit amounts are arrived at and what measures are necessary to ensure prompt disbursement and payment of state soldiers' assistance funding.
6. Relieving any burden caused by ambiguity and inconsistency in MDVA operation and program administration by eliminating inconsistent and unpredictable decisions.

The reasonableness of the proposed rules will throughout this document be justified based on its contribution to achieving the above objectives.

CHAPTER 9055 VETERANS PROGRAMS AND SERVICES

PART 9055.0150 PURPOSE.

Minn. Stat. §§ 196.04 and 14.06 (a) mandate that the commissioner adopt administrative rules to govern the MDVA. New part 9055.0150 establishes the purpose of chapter 9055 and replaces Minn. R. 9055.0010 which is proposed for repeal. Part 9055.0150 identifies what this rule chapter provides, who is responsible for following the procedures therein, and how the chapter is

to be interpreted. This part is needed to inform the public of the purpose and content of this rule chapter as a whole. It is reasonable to interpret the purpose of chapter 9055 to give meaning to Minn. Stat. chs. 196 and 197 to ensure the duties and responsibilities of the commissioner will be fulfilled and that state soldiers' assistance funding will be used as intended and for whom it is intended.

PART 9055.0160 DEFINITIONS.

The MDVA is adding a new part 9055.0160 to replace Minn. R. 9055.0015 which is being repealed. The definitions contained in this part apply to chapter 9055. The rules governing the administration of the state soldiers' assistance program and the disbursement of state soldiers' assistance funding are exclusive; hence, there is a requirement for an exclusive set of terms and their respective definitions that are used through-out chapter 9055. In general, definitions for terms are needed to ensure the MDVA operates and manages state resources efficiently and administers programs in ways that are efficient and effective in providing benefits and services that depend on policies, procedures, and processes that use terms with standard definitions. Providing clear definitions increases transparency and consistency in the administration of the state soldiers' assistance program.

Subpart 1. **Scope.** New subpart 1 establishes that the definitions contained in this part apply to chapter 9055. Because chapter 9055 consists of parts 9055.0150 to 9055.0455, rules that govern the administration of the state soldiers' assistance program and the disbursement of state soldiers' assistance funding, it is reasonable that the definitions in this part apply to chapter 9055.

Subp. 2. **Acute medical condition.** New subpart 2 defines the term "acute medical condition." The criteria describing the term include widely accepted characteristics of medical conditions that are considered to be acute and are consistent with the provisions of other accepted definitions of an "acute medical condition." Whether an applicant's medical condition is acute or not in certain cases determines the applicant's eligibility for subsistence assistance; therefore, it is reasonable to define "acute medical condition" to aid in making such a determination.

Subp. 3. **Addendum.** New subpart 3 defines the term "addendum." This term is needed to identify what constitutes an "addendum," that the "addendum" is approved by the commissioner, and that the "addendum" is part of a veterans relief request. Recipients of a veterans relief grant are given the opportunity to modify the terms of an item or expense that has been approved if the circumstances of the recipient has changed. It is reasonable to add this definition to identify what a modification to a veteran's relief request is called.

Subp. 4. **Adult child.** New subpart 4 defines the term "adult child." This definition is needed to identify the criteria to be considered an "adult child." In certain situations a child over the age of 18 is considered a dependent who is eligible for assistance. Defining the term "adult child" helps to ensure only those persons who meet the criteria to be considered an "adult child" are included in the applicant or recipient's household and afforded benefits. This definition of the term "adult

child” is consistent with the United States Department of Veterans Affairs (USDVA) definition of “adult child” (38 CFR § 3.57(a)). The relationship requirements a person must have to a veteran are reasonable and consistent with the intent of Minn. Stat. chs. 196 and 197 that assistance from state soldiers’ assistance funding be provided to veterans and veterans’ dependents.

Subp. 5. **Appeal.** New subpart 5 defines the term “appeal.” A household whose request for assistance is denied in anyway or to any degree has the right to disagree with the commissioner’s decision and to have the commissioner reevaluate its decision to deny assistance. The definition of “appeal” is needed to identify the rights of applicants and recipients who are denied assistance to appeal the decision. Defining “appeal” is reasonable because the applicant needs to know there is a process for requesting to have a decision re-evaluated by the commissioner. It is also reasonable that any appeal be in the form of a written statement to initiate and maintain a record of the appeal process; this is consistent with the practices of other agencies.

Subp. 6. **Applicant.** New subpart 6 defines the term “applicant.” The rules in this chapter apply and refer extensively to the individuals submitting applications for benefits and services. Defining this term facilitates the clear and concise drafting of other rules and is needed to identify what a person submitting an application will be called. A clear definition of who is considered an “applicant” increases transparency and consistency in the administration of the state soldiers’ assistance program.

Subp. 7. **Armed Forces.** New subpart 7 defines the term “armed forces.” Being or having been a member of the armed forces of the United States is key to the eligibility of all individuals applying for benefits and services from the state soldiers’ assistance program. This term is needed to ensure the applicant understands that “armed forces” means that of the United States and includes only the branches of the military and the reserve components of each branch. This definition of the term “armed forces” is the same as the USDVA definition of “armed forces” (38 CFR § 3.1 (a) and (b)). It is reasonable for state rules to align with federal regulations when appropriate. Using the same term as the federal rule ensures common understanding and facilitates compliance.

Subp. 8. **Authorized representative.** New subpart 8 defines the term “authorized representative.” “Authorized representative” is a person who is legally authorized to act on another person’s behalf in matters involving assistance from the commissioner. This definition is needed to identify who is considered to be an “authorized representative.” The practice of one individual applying for assistance on behalf of an individual who is not able to do so on their own is accepted by other public agencies on a county, state, or federal level; therefore, it is reasonable to define the term that names and defines a person who is representing another person in matters before the commissioner.

Subp. 9. **Basic needs.** New subpart 9 defines “basic needs.” This definition is needed to identify what items the commissioner considers to be basic needs and each item in this definition is consistent with the items included in the definitions of basic needs used by the Department of

Human Services (DHS) in the General Assistance Program (GA) or Minnesota Family Investment Program (MFIP). This includes the minimum requirements of personal sustenance such as food, clothing, shelter, utilities, and transportation costs. An applicant's ability to meet their basic needs is a factor in eligibility determinations and benefit calculations for certain state soldiers' assistance program calculations; therefore, a standard definition of what are considered "basic needs" is reasonable.

Subp. 10. **Business records.** New subpart 10 defines "business records" as it applies to calculating self-employment income. This definition is needed to identify what items are considered business records that can be used to determine income. This includes items such as ledgers, income and expense statements, invoices, receipts, purchase orders, transportation logs, cancelled checks, bank account statements, tax filings, and self-employment worksheets. An applicant or a recipient's household income in many state soldiers' assistance program activities is a factor in determining an applicant or recipient's eligibility for assistance and amounts of assistance the applicant or recipient may receive. This definition is reasonable because items identified as "business records" are a logical source of information used to calculate household income.

Subp. 11. **Child.** New subpart 11 defines the term "child." This definition is needed to identify the criteria to be considered a "child." Not every person under the age of 18 is considered a child and therefore a dependent of an applicant or recipient. Defining the term "child" helps to ensure only those persons who meet the criteria to be considered a "child" are included in the applicant or recipient's household and afforded benefits. This definition of the term "child" is consistent with the USDVA definition of "child" (38 CFR § 3.57 (a)). The relationship requirements a person must have to a veteran are reasonable and consistent with the intent of Minn. Stat. chs. 196 and 197 that assistance from state soldiers' assistance funding be provided to veterans and veterans' dependents.

Subp. 12. **Chronic medical condition.** New subpart 12 defines the term "chronic medical condition." The criteria describing the term include widely accepted characteristics of medical conditions that are considered to be chronic and are consistent with the provisions of other accepted definitions of a "chronic medical condition." The characteristics of an applicant or recipient's medical condition play a part in determining the applicant or recipient's eligibility for subsistence; therefore, it is reasonable to define "chronic medical condition" to aid in making such a determination.

Subp. 13. **Commissioner.** New subpart 13 defines the term "commissioner" to mean the commissioner of the MDVA or another agency employee who has delegated authority from the commissioner. This definition is needed to identify who is being referred to when the term "commissioner" is used throughout chapter 9055 and informs the public that the commissioner is able to delegate authority to other agency employees. The "commissioner" as a single individual is not always able to accomplish all of the duties, they are responsible for; therefore, it is

sometimes necessary for the commissioner to delegate authority to individuals within the agency to act on behalf of the commissioner.

Subp. 14. **Contingency operations.** New subpart 14 defines the term “contingency operations” to mean “a military operation designated by the United States Secretary of Defense as an operation in which members of the armed forces are or may become involved in military actions, operations, or hostilities against an enemy of the United States or against an opposing military force outside of the United States.” The definition of “contingency operations” is needed because it is integral to the definition of the term “extended federal active duty” as used in Minn. Stat. § 196.05, subd. 1, item (9). The provisions of this term are reasonable and consistent with the provisions of Minn. Stat. § 196.05, subd. 1, item (9) which requires that the, “extended federal active duty” a person is called to must be, “during a time of war or national emergency.” Contingency operations as defined do not take place in times other than war or national emergency.

Subp. 15. **County veterans service officer.** New subpart 15 defines the term “County Veterans Service Officer.” This definition is needed to identify who is being referred to when the term “County Veterans Service Officer” is used throughout chapter 9055, where to reference “County Veterans Service Officer” qualifications, who appoints a “County Veterans Service Officer,” and that the term includes assistance county veterans service officers. It is reasonable to define the term because a “County Veterans Service Officer” is the primary source of application assistance for persons applying for benefits from the state soldiers’ assistance program and applicants need to know who can assist them with their application.

Subp. 16. **Date of application.** New subpart 16 defines “date of application.” This definition is needed to identify what dates may be considered “the date of application” when applying for veterans benefits. The “date of application” is established as the date the application is signed by the applicant or the date the application is received by the MDVA if more than 30 days after it is signed by the applicant. The “date of application” is a critical factor in administering state soldiers’ assistance program activities; therefore, it is reasonable to define what dates are considered the “date of application.”

Subp. 17. **Department.** New subpart 17 defines “department” as the Minnesota Department of Veterans Affairs. This definition is needed to identify what entity is being referred to when the term “department” is used throughout chapter 9055. It is reasonable that it is the Minnesota Department of Veterans Affairs that is being referred to when the term “department” is used throughout the parts without other qualifying terms.

Subp. 18. **Dependent.** New subpart 18 defines “dependent.” This definition is needed to identify the criteria to be considered “dependent.” Dependents of applicants and recipients are eligible for benefits from the state soldiers’ assistance program and are considered when determining the applicant or recipient’s eligibility for assistance and amounts of assistance the applicant or recipient may receive. Defining the term “dependent” helps to ensure only those persons who meet the criteria to be considered “dependent” are included in the applicant or recipients

household and afforded benefits. Persons included in this definition are consistent with those persons considered to be a “dependent” by the DHS and the USDVA (38 CFR § 3.23(d)) and are consistent with the intent of Minn. Stat. chs. 196 and 197.

Subp. 19. **Determination of eligibility.** New subpart 19 defines “determination of eligibility.” A “determination of eligibility” is a process that requires collecting and reviewing information to determine if the applicant or recipient is eligible for assistance. The process is needed to ensure the determination is accurate and only those households who are eligible for assistance are the ones to receive it. Each state soldiers’ assistance program activity requires that an applicant or recipient’s eligibility for assistance be determined before any issuance of initial or recurring assistance; therefore, it is reasonable to define what this process is called and what it entails.

Subp. 20. **Documentation.** New subpart 20 defines “documentation” to mean a written or printed presentation of information provided by a third party. This definition is needed to establish the basic requirements of documents that are acceptable for “documentation” and of the practice of using “documentation” from a third party. Various forms of documentation are relied upon for the necessary information to determine an applicant or recipient’s eligibility for assistance and to calculate amounts of assistance; therefore, it is reasonable to define what is considered “documentation.”

Subp. 21. **Extended federal active duty.** New subpart 21 defines “extended federal active duty” as active duty that is expected to last more than 30 days and is in support of contingency operations, as defined in part 9055.0160, subpart 14. The provisions of “extended federal active duty” are reasonable to ensure that only those households who are truly in need of assistance are the ones that receive it. Periods of active duty lasting less than 30 days do not pose the same threat to families as periods of active duty that are expected to last more than 30 days.

Subp. 22. **Financially dependent.** New subpart 22 defines the term “financially dependent” to mean that the income and assets of a person or persons do not exceed limits established by the commissioner. For a parent to be considered a “dependent” under part 9055.0008, subpart 18, the parent must be financially dependent upon the veteran or spouse and is residing with the household or was residing with the household at the time of the veteran’s death; therefore, a definition of what it means to be “financially dependent” is needed. It is reasonable to allow the commissioner to establish the income and asset limits for determining financial dependency because it is the commissioner who is responsible for administering state soldiers’ assistance funding. The commissioner must be able to adjust the income and asset limits depending on level of state soldiers’ assistance funding available. Basing financial dependency on income and asset limits is consistent with procedures used by the USDVA.

Subp. 23. **Financial self-sufficiency.** New subpart 23 defines the term “financial self-sufficiency” and the standard of projected monthly household income and assets by which to gauge a household’s ability to afford its basic needs. The commissioner must ensure that applicants for assistance from the veterans’ relief grant program are financially self-sufficient or are on a path to financial self-sufficiency. Establishing the threshold of financial self-sufficiency

at the level of being able to meet one's basic needs as opposed to being able to meet all financial obligations is reasonable because it increases the likelihood that an applicant will meet the requirement of being financially self-sufficient or on a path to financial self-sufficiency.

Subp. 24. **Health insurance.** New subpart 24 defines the term "health insurance." This definition is needed to identify the types of insurance considered to be "health insurance." The types of insurance included in this definition – medical, dental, optical, and prescription drug insurance – are commonly recognized by other agencies and organizations as being health insurance. Assistance with health insurance premiums is provided under the veterans' relief grant and subsistence program activities; therefore, it is reasonable to define the term "health insurance."

Subp. 25. **Household.** New subpart 25 defines the term "household" and identifies who is included in a "household." The "household" is the primary unit upon which benefits provided by the state soldiers' assistance program are based. Household count and household income and assets are the primary factors in determining a household's eligibility for assistance from a state soldiers' assistance program activity and in calculating amounts of assistance that household is authorized to receive. Because state soldiers' assistance funding is limited and the commissioner is charged with preventing the waste or unnecessary spending of state soldiers' assistance funding, the definition of "household" includes the provisions that the collective needs of all household members and the combined income and assets of all household are considered when determining the household's eligibility for assistance and calculating the amounts of assistance the household may receive.

Subp. 26. **Joint liability.** New subpart 26 defines the term "joint liability" to mean two or more persons are responsible for the cost of an item or expense and each person is responsible for up to the full amount of the item or expense. The condition of "joint liability" is a determining factor in whether amounts of assistance for items and expenses that are associated with the lease or ownership of real or personal property must be prorated. This definition is reasonable because it aligns with the Black's Law Dictionary definition of the term "joint liability."

Subp. 27. **Long-term disability benefits.** New subpart 27 defines the term "long-term disability benefits." This definition is needed to identify the types of benefits that are considered "long-term disability benefits." The benefit sources included in this definition are widely recognized as long-term benefits along with the criteria that an individual receiving a benefit of this type have a disabling condition that is expected to last for an extended period, or which is permanent. Whether an applicant or recipient is or begins to receive a "long-term disability benefit" is a factor in determining the applicant or recipient's eligibility for certain state soldiers' assistance program activities. This definition of "long-term disability benefits" reflects a reasonable approach to determining the resources that may be available to a household to meet its needs.

Subp. 28. **Long-term maintenance benefits.** New subpart 28 defines the term "long-term maintenance benefits." This definition is needed to identify the types of benefits that are considered "long-term maintenance benefits." The benefit sources included in the definition are widely recognized as long-term benefits. Whether an applicant or recipient has applied for or is

receiving a “long-term maintenance benefit” is a factor in determining the person’s eligibility for certain state soldiers’ assistance program activities. This definition of “long-term maintenance benefits” reflects a reasonable approach to determining the resources that may be available to a household to meet its needs.

Subp. 29. **Medical condition.** New subpart 29 defines the term “medical condition.” Each condition referenced in this definition – diagnosis, illness, injury, medical procedure, or treatment – is clearly medical in nature and it is universally accepted that a “medical condition” is chronic or acute. It is necessary for the integrity of the program administration that a “medical condition” be properly documented by a licensed provider. The “medical condition” of an applicant or recipient for subsistence plays a significant role in determining the applicant or recipient’s eligibility for subsistence; therefore, it is reasonable to define the term “medical condition” to aid in making such a determination.

Subp. 30. **Military discharge papers; or equivalent.** New subpart 30 defines the term “military discharge papers or equivalent.” Military discharge papers or the equivalent are the only documents accepted for the purpose of confirming an applicant’s status as a veteran or a deceased person’s status as a veteran for the purpose of determining the eligibility of the person’s dependents. To ensure the integrity of veteran status determinations it is reasonable that the accepted discharge papers are only those that are issued under specific circumstances by the United States Department of Defense, and it is reasonable that the only documents considered as equivalent to military discharge papers are those issued by the National Archives.

Subp. 31. **Nontraditional housing agreement.** New subpart 31 defines the term “nontraditional housing agreement.” Space within a person’s primary residence, such as a bedroom or basement, is not the same as rental property. Circumstances that fit the definition of this term are treated in a specific manner when calculating self-employment income and a household’s shelter benefit under the subsistence program activity; therefore, it is reasonable to identify what type of shelter arrangements constitute a “nontraditional housing agreement.”

Subp. 32. **Once-per-lifetime basis.** New subpart 32 defines the term “once-per-lifetime basis.” Certain benefits provided by the state soldiers’ assistance program are only authorized once in a person’s lifetime. Administering certain benefits on a once-per-lifetime basis is reasonable due to the limited nature of state soldiers’ assistance funding, and the commissioner’s responsibility to prevent the waste or unnecessary spending of state soldiers’ assistance funding.

Subp. 33. **Parent.** New subpart 33 defines the term “parent” and identifies the parental relationship a person must have to a veteran or the spouse of a veteran. Under certain circumstances a parent is considered a dependent and must be included in the household count when determining program eligibility and calculating assistance amounts; therefore, it is reasonable to define the term “parent” to aid in making such a determination.

Subp. 34. **Recipient.** New subpart 34 defines the term “recipient” as a person who is approved for a benefit from a state soldiers’ assistance program activity. Chapter 9055 applies to and refers

extensively to the individuals who are receiving benefits and services; therefore, defining the term “recipient” to make clear what a person receiving benefits and services will be called is reasonable.

Subp. 35. **Schedule of maximum monthly allowances.** New subpart 35 defines the term “schedule of maximum monthly allowances.” This definition establishes what a “schedule of maximum monthly allowances” is and the information it contains. A “schedule of maximum monthly allowances” is used to determine eligibility and to calculate the amount of assistance a household is authorized to receive from a state soldiers’ assistance program activity. Use of a “schedule of maximum monthly allowances” is needed given that state soldiers’ assistance funding is limited. It is reasonable to define “schedule of maximum monthly allowances” because it is a means to adjust spending of state soldiers’ assistance funding in response to changes in the number of people needing benefits and in the event of a substantial increase or decrease in state soldiers’ assistance funding.

Subp. 36. **Shared expense.** New subpart 36 defines the term “shared expense.” This definition establishes that expenses shared with people who are not eligible for assistance from the state soldiers’ assistance program will be identified and assistance amounts adjusted. The assistance that can be provided for an expense that is shared with persons who are not eligible for assistance is less than the assistance that can be provided for expenses that are not shared. Identifying expenses shared with persons who are not eligible to receive assistance from the state soldiers’ assistance program is needed given that state soldiers’ assistance funding is limited and is only authorized for assisting specific persons, and that the commissioner is charged with preventing the waste or unnecessary spending of such funding. Assistance from the state soldiers’ assistance program is only authorized for specific persons as provided in Minn. Stat. chs. 196 and 197; therefore, it is reasonable to define the term “shared expense” in order to describe the situation where persons not eligible for assistance are sharing expenses that assistance can be provided for with persons who are eligible for assistance.

Subp. 37. **Shared household.** New subpart 37 defines the term “shared household.” This definition establishes that a “shared household” is different from a “household,” and that the former includes individuals who are not eligible to receive assistance from the state soldiers’ assistance program. This type of living arrangement is very common among persons applying for benefits from the state soldiers’ assistance program and is treated much differently than a living arrangement defined by the term “household.” Eligibility determinations and assistance calculations for different state soldiers’ assistance program activities are based on “household” size; therefore, it is reasonable to account for those persons who are not eligible for assistance but who are residing with persons who are. Identifying persons who are not eligible to receive assistance from the state soldiers’ assistance program is needed given that state soldiers’ assistance funding is limited and is only authorized for assisting specific persons, and that the commissioner is charged with preventing the waste or unnecessary spending of such funding. Assistance from the state soldiers’ assistance program is only authorized for specific persons as

provided in Minn. Stats. chs. 196 and 197; therefore, it is reasonable to define “shared household” to describe the situation where persons not eligible for assistance are living with persons who are eligible for assistance.

Subp. 38. **Shared item.** New subpart 38 defines the term “shared item.” This definition establishes that items shared with people who are not eligible for assistance from the state soldiers’ assistance program will be identified and assistance amounts adjusted. The assistance that can be provided for an item that is shared with persons who are not eligible for assistance is less than the assistance that can be provided for items that are not shared. Identifying items, the cost of which is shared with persons who are not eligible to receive assistance from the state soldiers’ assistance program, is needed given that state soldiers’ assistance funding is limited and is only authorized for assisting specific persons, and that the commissioner is charged with preventing the waste or unnecessary spending of such funding. Assistance from the state soldiers’ assistance program is only authorized for specific persons as provided in Minn. Stat. chs. 196 and 197; therefore, it is reasonable to define “shared item” to describe the situation where persons not eligible for assistance are sharing the cost of items that assistance can be provided for with persons who are eligible for assistance.

Subp. 39. **Short-term disability benefit.** New subpart 39 defines the term “short-term disability benefit.” This definition is needed to identify the types of benefits that are considered “short-term disability benefits.” The benefit sources included in the definition are widely recognized as short-term benefits along with the criteria that an individual receiving a benefit of this type have a disabling condition that is expected to last for not more than a year. Whether an applicant or recipient is or begins to receive a “short-term disability benefit” is a factor in determining the applicant or recipient’s eligibility for certain state soldiers’ assistance program activities. This definition of “short-term disability benefits” reflects a reasonable approach to determining the resources that may be available to a household to meet its needs.

Subp. 40. **Spouse.** New subpart 40 defines the term “spouse” and identifies the spousal relationship a person must have to a veteran. To be considered a “spouse” a person must be legally married to a veteran and the marriage must be recognized by the laws of the State of Minnesota. Requiring that a marriage be recognized by the laws of the state of Minnesota is needed given that assistance from the state soldiers’ assistance program is a state benefit funded with state taxpayer dollars. A “spouse” is considered a dependent and must be included in the household count when determining program eligibility and calculating assistance amounts; therefore, it is reasonable to define the term “spouse” to aid in making such a determination.

Subp. 41. **State soldiers’ assistance funding.** New subpart 41 defines the term “state soldiers’ assistance funding.” This definition is needed to identify the source of the financial assistance provided by the state soldiers’ assistance program and because the term “state soldiers’ assistance funding” is integral to this rule chapter. It is reasonable to define the term “state soldiers’ assistance funding” because doing so informs the public of under what Minnesota statutes such funding is appropriated.

Subp. 42. **State soldiers' assistance program.** New subpart 42 defines the term "state soldiers' assistance program." This definition is needed to identify what the "state soldiers' assistance program" is, that it is administered by the commissioner, and that the purpose of the program is to provide assistance to eligible persons and members of the eligible person's household. The "state soldiers' assistance program" provides the framework through which the commissioner provides assistance to persons eligible to receive assistance under the provisions of Minn. Stats. chs. 196 and 197; therefore, it is reasonable to define "state soldiers' assistance program" to describe the program that provides assistance to persons who are eligible for assistance.

Subp. 43. **State soldiers' assistance program activity.** New subpart 43 defines the term "state soldiers' assistance program activity." Specific individual program activities are responsible for providing specific types of assistance. These individual program activities are the means by which specific types of assistance from the state soldiers' assistance program are provided; therefore, it is reasonable to define what a "state soldiers' assistance program activity" is.

Subp. 44. **Surviving dependent.** New subpart 44 defines the term "surviving dependent." This definition is needed to identify those persons who are considered to be a "surviving dependent." Surviving dependents of veterans are eligible for benefits from the state soldiers' assistance program and must be considered part of the household count when determining program eligibility and assistance amounts; therefore, it is reasonable to define the term "surviving dependent" to aid in making such a determination.

Subp. 45. **Surviving spouse.** New subpart 45 defines the term "surviving spouse." This definition is needed to identify those persons who are considered to be a "surviving spouse." Surviving spouses of veterans are eligible for benefits from the state soldiers' assistance program provided the "surviving spouse" has not remarried and the "surviving spouse" is the next person in-line who is authorized to apply for benefits if the veteran is deceased. If the spouse of a deceased veteran has remarried, any form of assistance or benefit the person may be entitled to rests solely on the most recent marriage. Requiring that a person be legally married, as recognized by the State of Minnesota, to a veteran at the time of the veteran's death to be considered a "surviving spouse" and excluding the spouses who remarry is reasonable given that state soldiers' assistance funding is limited, and that the commissioner is charged with preventing the waste or unnecessary spending of such funding.

Subp. 46. **United States Department of Defense.** New subpart 46 defines the term "United States Department of Defense," which is the executive branch department of the federal government that provides the military forces needed to deter war and ensure our nation's security. The "United States Department of Defense" is charged with coordinating and supervising all agencies and functions of the government concerned directly with national security and the United States Armed forces. It is reasonable to define this term as the USDVA is bound by specific determinations made by the United States Department of Defense; and in turn, the MDVA is bound by the USDVA.

Subp. 47. **United States Department of Veterans Affairs.** New subpart 47 defines the term “United States Department of Veterans Affairs” (or USDVA) which is an executive branch agency of the federal government that provides benefits, health care, and cemetery services to military veterans. The “United States Department of Veterans Affairs” is charged with administering federal benefits for veterans, veterans’ dependents, and veterans’ survivors. It is reasonable to define this term as the MDVA is bound by specific determinations made by the USDVA.

Subp. 48. **Utilities.** New subpart 48 defines the term “utilities.” This definition is needed to identify what types of services are considered to be “utilities” – gas and electric, phone service, internet service, bulk fuel charges, water and sewer, and sanitation – and to whom these charges apply. “Utilities” are expenses that a household can receive assistance for; therefore, it is reasonable to define the term “utilities” specifically stating what services are considered utilities so that recipients will know what household utility services are covered.

Subp. 49. **Vendor and contractor.** New subpart 49 defines the term “vendor and contractor” and establishes who is considered to be a vendor or a contractor. All but a very small percentage of assistance from the state soldiers’ assistance program is provided to households by vendors and contractors; therefore, it is reasonable to define the term “vendor and contractor” to mean a provider of goods or services.

Subp. 50. **Veteran.** New subpart 50 defines the term “veteran” and establishes the commissioner’s interpretation of the term under Minn. Stat. § 197.447. This definition is needed because status as a “veteran” is the primary requirement for a person and the person’s dependents to be eligible for assistance from the state soldiers’ assistance program. It is reasonable to reference the statutory definition of “veteran” because the State definition of a veteran is different from the federal definition of a veteran.

PART 9055.0170 COMMISSIONER’S TECHNICAL STAFF.

Current rule part 9055.0130 will be renumbered to 9055.0170

PART 9055.0180 VETERANS CLAIMS DIVISION.

New part 9055.0180 establishes the requirements for operation of the Veterans Claims Division. This part replaces Minn. R. 9055.0100 which is proposed for repeal. To ensure transparency in how the MDVA operates it is necessary to state the purpose of the claims division; to establish the terms under which the department will represent a veteran or a veteran’s dependents; to establish the conditions under which the department will terminate its representation of a veteran or a veteran’s dependent; to inform the public that the claims division operates under the regulations of the USDVA; and to inform the public what is considered a contested claim and that the department will not represent more than one party in such claims.

Subpart 1. **Purpose of division.** New subpart 1 establishes the purpose of the Veterans Claims Division. This subpart is needed to explain to the public the purpose of the claims division. Minn. Stat. chs.196 and 197 establish as a duty of the commissioner to act as the agent of a veteran or a veteran's dependents who have a claim for benefits against the United States that is the result of the veteran's service in the Armed Forces of the United States. The commissioner's duty falls to a specific subdivision within the MDVA created for this purpose and consolidates all of the knowledge, experience, and resources in filing claims for veterans' benefits in one location within the MDVA. This subpart is reasonable because it addresses how best the commissioner can perform this duty.

Subp. 2. **Representation.** New subpart 2 establishes the terms under which the commissioner will represent a veteran or a veteran's dependents. This subpart is needed to implement the provisions of the first general duty of the commissioner stated in Minn. Stat. § 196.05, subd. 1, item (1). The commissioner decides how to approach the MDVA obligation to represent veterans and veterans' dependents. It is reasonable that the approach that allows the commissioner to represent the most veterans and dependents is to agree to provide direct representation when asked or to represent veterans and veterans' dependents on behalf of several different veterans' organizations who have requested the commissioner provide such services. In all cases the representation the commissioner provides to veterans and veterans' dependents is free of charge.

Subp. 3. **Termination.** New subpart 3, items A to D establish the conditions under which the commissioner will terminate its representation of a veteran or a veteran's dependent. Minn. Stat. chs. 196 and 197 do not provide standards for how a veteran or a veteran's dependent must conduct themselves in the presence of MDVA staff or when being represented by the commissioner. Subpart 3 is needed to establish these standards. This subpart establishes the necessary recourse or protections afforded MDVA staff in the event a veteran or a veteran's dependent poses a threat to the safety of MDVA staff or engages in actions that are detrimental to a veteran's or veteran's dependent's claim. Terminating a veteran's or veteran's dependent's representation is the most effective course of action in such cases.

The commissioner has limited staff and resources; therefore, when a veteran or veterans' dependent chooses to seek representation from another individual or engages in actions that are detrimental to the claim, valuable time and resources are being wasted. Terminating a veteran's or veteran's dependent's representation is the most effective course of action in such cases. Lastly, the MDVA is not the only organization that provides representation services to veterans and veterans' dependents; therefore, the actions taken in this part do not constitute an outright deprivation of representation to a veteran or veteran's dependent. A veteran or veteran's dependent is free to enlist the services of one of the many other organizations providing representation services. It is reasonable to establish the conditions for termination because the veteran needs to know what conditions will result in their representation by MDVA being terminated.

Subp. 4. **Federal law to govern procedure.** New subpart 4 identifies that the Veterans Claims Division operates under the regulations of the USDVA. The USDVA grants accreditation of service organizations, to include states, under its authority in Title 38 which also dictates expectations of those accredited representatives. The claims division must operate in accordance with 38 CFR, ch. 1, §§ 14.626 to 14.37 when representing a veteran, or a veteran's dependents and when presenting a claim. This subpart is needed because this is not stated anywhere in Minn. Stat. chs. 196 or 197. In addition, for the purposes of transparency, the public must be informed that the claims division must follow federal regulations when representing a veteran or a veteran's dependents and when presenting claims. It is reasonable that state rules align with federal rules.

Subp. 5. **Contested claims not accepted.** New subpart 5 establishes that the commissioner will not represent more than one party to an action or contested case claim. This subpart is needed because it makes it clear that the commissioner will not represent competing parties in such claims. Contested claims expose the commissioner to unnecessary risks associated with conflicts between potential clients that have competing interests. To avoid potential pitfalls of contested claims, it is reasonable to expressly state in the rules that the Veterans Claims Division will not represent more than one party that is claiming entitlement to the same benefit.

PART 9055.0190 STATE SOLDIERS ASSISTANCE PROGRAM.

New part 9055.0190 establishes the requirements for operation of the state soldiers' assistance program. This part replaces Minn. R. 9055.0020 and 9055.0025 which are proposed for repeal. The state soldiers' assistance program provides the framework through which the bulk of state soldiers' assistance funding is disbursed. It is the state soldiers' assistance program through which many of the provisions of Minn. Stat. chs. 196 and 197 are implemented. For these reasons a rule is necessary to ensure the commissioner administers the state soldiers' assistance program in accordance with the provisions of chapters 196 and 197 and to make clear the groups of individuals eligible to receive benefits and services through the state soldiers' assistance program. Note: "State Soldiers' Assistance Funding," "State Soldiers' Assistance Program," and "State Soldiers' Assistance Program Activity" are defined in part 9055.0160, subparts 41, 42, and 43, respectively. A program activity is a specific program within the umbrella of the state soldiers' assistance program that has its own eligibility requirements and benefits.

New item A establishes that it is the commissioner's duty to administer the state soldiers' assistance program in accordance with Minn. Stat. chs. 196 and 197. Both Minn. Stat. §§ 196.05, subd. 1, item (5) and Minn. Stat. § 197.06 make it a duty of the commissioner to administer state soldiers' assistance funding. Item A is needed because the state soldiers' assistance program is the mechanism by which state soldiers' assistance funding is disbursed. Because Minn. Stat. chs. 196 and 197 govern the administration of the state soldiers' assistance funding, it is appropriate that the rules mandate that the state soldiers' assistance program also be administered in accordance with the provisions of chapters 196 and 197. It is reasonable to reference the

underlying statutes in order to continue the proper interpretation of rules governing the state soldiers' assistance funding.

New item B, subitems (1) to (4) identify the groups of individuals who are eligible to receive benefits from the state soldiers' assistance program. Item B is needed because it is not clearly stated in one specific location in the statutes who is eligible to receive benefits from the state soldiers' assistance program. Creating a specific rule part that does this is a reasonable approach to identifying the groups of people who are eligible to receive benefits from the state soldiers' assistance program. The groups of persons listed in item B, subitems (1) to (4) are the only people who are authorized to receive benefits from the state soldiers' assistance program per Minn. Stat. chs. 196 and 197.

New item C establishes that if a surviving spouse remarries, they are no longer eligible to receive benefits from the state soldiers' assistance program and the bar to receiving benefits remains in place regardless of the outcome of the subsequent marriage. This condition ensures equity among individuals who were once married to veterans and recognizes the limited nature of state soldiers' assistance funding. If the subsequent marriage of a surviving spouse of a veteran ends due to death, they are now the surviving spouse of the individual they were most recently married to, which in most cases this results in benefits of some form or another. If this individual's status as the surviving spouse of a veteran is restored, the person is now in a position to receive benefits based on two deceased spouses. Therefore, it is reasonable that a surviving spouse who remarries permanently forfeits their right to benefits regardless of the outcome of the subsequent marriage because a surviving spouse of a deceased veteran who remarries becomes the dependent and concern of the person they marry. Further, there is no requirement under Minn. Stat. chs. 196 and 197 to continue the surviving spouse's dependent status. Unlike the United States Department of Veterans Affairs who has far greater access to funding and who reinstates DIC benefits if a subsequent marriage of surviving spouse ends for any reason, the Minnesota Department of Veterans Affairs has a limited amount of state soldiers' assistance funding that is spread out over multiple program activities.

New item D, subitems (1) to (3) identify the groups of individuals who are not eligible to receive benefits from the state soldiers' assistance program. This rule is reasonable because in each of the situations identified in subitems (1) to (3) the individual who is incarcerated or civilly committed will have their needs met by the agency or organization whose care or custody the individual is under. Ineligibility for benefits applies only to the individual and not their remaining household members. A veteran or surviving spouse who is incarcerated or civilly committed under these terms is not prohibited from applying for benefits on behalf of other household members.

PART 9055.0200 STATE SOLDIERS' ASSISTANCE FUNDING.

New part 9055.0200 establishes that the commissioner must use state soldiers' assistance funding to provide benefits from the state soldiers' assistance program to fulfill statutory requirements. This part replaces Minn. R. 9055.0020 and 9055.0025 which are proposed for

repeal. It is the commissioner's duty to administer state soldiers' assistance funding; however, statutes require that state soldiers' assistance funding be used for specific purposes. For this reason it is necessary to have a rule that ensures the commissioner uses state soldiers' assistance funding to provide benefits and services through the state soldiers' assistance program, which must be administered in accordance with Minn. Stat. chs. 196 and 197. Both Minn. Stat. §§ 196.05, subd. 1, item (5) and Minn. Stat. § 197.06 make it a duty of the commissioner to administer state soldiers' assistance funding and Minn. Stat. § 197.05 mandates how state soldiers' assistance funding is to be expended. Accordingly, there are many other benefits and services provided through the state soldiers' assistance program and many of the other duties of the commissioner require use of state soldiers' assistance funding as well.

VETERANS BENEFITS

The existing chapter 9055 rules adopted in 1991 are outdated, obsolete, and ineffective in providing relevant workable policies, procedures, and processes that can be used by the MDVA programs and services division to efficiently manage state resources and administer programs providing benefits and services to veterans, veterans' dependents, and reserve members of the armed forces.

Parts 9055.0190 through 9055.0455 are specific in that the rules apply strictly to the state soldiers' assistance program and the disbursement of state soldiers' assistance funding. For this reason it is necessary to have a rule that expressly states the purpose of parts 9055.0190 through 9055.0455, in particular, the person's to whom the rules apply, and the content of the rules.

PART 9055.0210 VETERANS BENEFITS DIVISION.

New part 9055.0210 establishes the purpose of the Veterans Benefits Division which is to assist the commissioner in administering the state soldiers' assistance program and to carry out the duties of Minn. Stat. chs. 196 and 197. Assigning these responsibilities to a specific division in the MDVA is reasonable because it provides for greater efficiency in administering the state soldiers' assistance program by consolidating all of the knowledge, experience, and resources for implementing the program in one location within the MDVA.

PART 9055.0220 RULES; PURPOSE; AND APPLICABILITY.

Subpart 1. **Purpose.** New subpart 1 identifies the rule parts that contain the policies, procedures, and processes that govern the Veterans Benefits Division and the administration of the state soldiers' assistance program, in addition to the eligibility requirements and evidence necessary to establish rights to benefits from the state soldiers' assistance program. This new part replaces Minn. R. 9055.0010 which is proposed for repeal. Chapter 9055 is a comprehensive body of rules that governs the Programs and Services Division; however, not all areas of the Programs and Services Division are affiliated with the state soldiers' assistance program. It is reasonable to identify that parts 9055.0190 through 9055.0455 apply specifically to the Veterans Benefits Division and the administration of the state soldiers' assistance program. This identification assures the public that MDVA operation and program administration are transparent; and that

decisions will be arrived at through standardized procedures and processes based on MDVA policies and on reasonable and objective criteria that are equitable and relevant to the situations and circumstances of persons applying for and receiving benefits and services.

Subp. 2. **Applicability.** New subpart 2, items A to G list the groups of individuals and agencies who are afforded the rights and given the responsibilities established in parts 9055.0190 through 9055.0455 for the administration of the state soldiers' assistance program. Chapter 9055 is a comprehensive body of rules that governs the Programs and Services Division; however, not all classes of individuals, social service agencies, providers, vendors and contractors seek or provide benefits and services through the state soldiers' assistance program or are affiliated with the Benefits Division or with the state soldiers' assistance program in other ways. It is reasonable to identify who is afforded the rights and responsibilities that pertain to the state soldiers' assistance program. This identification assures the public that persons applying for or receiving benefits and services; persons and agencies providing assistance in securing benefits and services; and vendors and contractors performing work or providing services all understand what is expected of them; how decisions are reached; how benefit amounts are arrived at; what measures are necessary to ensure prompt disbursement and payment of state soldiers' assistance funding; and what recourse they have if they disagree with a decision made by the commissioner.

PART 9055.0270 STATE SOLDIERS' ASSISTANCE PROGRAM; WHO CAN APPLY.

Subpart. 1. **Application for benefits.** New subpart 1 establishes the application requirements when applying for benefits.

New item A establishes who may apply for benefits from the state soldiers' assistance program; subitems (1) to (3) identify the types of individuals. This rule is needed to identify who can apply for benefits from the state soldiers' assistance program, and to ensure those benefits are provided only to whom they are intended. Because of the limitations placed on the use of state soldiers' assistance funding by Minn. Stat. chs. 196 and 197, it is reasonable to expressly state who can apply for benefits from the state soldiers' assistance program. Identifying in rule who an applicant for benefits from the state soldiers' assistance must be is a reasonable way to inform the public of those individuals who are authorized to apply for benefits from the state soldiers' assistance program.

New item B establishes the order applicants of a household may apply for benefits. Each individual in item A that is authorized to apply for benefits from the state soldiers' assistance program reflects a different set of circumstances. Item B, subitems (1) and (2) break down the different situations and establish a priority for submitting an application for benefits. Because different individuals may apply for benefits based on a veteran's service or a member of the Armed Forces serving on extended federal active duty, it is reasonable to establish the order in which different individuals may apply.

New item C establishes the initial applicant is responsible for applying for benefits for remaining members of the household. By specifically identifying the individuals who may apply for

benefits from the state soldiers' assistance program it is necessary to then state how the application process will cover the remaining members of the individual's household. Placing the responsibility on the applicant for applying for benefits on behalf of the remaining members of the household is a reasonable approach to ensuring all eligible household members are included in the application process.

New item D identifies the commissioner will prescribe the standard application that must be used. The requirement to use a standard application is needed to provide efficiency and ensure equal treatment of individuals applying for benefits from the state soldiers' assistance program. A standard application provides transparency, standardization, and quality control in the application process and helps to ensure that all of the needed proofs to confirm an individual's eligibility for benefits is collected, evaluated, and saved for future reference. Therefore, requiring use of a standard application is the most reasonable and equitable means to ensure that applicants are submitting the proper information to determine their eligibility for benefits.

New item E establishes how an eligible child, as defined in Minn. Stat. § 197.75, subd. 1, item (d), may apply for education benefits. Requiring an eligible child to apply through the surviving spouse of the veteran or an authorized representative is not feasible for this program activity. The surviving children and spouses education assistance program activity has no age limit; hence, a surviving child could be eligible for the benefit long after the veteran or surviving spouse have passed away. Therefore, allowing an eligible child to apply for this benefit on their own is a reasonable approach and does not compromise the integrity of the program activity.

New item F restates that a surviving spouse of a veteran who remarries is no longer eligible to receive benefits from the state soldiers' assistance program. With that said there are many scenarios in which the surviving spouse of a veteran remains the authorized representative of the deceased veterans surviving dependents for the purpose of applying for state soldiers' assistance program benefits even though the surviving spouse has remarried. It is both necessary and reasonable to allow for and make distinction between being authorized to apply for benefits on behalf of others but being eligible to receive benefits.

New item G like new item F restates the circumstances in which a veteran or surviving spouse are not eligible to receive benefits but are still the authorized representative of the veteran's dependents for the purpose of applying for state soldiers' assistance program benefits. Once again there are many scenarios in which the veteran or surviving spouse of a veteran remain the authorized representative of the veterans dependents even though the veteran or surviving spouse are incarcerated or civilly committed. It is both necessary and reasonable to allow for and make distinction between being authorized to apply for benefits on behalf of others but being eligible to receive benefits.

New item H establishes the applicants requirements for identification and Minnesota residency as defined in Minn. Stat. § 197.05 (b). Item G is needed to positively confirm identity and residence of those who apply for benefits from the state soldiers' assistance program, and to ensure those benefits are provided only to whom they are intended. This requirement informs

individuals in need of benefits from the state soldiers' assistance program of what conditions must be met at the beginning of the application process to establish eligibility for benefits. Because of the limitations placed on the use of state soldiers' assistance funding by Minn. Stat. chs. 196 and 197, it is reasonable to require proof of identity and Minnesota residency in order to apply for benefits from the state soldiers' assistance program.

New item I, subitems (1) to (4) establish the household member requirements for identification, Minnesota residency, age, and relationship to a veteran. Item H is needed to positively confirm identity and residence of household members of applicants for benefits from the state soldiers' assistance program, and to ensure those benefits are provided only to whom they are intended. This requirement informs individuals in need of benefits from the state soldiers' assistance program of what conditions must be met at the beginning of the application process to establish eligibility for benefits. Because of the limitations placed on the use of state soldiers' assistance funding by Minn. Stat. chs. 196 and 197, it is reasonable to require proof of identity, Minnesota residency, age, and relationship to a veteran in order to apply for benefits from the state soldiers' assistance program.

New item J, subitems (1) to (12) list the means by which the applicant or household member can show proof to meet the requirements in subpart 1, items A, D, F, and G. Item I is needed to identify the specific types of documentation that are acceptable as proof of meeting the requirements for benefits from the state soldiers' assistance program. The requirement to provide specific documentation helps to ensure equal treatment of individuals applying for benefits from the state soldiers' assistance program. Specific documentation provides transparency, standardization, and quality control in the application process and helps to ensure that all of the needed proofs to confirm an individual's eligibility for benefits is collected, evaluated, and saved for future reference. Therefore, requiring proof through specific types of documentation is the most reasonable and equitable means to ensure that applicants are submitting the proper information to determine their eligibility for benefits.

Subp. 2. **Authorized representatives.** New subpart 2 establishes the requirements for use of an authorized representative of an applicant or a recipient of benefits.

New item A provides that applicants who are eligible to apply for benefits from the state soldiers' assistance program may apply for benefits with the help of an authorized representative if unable to do so on their own. This rule is needed to ensure every applicant who is eligible to submit an application for benefits and services has the opportunity and assistance needed to do so. It is reasonable to ensure the veterans, veterans' dependents, and reserve members of the armed forces and their dependents need for application assistance can be effectively addressed.

New item B provides that a dependent of an individual eligible to apply for benefits from the state soldiers' assistance program may apply for benefits with the help of an authorized representative if the individual is deceased. Item B is needed to ensure every dependent who is eligible and in need of benefits and services from the MDVA has the opportunity and assistance necessary to submit an application. It is reasonable to ensure that veterans' dependents and

dependents of reserve members of the armed forces need for application assistance can be effectively addressed.

New item C establishes the requirement that persons acting as an authorized representative submit proper documentation proving legal authorization to represent an applicant or a recipient of benefits. Subitems (1) to (3) identify the types of documents acceptable as proof of legal authorization. It is reasonable to require documentation because allowing a person to act as a representative on behalf of another person can open the door to fraud or misuse of this right. Item C is needed to ensure every applicant or recipient whom is eligible and in need of benefits and services from the MDVA has the opportunity and assistance necessary to submit an application. It is reasonable to ensure that an applicant or a recipient of benefits need for application assistance can be effectively addressed while at the same time ensuring the interests of both the individual and the MDVA are protected.

Subp. 3. **Residency.** New subpart 3 establishes the residency requirements and exclusions. New item A establishes that all household members who receive benefits must meet residency requirements, except under the circumstances identified for a child or an adult child in subitems (1) and (2), respectively. Item A is needed to ensure that benefits and services are provided only to whom they are intended, and that state soldiers' assistance funding is used only as intended. The MDVA realizes that there are legitimate circumstances in which dependents, primarily children and adult children, cannot meet the residency requirements of Minn. Stat. § 197.05 (b) due to circumstances beyond their control, but are nevertheless in need of and should receive benefits from the state soldiers' assistance program. The exceptions in subitems (1) and (2) address the needs of veterans' dependents, and dependents of reserve members of the armed forces without exceeding the intent of Minn. Stat. chs. 196 and 197.

There are clear circumstances in which a child or an adult child does not meet the residency requirements of Minn. Stat. § 197.05 (b); however, it is imperative that they be included in the household and receive benefits. Both exceptions are when the applicant or recipient or the applicant or recipient's spouse are financially responsible for the child or adult child or have visitation time with the child. It is reasonable that if a child or an adult child is relying on the applicant or recipient or the applicant or recipient's spouse, the child or adult child should receive benefits. Additionally, because state soldiers' assistance funding comes from the taxpayers of the State of Minnesota, it is reasonable to require that under all but the most unique circumstances all household members who receive benefits from the state soldiers' assistance program be residents of the State of Minnesota per Minn. Stat. § 197.05 (b).

New item B establishes that time spent in Minnesota is excluded as meeting the residency requirement if the applicant maintains residency in another state. When an applicant continues to maintain residency in another state while in Minnesota it is reasonable to conclude that this is an indication that the person's time spent in Minnesota may be for temporary purposes; therefore, time spent in Minnesota under these circumstances does not count toward the residency requirement.

New item C establishes that time spent in Minnesota incarcerated in a state or federal prison is excluded as meeting the residency requirement, and residency begins the day after the applicant is released. When a person is incarcerated in a state or federal prison located in Minnesota it is reasonable to conclude that unless the person is originally from Minnesota, the person may not intend to reside in the state for any purpose other than to serve their sentence, which in most cases will be considered temporary. Assuming a person was not a resident of the state prior to being incarcerated, it is reasonable to conclude that the person did not come to the state under their own volition with the intention of residing in the state. Item C is needed to ensure benefits and services are provided only to whom they are intended, and that state soldiers' assistance funding is used only as intended. Because of the limitations placed on the use of state soldiers' assistance funding by Minn. Stat. chs. 196 and 197, it is reasonable the applicant meet the Minnesota residency requirement in order to apply for benefits from the state soldiers' assistance program.

PART 9055.0280 HOUSEHOLDS AND SHARED HOUSEHOLDS.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. New part 9055.0280 establishes the conditions under which dependent children and spouses are included or excluded from a household; rules that address circumstances of shared items and shared expenses; and rules that establish procedures for and when to prorate benefit amounts. This part is needed to make clear who can apply for benefits and services and to ensure only those persons authorized by Minn. Stat. chs. 196 and 197 to receive benefits and services from the MDVA and the state soldiers' assistance program receive such benefits and services.

The requirements of this part are intended to objectively assess the circumstances and situations of applicants, recipients, and the dependents of applicants and recipients to determine eligibility for benefits from the state soldiers' assistance program and amounts of assistance that can be provided. Each circumstance or situation addressed in part 9055.0280 is common and dealt with in a standardized manner in the administration of the state soldiers' assistance program, and each rule ensures the equitable treatment of each person applying for and receiving assistance from the state soldiers' assistance program.

Subpart 1. **Households.** New subpart 1 establishes the requirement that an applicant or recipient and all members of the applicant's or recipient's household must be included in the household except under the situations identified in item A, subitems (1) and (2) and item B, subitems (1) and (2). Including the applicant or recipient and all members of the applicant's or recipients household, except in certain verifiable situations is necessary because it standardizes how households will be considered and ensures equitable treatment of all households applying for benefits from the state soldiers' assistance program. More often than not it is more beneficial to the household that all members be included in the household count because the larger the household size the greater the income and asset limits and the greater the benefit amounts. This

requirement is reasonable because the household, consisting of persons who are eligible to receive benefits from the state soldiers' assistance program, is the basic unit upon which factors of eligibility and amounts of assistance are based.

The exceptions to including a dependent child and a dependent adult child in the household are identified in item A, subitems (1) and (2). These exceptions are needed because in both cases the dependents are not residing in the household and the household is not contributing to the financial needs of the dependent nor do the person applying for benefits or the person's spouse have visitation time in the case of a dependent child. The state soldiers' assistance program includes benefits for a dependent of a person approved for assistance on the grounds that the dependent relies on the person or the person's spouse to have the dependent's needs met. Therefore, it is reasonable to not include in the household a child or adult child who is not residing with the household and there is no documentation confirming the child or adult child relies on the person approved for assistance or person's spouse for financial support or there is no visitation time awarded to the parent of the child.

Item B, subitems (1) and (2) establish the conditions for when an applicant or recipient or a member of the applicant or recipient's household who is incarcerated or civilly committed under the conditions of part 9055.0190, item C must not be included in the household count. Because there are no provisions in the rules prohibiting a veteran or surviving spouse who is incarcerated or civilly committed from applying for benefits on behalf of the veteran's dependents, and because the possibility that an applicant or recipient or a member of the applicant or recipient's household is incarcerated or civilly committed is reasonable, it is necessary to make known under what conditions these individuals are not to be included in the household count. Subitems (1) and (2) are both reasonable because in each case the individual who is incarcerated or civilly committed under the conditions of part 9055.0190, item C is not eligible to receive benefits and is not contributing financially to the maintenance of the remaining household members. Item B is reasonable to ensure eligibility for benefits is based on the number of persons who need assistance and is based as closely as possible on the income and assets that are available to the household members in need of assistance.

Subp. 2. Exclusion of household members is prohibited. New subpart 2 establishes that a dependent and the dependent's income and assets cannot be excluded from the household count. This practice gives a household that is able to exclude a dependent and the dependent's income an unfair advantage over households of the same size because the income of the excluded dependent is not considered when determining the remaining household members' eligibility for benefits; however, the income is still available to the remaining household members. Subpart 2 is needed to ensure a household's eligibility for benefits is based as closely as possible on the income and assets that are available to the household and to prevent inequities between households with dependents who have income and households with dependents who do not have income.

The exceptions provided in subpart 1 and referenced in subpart 2 prevent conflict between subparts 1 and 2. In the subpart 1 exceptions, the dependent is not residing with the household and the dependent is not relying on the household for financial support. In cases like this, excluding the dependent and any income the dependent may have is not likely to provide an unfair advantage to the household because the income of the dependent is more than likely not available to the remaining household members. For these reasons, subpart 2 is reasonable.

Subp. 3. Applicants and spouses divorced or legally separated. New subpart 3 establishes the requirement that a spouse and the spouse's income and assets must be included in the household except in cases of divorce or legal separation. This subpart aligns with subpart 2, which prohibits the exclusion of dependents and the dependent's income and assets from the household count in order to qualify remaining household members. Subpart 3 is needed to prevent a situation where an applicant for benefits claims to be separated and living apart from their spouse, only to find out that this is not the case, and if the spouse's income and assets were to be counted, the household would not have been eligible for benefits. It is reasonable to have requirements in place that prevent an applicant from simply stating they are separated and living apart from their spouse and excluding the spouse and the spouse's income and assets from the household count and eligibility determinations; because such requirements reduce the opportunity for fraud and households receiving benefits when the household is not eligible or does not need benefits from the state soldiers' assistance program.

Under subpart 3 unless an applicant or recipient and an applicant or recipient's spouse are divorced or legally separated with documentation that confirms the circumstances of the situation, it is reasonable to include the spouse's income and assets in the household and afford the spouse benefits and services. Subpart 3 is needed to ensure a household's eligibility for benefits is based as closely as possible on the income and assets that are available to the household and to prevent the possibility of fraud leading to a household receiving benefits when the household does not need assistance or is not eligible for benefits.

Subp. 4. Shared items and shared expenses. New subpart 4, items A to D establish the requirements for how shared items and expenses are prorated.

New item A establishes that the benefit amount provided for a shared item or shared expense must be prorated between all members of the household. Item A is needed to ensure benefits and services are provided only to whom they are intended, and that state soldiers' assistance funding is used as intended. This requirement is reasonable because prorating the benefit amount ensures assistance will only be provided for that portion of the cost of the item or the expense that the individual eligible for benefits or the individual's spouse is responsible for. Conversely, assistance will not be provided for the full amount of a cost of an item or an expense that is shared with an individual who is not eligible to receive benefits from the state soldiers' assistance program.

New item B establishes that the cost of a shared item or shared expense must be prorated regardless of whether a person not eligible for the benefit resides with the applicant or recipient.

Whether or not a person who is not eligible to receive assistance from state soldiers' assistance funding is residing with a person who is eligible to receive assistance has no bearing on the fact that the ineligible person would benefit from having their portion of the cost of an item or expense paid by the MDVA. Where a person lives has no bearing on the benefit that will be received if the MDVA pays for an item or expense the person is responsible for. Therefore, it is reasonable to prorate assistance for shared items and expenses regardless of where the ineligible person lives.

New item C, subitems (1) and (2) establish the conditions for when a benefit amount for an item or expense directly related to owning or leasing real or personal property must be prorated. In many cases an applicant or recipient of benefits or an applicant's spouse shares joint liability for real or personal property with an individual age 18 or older who is not eligible for benefits from the state soldiers' assistance program. However, the person who is not eligible has no liability to pay for the property or any associated items or expenses. Hence, an applicant or recipient who is eligible for benefits is 100 percent liable for the property and any such items or expenses. In such cases it would create an undue burden on the applicant or recipient who is eligible for benefits if the benefit amount was prorated. For this reason it is appropriate to make joint liability a requirement for having to prorate the benefit amount. It is reasonable to clearly state under what conditions a benefit amount associated with the real or personal property must be prorated.

New item D establishes a benefit amount is not prorated if the person not eligible for the benefit gives up their ownership, ceases to lease the property, or is no longer liable for the property. Item D is needed to specify the conditions that must be met in order for a person who is eligible for a benefit to go from having the benefit amount prorated to not having the benefit amount prorated, and that a person to whom subpart 4, item C applies has a means of avoiding having their benefit amount prorated. It is reasonable that if the person who is not eligible for the benefit gives up their ownership in the property or stops leasing the property, the person will not benefit from the MDVA paying the full amount of the item or expense associated with the property. It is also reasonable that if the person who is not eligible for the benefit no longer has a legal obligation to pay for the item expense the person will not benefit from the MDVA paying the full amount of the item or expense associated with the property.

Subp. 5. Proration calculations. New subpart 5 establishes how to calculate the prorated benefit amount and provides an example calculation. This rule is needed to ensure that the household receiving assistance is provided with the maximum amount of assistance that is available per the provisions of this part. When a person who is not eligible to receive benefits from the state soldiers' assistance program resides with a person who is, a specific calculation is used to assign portions of benefits only to those persons who are eligible for benefits. It is appropriate that the MDVA attribute to each member of a household an equal portion of the cost of an item or expense that affects the household as a unit, regardless of whether a household member has a legal obligation to pay the cost of the item or expense or whether the household member is a documented owner or tenant in the real or personal property that is generating the cost or

expense. The MDVA also considers it appropriate to not assign responsibility for an equal portion of a cost or expense to individuals under the age of 18 who are not authorized to receive benefits.

The requirements of subpart 5 ensure program administration is transparent and that decisions are arrived at through standardized procedures and processes based on sound policies and on reasonable and objective criteria that are equitable and relevant to the situations and circumstances of persons applying for and receiving benefits and services.

9055.0290 APPLICATION PROCESS.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. New part 9055.0290 establishes the policies, procedures, and processes to efficiently manage the collection and processing of applications, and to objectively assess applications for benefits from the state soldiers' assistance program. Part 9055.0290 is needed to ensure every applicant in need of benefits and services from the MDVA is informed of what is required of them from beginning to end of the application process through the denial or award of benefits or services and what rights and responsibilities they have throughout the process. Further, this part aims to ensure transparency in the collection and handling of applications and to relieve any burden caused by ambiguity and inconsistency in the processing of applications for benefits and services. It is reasonable to establish the application process an applicant must follow in order to apply for benefits and services so that those individuals who want to apply for state soldiers' assistance funding are informed of the requirements to do so.

Subpart 1. **Information.** New subpart 1 makes it the responsibility of the MDVA to make available information about the state soldiers' assistance program. Subpart 1 is needed to ensure the needs of veterans, veterans' dependents, and reserve members of the armed forces and their dependents are met by providing information that explains the eligibility requirements and application process for benefits from the state soldiers' assistance program. It is reasonable that the most effective means of providing information about the state soldiers' assistance program and the application process is through the MDVA.

Subp. 2. **Application for benefits from the state soldiers' assistance program.** New subpart 2, items A to C establish the role and responsibilities of county veterans service officers, department field operations claim representatives, and department tribal veterans service officers. The application process provides for consistency in the information that is provided and used to determine eligibility for assistance, and it establishes lines of communication between the MDVA and the applicant.

New item A requires an applicant for assistance to apply through specific channels using a standard application and supplemental forms and checklists provided by the MDVA. Item A is needed to ensure than an applicant in need of benefits and services from the MDVA is informed

of the need to begin the application process with their county veteran's service officer, department field operations claim representative, or their department tribal veterans service officer. It is reasonable to provide transparency in the application process by standardizing how and through whom the MDVA collects eligibility and evidentiary information from an applicant for benefits.

New item B requires the county veteran's service officers, department field operations claim representatives, and department tribal veteran's service officers to review each completed application for benefits, sign and date it, and make a recommendation to the commissioner. These listed persons have an in depth understanding of the household's situation and are; therefore, in a position to provide a sound review and recommendation of the application for benefits. The requirement that the county veterans service officer, department field operations claims representative, or department tribal veterans service officer sign and date the application after reviewing it is reasonable to confirm that a review of the application and supporting documentation was completed. It is the duty of county veterans service officers, department field operations claim representatives, and department tribal veterans service officers to assist applicants for benefits from the state soldiers' assistance program. Therefore, it is reasonable that the commissioner will not accept a recommendation from any other persons.

New item C allows a surviving child or surviving spouse to apply for education benefits directly without going through a county veterans' service officer, department field operations claim representative, or department tribal veterans service officer. It is reasonable to remove the requirement that a surviving child or a surviving spouse must apply for education benefits through a county veterans service officer, department field operations claims representative, or department tribal veterans service officer because the educational institution is the only body that can confirm the information that is required to determine a surviving child or surviving spouse's eligibility for benefits.

Subp. 3. Processing applications. New subpart 3, items A to C establish the requirement to request additional information and supporting documentation when needed to establish eligibility and a need for assistance, how to request additional information from the applicant, and when to close an application. Applications must be processed in a way that provides for consistency and transparency and ensures requested information is used to determine eligibility for assistance.

New item A requires that the commissioner request additional information and documentation when needed to reach a decision on an applicant's eligibility and need for assistance. This requirement helps ensure benefits and services are provided only to whom they are intended, and that state soldiers' assistance funding is used only as intended; therefore, it is reasonable that if the MDVA cannot establish household eligibility and need for benefits with the information in hand, the commissioner has a duty to request additional information so it can make a determination.

New item B requires that any request by the commissioner for additional information and documentation be sent both to the applicant and the county veteran's service officer, department

field operations claims representative, or department tribal veteran's service officer assisting the applicant. The likelihood of receiving requested information in a timely manner is greatly increased if the request for information is sent to both the applicant for benefits and these listed persons assisting the applicant. This requirement is reasonable because it ensures the county veteran's service officer, department field operations claims representative, or department tribal veteran's service officer are kept aware of the status of each application, and these listed persons are often the most effective and efficient in collecting and forwarding the information necessary to process an application.

New item C establishes that requested information must be received within 60 days of the date of the request or the commissioner must close the application. Without certain parameters governing the application process, it will be very difficult to maintain efficiency in managing applications. A specified deadline for submitting information and documentation requested by the commissioner is needed to ensure application processing will not bog down and the ability to make eligibility and benefit determinations based on current information decreases. Item C provides transparency in how the commissioner collects information from an applicant for benefits in order to determine the person's eligibility for benefits from the MDVA. It is reasonable that an applicant for benefits is informed of the time requirement for submitting requested information and the consequence of not doing so.

Subp. 4. Reporting requirements. New subpart 4 requires an applicant report any changes in their situation that affect their eligibility or need for benefits. It is necessary to require an applicant for benefits to report changes to the commissioner and the county veteran's service officer, department field operations claims representative, or department tribal veterans service officer who assisted in the application process in order to keep all parties who participated in the process informed of the status of the application. This requirement is reasonable because it recognizes the limited nature of state soldiers' assistance funding and ensures public trust by preventing the unnecessary spending of state soldiers' assistance funding on behalf of applicants who whose circumstances have changed and who are no longer in need of benefits.

Subp. 5. Determining eligibility. New subpart 5 requires a new application with current information and supporting documentation if the most recent application is closed. Subpart 5 is needed to ensure eligibility determinations and benefit calculations are made using the most current and up-to-date information pertaining to an applicant's situation and need for assistance. Without a completely new application and current information, each time an applicant applies for benefits can lead to the waste and unnecessary spending of state soldiers' assistance funding.

Subp. 6. Rescinding applications and terminating benefits. New subpart 6, items A to C establish that an applicant or recipient can rescind an application or terminate benefits and the process for doing so.

New item A provides that an applicant for or recipient of benefits has the right to rescind their application or terminate their benefits any time. It is reasonable to inform an applicant or recipient of these rights.

New item B requires that rescission of an application or termination of benefits be submitted in writing to the county veterans service officer, department field operations claim representative, or department tribal veterans service officer who assisted the applicant. A process for rescinding an application or terminating benefits is needed to ensure all phases of the rescission or termination process are documented, all parties are informed, and the interests of the applicant for or recipient of benefits and the commissioner are protected. It is reasonable that applicants for or recipients of benefits from the MDVA are informed of the right to rescind their application or terminate their benefits and what is required of them to do so.

New item C establishes that once an application is rescinded or a benefit is terminated the application or benefit cannot be reopened. By not allowing a rescinded application or terminated benefits to be reopened, it requires that the application process start from the beginning, which in-turn will ensure that decisions regarding eligibility and assistance will be made using the most up-to-date information. It is reasonable that applicants for or recipients of benefits from the MDVA are informed that if they exercise their right to rescind their application or terminate their benefits, a new complete application is required.

Subp. 7. Right to notice of decision. New subpart 7 requires the commissioner provide written notice of approval that includes benefit amounts, time periods, and actions required by the applicant for or recipient of benefits; and that notices of denial must state the reasons why benefits were denied and the right of the applicant or recipient to appeal the decision. This subpart is needed to address MDVA's obligation to provide a notice of approval or denial to an applicant who has been approved for or denied benefits and what the next steps in the benefits application process are. It is reasonable that applicants for or recipients of benefits are informed of the reasons behind any decision made by the commissioner that is relevant to them and any action required of them after a decision is made.

Subp. 8. Appeal rights and procedures. New subpart 8, items A to D establish the conditions of an applicant's right to appeal and the procedures to appeal the denial of a benefit. It is necessary that applicant for benefits from MDVA are informed of their rights throughout the application and decision-making processes and through the denial or award of benefits.

New item A provides for an applicant's right to appeal the denial of a benefit and submittal of additional information to the commissioner. Item A also requires the appeal be in writing, that the applicant explain why they disagree with the decision, and that the appeal be signed and dated. This will aid the commissioner in making decisions on an appeal based on current information that gives weight to the applicant's reasons for disagreeing with the initial decision. These requirements are needed to ensure the interests of the applicant are protected and there is proper documentation of the applicant's intentions. It is reasonable that an applicant for benefits is informed of their basic right to appeal the denial of benefits, has the right to submit additional or corrected information that is current and up to date, and has opportunity to explain their reasons for disagreeing with the decision.

New item B establishes that the applicant must submit an appeal within 60 days of the denial notice, and that they forfeit all rights to the appeal process if they fail to meet the timeframe for appeal. Item B also requires that the commissioner approve, partially approve, or deny the benefit; and that the commissioner's decision is final. Without certain parameters governing the appeal process, it will be very difficult to maintain efficiency in managing appeals. A specified deadline for submitting an appeal is needed to ensure appeal processing will not bog down the commissioner's ability to make a decision on an appeal. Item B provides transparency by identifying the commissioner's role in the appeal process and the options the commissioner has when deciding an appeal. It is reasonable to establish a timeframe in which an appeal must be submitted and the consequences of not submitting an appeal within the required timeframe because an applicant must be informed of what is required of them from the beginning of the appeal process through the decision phase.

New item C prohibits county veteran's service officers, department field operations claims representatives, and department tribal veterans service officers from submitting an appeal without the written consent of the applicant. This provision does not forego the requirement of the applicant to sign and date the appeal. This rule is needed to ensure the applicant for benefits is informed and understands that they are the one who has been denied benefits; therefore, it is their right and responsibility to appeal the denial. This rule is also needed to ensure that county veterans service officers, department field operations claim representatives, and department tribal veterans service officers understand their role in the appeal process, and to prevent them from acting against the wishes of the applicant. It is reasonable that county veteran's service officers, department field operations claim representatives, and department tribal veterans service officers can assist with an appeal at the request of the applicant because these are also the persons who can assist the applicant in applying for benefits.

New item D prohibits a vendor or contractor from appealing a denial of benefits that would have resulted in payment to the vendor or contractor. It is the applicant not the vendor or contractor that is denied benefits; therefore, it is the applicant who has the right to and must appeal the denial. This rule is needed to ensure that vendors and contractors understand they have no rights in the appeal process, and to prevent them from acting against the wishes of the applicant. Because vendors and contractors are not eligible to receive benefits from the state soldiers' assistance program, they have no recourse against the commissioner for a decision not to assist an applicant for benefits or a decision to limit the amount of assistance provided to an applicant. This does not however prohibit vendors and contractors from seeking payment from an applicant for services they provided, but the applicant was denied assistance from the MDVA to pay for those services. It is reasonable that an applicant for benefits is informed that they are the one who has been denied benefits; therefore, it is their right and responsibility to appeal the denial on behalf of a vendor or contractor.

Subp. 9. **Overpayment status.** New subpart 9, items A to D identify what it means to be in overpayment status, what overpayment includes, and how the overpayment is to be corrected.

Subpart 9 is needed to ensure the MDVA can recoup the amount of state soldiers' assistance funding disbursed on behalf of a recipient who was not authorized to receive the benefit amount provided.

New item A identifies overpayment status as a recipient of a benefit receiving a benefit in an amount in excess of what is authorized and is the result of an overpayment on behalf of the applicant. This rule is needed to ensure benefits in the correct amount are provided to whom they are intended, and that state soldiers' assistance funding is used as intended. It is reasonable that a recipient of benefits from the MDVA is informed of what is considered an overpayment.

New item B establishes that overpayment can occur when there is a direct payment to a recipient of the benefit or to a vendor or contractor on behalf of a recipient that is in an amount greater than what is authorized. Because benefits can be in the form of a direct payment to a recipient or payment to a vendor or contractor on behalf of a recipient, it necessary to make clear that benefits paid in excess of what is authorized regardless of the situation constitutes an overpayment. It is reasonable to identify the circumstances in which an overpayment can occur.

New item C establishes that an overpayment must be corrected before a household can receive future benefits. This rule is needed because state soldiers' assistance funding is limited and overpaid funds that are not available impacts the ability to provide other benefits. The MDVA must make every attempt to recoup state soldiers' assistance funding that has been overpaid to a recipient or on behalf of a recipient. When the recipient of a benefit is a dependent, the likelihood of recouping the overpaid funds is greatly diminished. It is reasonable to inform a recipient of benefits from MDVA of the consequences of being in an overpayment status.

New item D establishes the overpayment is to be corrected by a direct payment from the person in overpayment status to the commissioner. The MDVA has an obligation to identify how an overpayment can be corrected so that the overpayment can be returned to the MDVA. The commissioner has the means to ensure the repaid funds are properly deposited and it is the commissioner that needs to be informed the overpayment has been corrected; therefore, it is reasonable that an overpayment is corrected by making a direct payment to the commissioner. It is also reasonable to inform a recipient of benefits from MDVA in overpayment status how an overpayment is corrected.

Subp. 10. Responsibility to pay for services. New subpart 10, items A and B establish who is responsible to pay for charges from a vendor or contractor that are over the authorized amount of the benefit.

New item A absolves the commissioner of any responsibility for charges incurred from a vendor or contractor by a recipient of benefits that are over the authorized benefit amount. This rule is needed so that vendors and contractors are informed they cannot pursue full payment from the commissioner for charges incurred by a recipient of benefits that is over the approved amount. Recipients are made aware of the benefit amounts they have been approved for and the responsibilities that go with being a recipient of the benefits; therefore, it is reasonable to place

responsibility for any remaining balances over the authorized benefit amount on the recipient, not the commissioner.

New item B establishes that the recipient incurring charges over the approved benefit amount is responsible for paying the overage to the vendor or contractor. Even though Item A establishes that the commissioner is not responsible for incurred charges over the approved benefit amount, it is necessary to make clear that the recipient of benefits is responsible for paying these charges and, therefore; that the vendor or contractor is not obligated to write them off. Further, there is no provision in state statute that relieves a recipient of benefits of the responsibility to pay for charges they incur over the authorized benefit amount. It is reasonable to inform a recipient of benefits from the MDVA what is required of them if they incur charges over the authorized benefit amount.

9055.0300 CALCULATING MONTHLY HOUSEHOLD INCOME.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. New part 9055.0300 provides transparency in how the income eligibility and evidentiary requirements an applicant must meet in order to receive benefits from the MDVA are established, and is necessary to ensure every individual in need of benefits from MDVA is informed of what income considerations and limits apply to them to be eligible for benefits from certain state soldiers' assistance program activities.

Part 9055.0300 establishes household income as a factor in determining eligibility for benefits and in establishing the appropriate benefit amounts for certain state soldiers' assistance program activities. The requirements of part 9055.0300 put in place policies, procedures, and processes that define the different types of income and that govern: 1) the calculation of household income; 2) the determination of income ownership and inclusion in household income calculations; 3) income limits and how the limits are established; 4) income documentation; and 5) the definitions and calculation of earned income; self-employment income; unearned income; seasonal income; nonrecurring income; suspended, terminated, or transferred income; projected income; and excluded income.

Establishing household income as a factor in eligibility determinations and benefit calculations is reasonable and consistent with the administrative rules for similar programs administered by the DHS such as GA or the MFIP. Like other programs, different types of income and various sources are considered, with allowed withholdings, reductions, and expenses subtracted from gross amounts depending on the type and source of income. This rule part ensures household income is averaged over short periods which take into consideration fluctuations in a person's income; therefore, a person's eligibility or benefit amount is not based on income the person no longer has but considers income that is projected for the person in the near future.

State soldiers' assistance funding is limited with no statutory provisions for exceeding the amount of state soldiers' assistance funding that is available. This rule part ensures there is a

balance between the needs and realities confronting applicants for or recipients of benefits, and the duty of the commissioner to prevent waste and unnecessary spending of state soldiers' assistance funding. Part 9055.0300 provides that need assessments, eligibility determinations, and benefit amounts are based on a current realistic picture of the financial resources available to an applicant for or recipient of benefits. Therefore, it is appropriate that a household's income is a determining factor of eligibility and benefit levels for the state soldiers' assistance program activities that account for the greatest expenditures of state soldiers' assistance program funding.

Lastly, part 9055.0300 ensures state soldiers' assistance program administration is transparent and income determinations and calculations are based on objective identifiable criteria relevant to the circumstances and situations of the person applying for or receiving benefits and services; and thus eliminates arbitrary decision making and ensures fair and equitable outcomes.

Subpart 1. **Definitions.** New subpart 1, items A to G add definitions that apply to part 9055.0300. The rules governing how monthly household income is calculated in order to administer the state soldiers' assistance program and the disbursement of state soldiers' assistance funding are exclusive; hence, there is a requirement for an exclusive set of terms and their respective definitions that are used throughout part 9055.0300. In general, definitions for terms are needed to ensure the MDVA operates and manages state resources efficiently and administers programs in ways that are efficient and effective in providing benefits and services that depend on policies, procedures, and processes that use terms with standard definitions. Providing clear definitions increases transparency and consistency in the administration of the state soldiers' assistance program.

New item A establishes the applicability of the definitions in subpart 1 to part 9055.0300. It is reasonable to provide definitions for terms that specifically apply to and are used in this part.

New item B defines the term "earned income" as compensation from lawful employment or lawful self-employment and does not include returns from capital investment or benefits that accrue as compensation for lack of employment. This term is needed to ensure the types of "earned income" (e.g. salaries, wages, tips, commissions) that are available to a person and can realistically be expected to be used by a person to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. It is reasonable to provide examples of "earned income" so that the applicant for benefits is informed of what types of "earned income" can be considered in determining an applicant's eligibility for assistance. This definition is reasonable because sources of earned income given in this definition are consistent with other accepted definitions of "earned income" found in the "Minnesota Department of Human Services Combined Manual," and with the definitions of "earned income" used in the administrative rules of other income-based programs such as GA, the MFIP, and the Supplemental Nutrition Assistance Program.

New item C defines the term "income" to mean earned or unearned income in the form of any lawful medium of exchange in the United States. This term is needed to ensure types of "earned income" (e.g. coins, paper, digital currency and electronic funds) that are available to a person

and can realistically be expected to be used by a person to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. It is reasonable to provide examples of “income” so that the applicant for benefits is informed of what types of income can be considered in determining an applicant’s eligibility for assistance.

New item D defines the term “monthly household income” to mean a combined measure of the average monthly incomes of all household members. A combined measure of the average monthly incomes accounts for fluctuations in different types of income that may occur from month to month. This term is needed to ensure that the maximum monthly household income limits that have been established for certain state soldiers’ assistance program activities are based on a given definition of “monthly household income.” It is reasonable to define the term “monthly household income” so that the applicant for benefits is informed that it is not solely their monthly income that is considered in determining eligibility for assistance, but the monthly income of all household members.

New item E defines the term “nonrecurring income” as earned or unearned income of a nonrecurring nature or received in a nonrecurring lump sum payment. This term is needed to ensure that sources of income that are nonrecurring in nature but are none the less available to an applicant and can realistically be expected to be used by an applicant to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. It is reasonable that an applicant for benefits be informed that “nonrecurring income” can be considered in determining their eligibility for assistance.

New item F defines the term “seasonal income” as earned income received at regular intervals for part of the year. This term is needed to ensure that sources of income that are seasonal in nature but are none the less available to an applicant and can realistically be expected to be used by an applicant to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. It is reasonable that an applicant for benefits be informed that “seasonal income” can be considered in determining their eligibility for assistance.

New item G defines the term “unearned income.” Income is considered unearned if it doesn’t meet the definition of earned income and is received without having to perform labor or service in order to receive the income. This term is needed to ensure that types of income that do not meet the definition of earned income but are available to an applicant and can realistically be expected to be used by an applicant to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. It is reasonable that an applicant for benefits be informed that “unearned income” can be considered in determining their eligibility for assistance.

Subp. 2. **Monthly household income.** New subpart 2, items A and B establish who is responsible for calculating monthly household income and what it is used for. Monthly household income is a determinant of an applicant’s eligibility for benefits from certain state soldiers’ assistance program activities and in calculating benefit amounts.

New item A requires the commissioner to calculate an applicant's or recipient's monthly household income. This rule is needed to ensure the administration of the state soldiers' assistance program is consistent and transparent by requiring the commissioner to calculate the monthly household income of applicants for and recipients of benefits using the policies procedures and processes established in this rule part. It is reasonable that an applicant for or recipient of benefits from the MDVA is informed that their monthly household income must be calculated by the commissioner in order to determine their eligibility for benefits.

New item B requires the commissioner to use monthly household income to determine the household's eligibility for benefits from income-based state soldier assistance program activities and in calculating the authorized benefit amounts. This rule is needed because a household's eligibility for benefits from income-based program activities must be based on the household income. It is reasonable that an applicant for or recipient of benefits is informed of what the commissioner uses their information about monthly household income for.

Subp. 3. **Income inclusion.** New subpart 3 requires the commissioner to include the monthly income of each eligible person in the monthly household income calculation unless the income of a specific person or income from a specific source is excluded. The maximum monthly household income limits of state soldiers' assistance program activities that are income-based is according to household size. For this reason it is appropriate to include the income of all household members unless the income is excluded elsewhere in this chapter. The provision to exclude certain household members' income or certain sources of income is reasonable under certain circumstances and is consistent with the agency's attempt to base need assessments, eligibility determinations, and benefit amounts on a current realistic picture of the financial resources available to a household. Benefits provided to a household from a state soldiers' assistance program activity are for the well-being of all household members; therefore, it is reasonable to include the income of all household members unless the income is excluded elsewhere in this overall part or other parts.

Subp. 4. **Income ownership.** New subpart 4 requires the commissioner to count as household income any money deposited to a financial account that is jointly owned by an applicant for or recipient of benefits or a member of the person's household and a person who is not eligible for benefits unless the money can be attributed to the person who is not eligible for benefits. This rule is needed to ensure all resources that are available to an applicant for or recipient of assistance are accounted for. Without proof that money deposited to jointly owned accounts is not the income of the applicant for or recipient of benefits or a member of the person's household; it is reasonable to assume that it is. The provision that money attributed to a person who is not eligible for benefits may be excluded ensures need assessments, eligibility determinations, and benefit calculations are based on a current realistic picture of the financial resources available to an applicant for or recipient of benefits.

Subp. 5. Income limits. New subpart 5, items A and B establish how maximum monthly household income limits are determined for income-based program activities, where maximum monthly household income limits can be found, and when a household is not eligible for those activities.

New item A establishes that maximum monthly household income limits are based on household size as provided in the schedule of maximum monthly allowances for the program activity (SONAR exhibit S-1). This rule is needed because monthly household income is a determinant of eligibility for benefits from certain state soldiers' assistance program activities and in calculating benefit amounts. Income limits based on household size are a standard feature of numerous assistance programs administered by the state such as GA and the MFIP. Providing maximum income limits on a schedule of allowances ensures maximum monthly household income limits can be changed outside of the rulemaking process in response to changes in the number of individuals in need of benefits from the state soldiers' assistance program and if state soldiers' assistance funding were unexpectedly increased or reduced by a substantial amount.

New item B establishes that a household is not eligible for benefits from a state soldiers' assistance program activity that is income-based if the household's monthly household income is greater than or equal to their maximum monthly household income limit. This rule is needed because monthly household income is a determinant of eligibility for benefits from certain state soldiers' assistance program activities and in calculating benefit amounts. It is reasonable that only those households truly in need of benefits are the ones who receive benefits and this rule reflects an appropriate concern for the limited nature of state soldiers' assistance funding and the need to prevent wasteful and unnecessary spending of state soldiers' assistance funding.

Subp. 6. Income documentation. Subpart 6, items A to C establish the types of income documentation that are accepted and the required information therein an applicant or recipient must provide in order to be considered for benefits and services. This rule is needed to ensure state soldiers' assistance program administration is consistent and transparent and that decisions are based on established procedures and processes that examine and evaluate standard pieces of income documentation. This rule ensures persons applying for or receiving benefits and services from the department are fully aware of what information must be found in the income documentation they provide.

New item A requires an applicant or recipient verify their monthly household income and establishes the types of documentation that are acceptable to confirm income. This rule is needed because monthly household income is a determinant of eligibility for benefits from certain state soldiers' assistance program activities and in calculating benefit amounts. The types of income documents that are acceptable in confirming income listed in item A, subitems (1) to (5) are common and an applicant or recipient having to produce these documents does not constitute an unreasonable burden. Standardizing the types of income documentation that are accepted relieves any burden caused by ambiguity and inconsistency in program administration and helps to eliminate inconsistent and unpredictable decision making. It is reasonable to inform an applicant

or recipient of what income information is required of them from the beginning of the application process through the termination of benefits or services.

New item B requires that decisions based on household income be arrived at by examining the most current monthly household income information available. Different types of income are averaged over a certain number of months. This rule is needed to ensure assessments, eligibility determinations, and benefit amounts are based on a current realistic picture of the financial resources available to a person by requiring the most recent income documentation available. Therefore, it is reasonable to require an applicant or recipient submit the most current income documentation to the commissioner for the number of months over which a type of income is calculated.

New item C requires the documentation submitted by an applicant or recipient be verified and establishes what information must be provided in the income documentation submitted. This rule is needed to identify the specific information that must be provided in order to confirm a household member's income. The information that must be provided for the types of income documentation listed in item C, subitems (1) to (6) are common and an applicant or recipient having to submit documentation containing the required information does not constitute an unreasonable burden. Standardizing the types of income documentation that are accepted and the information that must be present in the documentation relieves any burden caused by ambiguity and inconsistency in program administration and helps eliminate inconsistent and unpredictable decisions. It is reasonable to inform an applicant or recipient of what income information is required of them from the beginning of the application process through the termination of benefits or services.

Subp. 7. **Earned income.** New subpart 7, items A to D establish the requirements for how earned income is considered in determining an applicant or recipient's eligibility under the income-based state soldier's assistance program. Earned income is one of the different types of income that an applicant or recipient of benefits, or a member of the person's household could be receiving. Because of the different sources of earned income; the frequency in which earned income could be received and the different withholding or reductions earned income may be subject to, it is reasonable to have a rule that specifically governs the treatment of earned income.

New item A requires that the commissioner must include earned income of a member of an applicant or recipient's household when calculating monthly household income. This rule is needed to ensure an accurate assessment of a member of an applicant or recipient's and their household's need, and a realistic picture of the financial resources available to the household will be attained by considering earned income that is received by, made available to, or is projected for the person and any member of the person's household. It is reasonable that an applicant for or recipient of benefits is informed that the earned income of all eligible household members must be included when calculating monthly household income.

New item B requires that the commissioner must include any measurable reduction in expenses provided to a household in lieu of income paid for work, service, effort, or labor as earned income, and provides an example calculation. This rule is needed to ensure an accurate assessment of a household's need and a realistic picture of the financial resources available to the household by considering any substantial reduction in an expense or expenses as opposed to receiving money in exchange for work, service, effort or labor as earned income. Not counting the amount of the expense reduction results in under reporting the household's income. It is reasonable that an applicant for or recipient of benefits is informed that a reduction in expenses provided in lieu of income paid for work, service, effort, or labor will be considered earned income when calculating monthly household income; and to provide an example of this calculation.

New item C requires that the commissioner must reduce the total amount of calculated gross earned income by the employer withholdings and reductions listed in subitems (1) to (16). Reducing gross earned income by the most common employer withholdings and reductions that apply to earned income is needed to ensure that only the financial resources that are available to a household will be considered when calculating monthly household income. As the commissioner is to consider only the financial resources that are available to a household, it is reasonable to reduce gross earned income by the withholdings and reductions common to employment. Identifying the allowed withholdings and reductions to earned income provides transparency and consistency in how earned income is calculated.

New item D requires that the commissioner must average earned income of a household member over the two-month period before the date of application and the 30 day period after the date of application, if income is projected within that timeframe. Averaging earned income over the two-month period before the date of application and the 30 day period after the date of application, if income is projected within that timeframe, minimizes the effects of any income fluctuations during the two months before and 30 days after the date of application. Additionally, keeping the assessment window short is needed to ensure eligibility determinations are based on a realistic picture of the financial resources available to a household at the time of the application for benefits. Income limits are based on household size and income is calculated on the household level; therefore, it is reasonable to consolidate the earned income of each household member to obtain a single monthly household income figure.

Subp. 8. Self-employment income. New subpart 8, items A to E establish the requirements for self-employment income. Self-employment income is one of the different types of income that an applicant for or recipient of benefits, or a member of the person's household could be receiving. This rule is needed to ensure that state soldiers' assistance program administration is consistent and transparent and that eligibility determinations and benefit calculations that consider a person's self-employment income are based on established procedures and processes that examine and accurately calculate a person's self-employment income. Because of the different circumstances that apply to self-employment income; the frequency in which self-

employment income may be received and the different withholding or reductions self-employment income may be subject to, it is reasonable to have a rule that specifically governs the treatment of self-employment income.

New item A requires that the commissioner must include self-employment income of a member of an applicant's or recipients household when calculating monthly household income. This rule is needed to ensure an accurate assessment of a member of an applicant or recipient's and their household's need, and a realistic picture of the financial resources available to the household will be attained by considering self-employment income that is received by or made available to a member of the person's household. It is reasonable that an applicant for or recipient of benefits is informed that the earned income of all eligible household members must be included when calculating monthly household income.

New item B, subitems (1) to (5) establish the types of income that are considered self-employment income and includes income from: operation of a business, farming, rental property, nontraditional housing agreements, and an independently employed household member working in a trade or profession. These sources of self-employment income are consistent with other widely accepted sources of self-employment income considered in the rules of programs administered by other state agencies. It is reasonable that an applicant for or recipient of benefits from the MDVA is informed of what types of income are considered self-employment income.

New item C requires that the commissioner must reduce the total amount of gross self-employment income by the withholding and expenses listed in subitems (1) to (12). Reducing gross self-employment income by the withholdings and expenses common to the operation of a business, farm, rental property, or other contractual arrangements is needed to ensure that only the financial resources that are available to a household will be considered when calculating monthly household income. As the commissioner is to consider only the financial resources that are available to a household, it is reasonable to reduce gross self-employment income by the withholdings and expenses common to the operation of a business, farm, rental property, or other contractual arrangements. Identifying the allowed withholdings and expenses to self-employment income provides transparency and consistency in how self-employment income is calculated.

New item D requires the commissioner not reduce income from nontraditional housing agreements by the withholdings and expenses allowed in chapter 9055. It is highly unlikely that any of the allowed withholdings and expenses can be legitimately applied to a nontraditional housing agreement. Therefore, this rule is needed to prevent using the allowed withholdings and expenses to under report self-employment income. Establishing how nontraditional housing agreements are treated provides transparency and consistency in how self-employment income is calculated. It is reasonable that applicants for and recipients of benefits are informed of how income from nontraditional housing agreements are treated.

New item E explains how self-employment income will be calculated. Averaging self-employment income over 12 months or over the number of months the income source has been in operation minimizes any irregularities in the frequency self-employment income is received.

Income limits are based on household size and income is calculated on the household level; therefore, it is reasonable to consolidate the self-employment income of each household member to obtain a single monthly household income figure. Establishing the period of time over which self-employment income may be averaged will ensure transparency and consistency in how self-employment income is calculated.

Subp. 9. **Unearned income.** New subpart 9, items A to D establish the requirements for how unearned income is considered in determining an applicant or recipient's eligibility under the income-based state soldier's assistance program. Unearned income is one of the different types of income that an applicant for or recipient of benefits, or a member of the person's household could be receiving. Because of the different sources of unearned income; the frequency in which unearned income could be received and the different withholding or reductions unearned income may be subject to, it is reasonable to have a rule that specifically governs the treatment of unearned income.

New item A requires that the commissioner include unearned income of a member of an applicant's or recipients household when calculating monthly household income. This rule is needed to ensure an accurate assessment of a member of an applicant or recipient's and their household's need, and a realistic picture of the financial resources available to the household will be attained by considering unearned income that is received by, made available to, or is projected for the person and any member of the person's household. It is reasonable that an applicant for or recipient of benefits is informed that the unearned income of all eligible household members must be included when calculating monthly household income.

New item B, subitems (1) to (21) establish the types of income that are considered unearned income and includes sources such as investments, savings, trusts, annuities, property, cash prizes and winnings, unemployment insurance, worker's compensation, social security, retirement benefits, child and spousal support, and student financial aid. These sources of unearned income are consistent with other widely accepted sources of unearned income considered in the rules of programs administered by other state agencies. It is reasonable that an applicant for or recipient of benefits from the MDVA is informed of what types of income are considered unearned income.

New item C establishes that gross unearned income must be reduced by the withholding and reductions listed in subitems (1) to (7). Reducing gross unearned income by the most common withholdings and reductions is needed to ensure that only the financial resources that are available to a household will be considered when calculating monthly household income. As the MDVA is to consider only the financial resources that are available to a household, it is reasonable to reduce gross unearned income by the most common withholdings and reductions. Identifying the allowed withholdings and reductions to unearned income provides transparency and consistency in how unearned income is calculated.

New item D requires that the commissioner must average unearned income of a household member over the two-month period before the date of application and the 30 day period after the

date of application, if income is projected within that timeframe. Averaging unearned income over the two-month period before the date of application and the 30 day period after the date of application, if income is projected within that timeframe, minimizes the effects of any income fluctuations during the two months before and 30 days after the date of application. Additionally, keeping the assessment window short is needed to ensure eligibility determinations are based on a realistic picture of the financial resources available to a household at the time of the application for benefits. Income limits are based on household size and income is calculated on the household level; therefore, it is reasonable to consolidate the unearned income of each household member to obtain a single monthly household income figure.

Subp. 10. **Seasonal income.** New subpart 10, items A to C establish the requirements for how seasonal income is considered in determining an applicant or recipient's eligibility under the income-based state soldier's assistance program. Seasonal income is one of the different types of income that an applicant for or recipient of benefits, or a member of the person's household could be receiving. Because of the different frequencies and amounts of seasonal income that could be received, it is reasonable to have a rule that specifically governs the treatment of seasonal income.

New item A requires that the commissioner include seasonal income of a member of an applicant's or recipients household when calculating monthly household income. This rule is needed to ensure an accurate assessment of a member of an applicant or recipient's and their household's need, and a realistic picture of the financial resources available to the household will be attained by considering seasonal income that is received by or made available to the person and any member of the person's household. It is reasonable that an applicant for or recipient of benefits is informed that the seasonal income of all eligible household members must be included when calculating monthly household income.

New item B requires that the commissioner calculate seasonal income only for the months the income is received by or made available to a household member. Persons with monthly household income that is over their maximum monthly household income limit when receiving the income should not receive benefits solely on the grounds that the person applies during the months the household is not receiving income. It is reasonable that an applicant for or recipient of benefits is informed that the seasonal income of all eligible household members must be included when calculating monthly household income.

New item C requires that the commissioner must average seasonal income of a household member over the two-month period before the income ended. Averaging seasonal income over the two-month period before the income ended, minimizes the effects of any income fluctuations during the two months before the income ended. Additionally, keeping the assessment window short is needed to ensure eligibility determinations are based on a realistic picture of the financial resources available to a household at the time of the application for benefits. Income limits are based on household size and income is calculated on the household level; therefore, it is

reasonable to consolidate the seasonal income of each household member to obtain a single monthly household income figure.

Subp. 11. **Nonrecurring income.** New subpart 11, items A to E establish the requirements for how nonrecurring income is considered in determining an applicant or recipient's eligibility under the income-based state soldier's assistance program. Nonrecurring income is one of the different types of income that an applicant for or recipient of benefits, or a member of the person's household could be receiving. Because of the different frequencies and amounts of nonrecurring income that could be received, it is reasonable to have a rule that specifically governs the treatment of unearned income.

New item A requires that the commissioner must include nonrecurring income of a member of an applicant's or recipient's household when calculating monthly household income. This rule is needed to ensure an accurate assessment of a member of an applicant's or recipient's and their household's need, and a realistic picture of the financial resources available to the household will be attained by considering nonrecurring income that is received by, made available to, or is projected for the person and any member of the person's household. It is reasonable that an applicant for or recipient of benefits is informed that the nonrecurring income of all eligible household members must be included when calculating monthly household income.

New item B, subitems (1) to (7) establish the types of income that are considered nonrecurring income and includes sources such as insurance settlements, tax refunds, retroactive benefit payments, self-employment income, winnings, and inheritances. These sources of nonrecurring income are consistent with other widely accepted sources of nonrecurring income considered in the rules of programs administered by other state agencies. It is reasonable that an applicant for or recipient of benefits from the MDVA is informed of what types of income are considered nonrecurring income.

New item C requires that the commissioner include nonrecurring income of a household member when calculating monthly household income if the income is received within 30 days after the date of application. This rule is needed to prevent the unnecessary spending of state soldiers' assistance funding on behalf of a person expecting a very substantial lump sum payment within 30 days after the date of application. Persons expecting a substantial lump sum payment within 30 days after the date of application that puts them over their maximum monthly household income limit when included in monthly household income calculations should not receive benefits. To prevent misuse of state soldiers' assistance funding, it is reasonable that households projected to receive a large sum of nonrecurring income within 30 days after the date of application should not receive benefits until the income is assessed and calculated.

New item D requires that the commissioner reduce gross nonrecurring income by the withholdings and reductions allowed for the type of income received, plus legal or medical fees incurred. Reducing gross nonrecurring income by the most common withholdings and reductions that apply to the type of income received as well as any legal or medical fees and/or other fees and costs incurred to secure receipt of the income is needed to ensure that only the financial

resources that are available to a household will be considered when calculating monthly household income. If the MDVA is to consider only the financial resources that are available to a household, it is reasonable to reduce gross nonrecurring income by the most common withholdings and reductions that apply to the type of income as well as any legal or medical fees and/or other costs incurred to secure receipt of the income.

New item E requires that the commissioner must average nonrecurring income of a household member over 12 months and include it as income to a household in the two-month period before the date of application or will be received by a household within 30 days after the date of application. Averaging nonrecurring income over 12 months and including it in the two-month period before the date of application and the 30 day period after the date of application, minimizes the effects of any income fluctuations during the two months before and 30 days after the date of application. Averaging nonrecurring income over 12 months is reasonable because many one-time payments of nonrecurring income are based on a 12-month period or possibly longer. Additionally, keeping the assessment window short is needed to ensure eligibility determinations are based on a realistic picture of the financial resources available to a household at the time of the application for benefits. Income limits are based on household size and income is calculated on the household level; therefore, it is reasonable to include the nonrecurring income of each household member to obtain a single monthly household income figure.

Subp. 12. **Suspended, terminated, or transferred income.** New subpart 12 requires the commissioner to include as household income, the income of a member of an applicant's or recipients household that is suspended, terminated, or transferred to a person who is not eligible for benefits unless such circumstances are beyond the household member's control. This rule is needed to prevent the temporary suspension or transfer of income for the sole purpose of attaining benefits or services. When income is suspended, terminated, or transferred to a person who is not eligible for benefits due to unforeseen circumstances, such as illness, injury, layoff, or termination it is likely that the household is in a difficult financial situation; therefore, it serves no purpose to base a household's eligibility for benefits on income that has ended and may not be known when or if it will resume. By excluding income that was received during the assessment period but has ended ensures a person's need for assistance is based on a on a realistic picture of the resources currently available to them.

Subp. 13. **Projected income.** New subpart 13, items A to D establish under what conditions income is considered projected and how projected income is calculated. Projected income is one of the different types of income that an applicant for or recipient of benefits, or a member of the person's household could be receiving. Because of the different frequencies and amounts of projected income that could be received, it is reasonable to have a rule that specifically governs the treatment of projected income.

New item A establishes the requirements for when to begin including projected income in the monthly household income. When calculating monthly household income, the commissioner must include earned or unearned income of a member of an applicant's or recipients household

that began on a recurring basis in the 30 day period before the date of application or will be received on a recurring basis within the 30 days after the date of the application. This rule is needed to ensure projected income will only be included when calculating monthly household income if it is confirmed that the income will be received on a recurring basis going forward. Keeping the assessment window short ensures eligibility determinations are based on the most current picture of the financial resources available to a household at the time of the application for benefits and shortly thereafter. This rule also aims to prevent the unnecessary spending of state soldiers' assistance funding on behalf of persons for whom a very lucrative monthly household income is projected. Persons with monthly household income that is projected for the very near future and that is over their maximum monthly household income limit should not receive benefits solely on the grounds that the income has not started. This rule is reasonable because it ensures a household's need for assistance is based on a realistic picture of the resources available to them at the time of the application or resources that will be available to them shortly after.

New items B to D establish how income projected on a weekly, biweekly, and bimonthly basis is to be calculated and averaged over 12 months. Standardizing how projected income is calculated under different payroll circumstances, and the period of time over which projected income may be averaged will ensure transparency and consistency in how projected income is calculated. This rule is needed to establish the formulas that will be used to calculate projected income. These formulas are reasonable because they are based on common payroll frequencies and averaged over 12 months to obtain a monthly amount. Gross amounts are then reduced by the allowed withholdings, reductions, and expenses applicable to the income type.

Subp. 14. **Excluded income.** New subpart 14 establishes the sources of income received by the household that the commissioner must exclude when calculating monthly household income. This rule is needed to ensure that certain vital sources of income will not be included in the monthly household income calculation. It is reasonable that an applicant for or recipient of benefits is informed of what sources of income will be excluded from monthly household income calculations. Subpart 14, new items A to H list the sources of excluded income. The reasonableness of each item is provided below.

New item A is reasonable because Supplement Nutrition Aid Payments are crucial to a household meeting one of their basic needs - food.

New item B is reasonable because security deposit refunds are crucial to a household meeting one of their basic needs - shelter.

New item C is reasonable because: 1) the proceeds from education grants, scholarships, and student loans are for the costs of attending school, not to replace the benefits a household may be eligible for from the state soldiers' assistance program; 2) student loans must be repaid with interest; and 3) not including proceeds from education grants, scholarships, and student loans is consistent with the administrative rules of other programs.

New item D is reasonable because: 1) the proceeds from secured or unsecured loans or lines of credit made by a public or private institution, governmental agency, or private person are tied to a specific purpose and cannot be used to replace the benefits a household may be eligible for from the state soldiers' assistance program; 2) all of these debt agreements will most likely have to be repaid with interest; and 3) not including proceeds from secured or unsecured loans or lines of credit made by a public or private institution, governmental agency, or private person is consistent with the administrative rules of other programs.

New item E is reasonable because funds received for reimbursement, replacement, or rebate of damaged personal or real property are aimed at remedying the loss of property and do not represent a gain.

New item F is reasonable because the household is entitled to benefit payments to correct underpayment of their original benefit funds.

New item G is reasonable because a child is presumed to be financially dependent upon the veteran, surviving spouse, or the member of the military services. The MDVA considers it detrimental to the household to assume a child who is attending school full-time should contribute their earned income to the household.

New item H is reasonable because individuals residing with the household under foster care arrangements are not dependents and the funds received on their behalf are to be used solely for their benefit and not the remaining members of the household.

PART 9055.0310 CALCULATING HOUSEHOLD ASSETS.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. New part 9055.0300 provides transparency in how the commissioner considers and calculates household assets as a factor in determining the income eligibility and evidentiary requirements an applicant must meet in order to receive benefits from the MDVA; and is necessary to ensure every individual in need of benefits from MDVA is informed of what household asset considerations apply to them to be eligible for benefits from certain state soldiers' assistance program activities. The significance household assets play in determining eligibility for benefits and establishing the appropriate benefit amounts for certain state soldiers' assistance program activities requires that the terms and conditions and the procedures and processes for analyzing, evaluating, and calculating the value of assets owned by and available to an applicant for or recipient of benefits be defined and explained.

This part is needed to establish what is considered a household asset, asset ownership and availability, asset limits, and the types of documentation that are accepted to confirm an asset and its value. The requirements of part 9055.0300 put in place policies, procedures, and processes that define different types of assets and govern: 1) the calculation of household assets; 2) the determination of asset ownership and inclusion in household asset calculations; 3) asset

limits and how the limits are established; 4) asset documentation; 5) the definitions and calculation of assets; 6) allowed withholdings and reductions; and 7) excluded assets. Different types of assets and different conditions associated with asset availability, along with the wide array of unavoidable reductions and exclusions and expenses associated with converting an asset to cash require a general definition of assets and an explanation of different types of assets, asset availability for conversion to cash, ownership provisions, the allowed reductions, expenses, and exclusions that apply to an asset when converted to cash, and any assets that are excluded from consideration.

Establishing household assets as a factor in eligibility determinations and benefit calculations is reasonable and consistent with the administrative rules for similar programs administered by the DHS. Like other programs, different types of assets are considered, with allowed withholdings, reductions, and expenses subtracted from gross asset values depending on the type of assets.

Lastly, part 9055.0310 ensures state soldiers' assistance program administration is transparent and income determinations and calculations are based on objective identifiable criteria relevant to the circumstances and situations of the person applying for or receiving benefits and services; and thus eliminates arbitrary decision making and ensures fair and equitable outcomes.

Subpart 1. **Definitions.** New subpart 1 items A to F add definitions that apply to part 9055.0310. The rules governing how household assets are calculated in order to administer the state soldier's assistance program and the disbursement of state soldiers assistance funding are exclusive; hence, there is a requirement for an exclusive set of terms and their respective definitions that are used through-out part 9055.0310. In general, definitions for terms are needed to ensure the MDVA operates and manages state resources efficiently and administers programs in ways that are efficient and effective in providing benefits and services that depend on policies, procedures, and processes that use terms with standard definitions. Providing clear definitions increases transparency and consistency in the administration of the state soldiers' assistance program.

New item A establishes the applicability of the definitions in subpart 1 to part 9055.0300. It is reasonable to provide definitions for terms that specifically apply to and are used in this part.

New item B defines the term "assets" to mean cash and cash equivalents, and financial instruments and investments that can be converted to cash and are owned by or available to a household member. The different types of assets and conditions that apply to asset inclusion and availability, ownership, and allowed withholdings and reductions recognizes the limited nature of state soldiers' assistance funding and helps prevent the unnecessary spending of state soldiers' assistance funding. The MDVA also recognizes that the gross value of an asset is not the amount a household may receive when the asset is converted to cash. When evaluating a household's assets, the MDVA allows the value of an asset to be reduced by certain withholdings or reductions based on the asset type that would be incurred when the asset is converted to cash. Doing this allows the MDVA to objectively identify the resources available to a household that can realistically be expected to be used to meet its needs. It is reasonable that the value of real

property or personal property is not considered as being available to meet the needs of the person applying for or receiving benefits or services.

New item C defines the term “cash and cash equivalents.” This term is needed to ensure types of “cash and cash equivalents” (i.e. coins, currency, checking and savings accounts, and short-term investments) that are available to a person can realistically be expected to be used by a person to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. The examples given in this definition are consistent with other widely accepted definitions of “cash and cash equivalents” and with the definitions of “cash and cash equivalents” used in the administrative rules of other asset-based programs. It is reasonable to provide examples of “cash and cash equivalents” so that the applicant for benefits is informed of what types of income can be considered in determining an applicant’s eligibility for assistance.

New item D defines the term “financial instrument” to mean a real or virtual document that represents a legal agreement involving any kind of monetary value; “financial instruments” are cash or derivative in type. This term is needed to ensure the types of financial instruments that are available to a person and can realistically be expected to be used by the person to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. The types of “financial instruments included in this definition are consistent with the accepted definitions of “financial instrument” and the definition of “financial instrument” used in the administrative rules of other income-based programs.

New item E defines the term “investment vehicle” to mean any financial product used by investors to achieve positive returns. This term is needed to ensure investment vehicles that are available to a person and can realistically be expected to be used by the person to meet their needs are identified and accounted for in eligibility determinations and benefit calculations. The broad definition of “investment vehicle” is reasonable given wide variety of financial products available to investors for the purpose of achieving a positive return. This definition of “investment vehicle” is consistent with other accepted definitions of “investment vehicle” and the definition of “investment vehicle” used in the administrative rules of other income-based programs.

New item F defines the term “household assets” to mean the combined value of the included assets of all members of the applicant’s or recipient’s household. This term is needed to ensure “household assets” are being used when determining a person’s eligibility for assistance and the amounts of assistance the person may receive. With the household being the primary unit upon which benefits are based and because the level of household assets is considered when making a determination of eligibility for certain state soldiers’ assistance program activities it is reasonable to define “household assets” as the total value of all of the included assets of all household members to ensure only those households who are in the most need are the ones who receive assistance. This definition of “household assets” is consistent with other accepted definitions of “household assets” and with the definitions of “household income used in the administrative rules of other income-based programs.

Subp. 2. **Household assets.** New subpart 2, items A to C establish who is responsible for calculating household assets and when income is not considered an asset. Household assets are a determinant of an applicant's eligibility for benefits from certain state soldiers' assistance program activities and in calculating benefit amounts.

New item A requires the commissioner to calculate an applicant's or recipients household assets. This rule is needed to ensure the administration of the state soldiers' assistance program is consistent and transparent by requiring the commissioner to calculate the household assets of applicants for and recipients of benefits using the policies procedures and processes established in this rule part. It is reasonable that an applicant for or recipient of benefits from the MDVA is informed that their household assets must be calculated by the commissioner in order to determine their eligibility for benefits.

New item B establishes that income received by an applicant or a recipient or a household member is not an asset in the month it is received, and that income carried into the next month becomes an asset; an example calculation is provided. This rule is needed because a household's eligibility for benefits from income-based program activities must be based on the household assets. Income received in a given month is not included in the asset calculations for that month. The commissioner considers income received during a month to be allocated for that month's expenses; therefore, it is reasonable to not consider the income an asset until the following month. It is reasonable that an applicant for or recipient of benefits is informed of what the commissioner uses their information about household assets for.

New item C establishes that the commissioner must include household assets as a determinant of an applicant's eligibility for benefits from asset-based state soldiers' assistance program activities. This rule is needed because a household's eligibility for benefits from income-based program activities must be based on the household assets. The commissioner uses the household assets of a person applying for and receiving benefits to determine the person's eligibility for benefits and in calculating the authorized benefit amounts because assets are considered income. It is reasonable that an applicant for or recipient of benefits is informed of what the commissioner uses their information about household assets for.

Subp. 3. **Asset inclusion and availability.** New subpart 3, items A to F establish the requirements for when assets must be included in the household asset calculation and the conditions of asset availability. Household assets are a determinant of an applicant's eligibility for benefits from certain state soldiers' assistance program activities and in calculating benefit amounts. Households must use their own resources to meet their needs before requesting benefits from the state.

New item A requires the commissioner to include the assets of an applicant for or recipient of benefits and any member of the person's household unless the asset is not available. This rule for excluding certain household members' assets or certain types of assets is needed to ensure that need assessments, eligibility determinations, and benefit amounts are based on a current realistic picture of the financial resources available to a household. Maximum household asset limits are

based on household size and benefits provided to a household from a state soldiers' assistance program activity are for the well-being of all household members; therefore, it is reasonable to include the assets of all household members unless the asset is excluded elsewhere in this part or other rule parts of this chapter.

New item B establishes that an asset is available if the household member can convert it to cash. This rule is needed because a household's eligibility for benefits from income-based program activities must be based on the household assets. This rule is reasonable because if an asset can be converted to cash, a person is able to use the cash to meet their needs. This rule is consistent with the administrative rules of other programs such as GA, the MFIP, and the Supplemental Nutrition Assistance Program.

New item C requires that the commissioner must exclude an asset if there is a legally enforceable provision in the agreement that prevents the asset owner from converting the asset to cash. This rule is needed because a household's eligibility for benefits from income-based program activities must be based on the household assets. The provisions of this rule ensure eligibility determinations and benefit amounts are based on a current realistic picture of the financial resources available to a household. It is reasonable that if an asset cannot be converted to cash for legal reasons, then it is not available to a person and their household and cannot be included when calculating household assets.

New item D requires the applicant or recipient provide documentation that confirms the asset cannot be converted to cash. This rule is needed to ensure that decisions to exclude an asset are based on documentation that provides specific information pertaining to the asset's availability. It is reasonable to establish the evidentiary requirements pertaining to a person's assets in order that applicants for and recipients of benefits are informed that they must provide documentation confirming an asset is not convertible to cash.

New item E establishes that taxes, penalties, and fees assessed when converting an asset to cash are not barriers to converting an asset to cash but are to be excluded when calculating the value of the asset. This rule is needed to ensure that only the financial resources that are available to a person are considered when determining eligibility and calculating benefit amounts. Taxes, penalties, and fees do not prevent an asset from being converted to cash albeit the amount of cash available from the asset is reduced; therefore, it is reasonable exclude taxes, fees, and penalties when calculating the value of an asset.

New item F establishes that lines of credit and reverse mortgages are not considered assets. This rule is needed because a household's eligibility for benefits from income-based program activities must be based on the household assets. Lines of credit and reverse mortgages are loan products and do not fall under the definition of an asset. It is not until a person withdraws cash that is available from these loan products and places the cash in a financial account, financial instrument, or investment vehicle, is the amount of withdrawn cash considered an asset. Therefore, it is reasonable that lines of credit and reverse mortgages are not considered assets.

Subp. 4. **Asset ownership.** New subpart 4, items A and B establish the requirements for determining the value of jointly owned assets when calculating household assets. Household assets are a determinant of an applicant's eligibility for benefits from certain state soldiers' assistance program activities and in calculating benefit amounts.

New item A by requires jointly owned assets, with the exception of personal checking and savings accounts, to be equally divided unless a different division of asset ownership is confirmed. This rule is needed to ensure that all financial resources that are available to an applicant for or recipient of benefits are accurately accounted for and that eligibility determinations and benefit calculations are based on a current realistic picture of the resources available to a household. Dividing an asset equally among its owners is a reasonable approach unless a different division of ownership is confirmed by documentation from the institution administering the asset. Households must use their own resources to meet their needs before requesting benefits from the state.

New item B establishes the commissioner must include the full value of a jointly owned personal checking or savings account or exclude a portion of the funds depending unless the conditions of subitems (1) and (2) are confirmed by documentation from the institution administering the asset. The full value of a personal checking or savings account that is jointly owned by a household member and a person not eligible for benefits does not have to be included if a household member has limited access to funds in the account or if a verified share of the funds in a personal checking or savings account are attributed to an individual who is not eligible for benefits. This necessary to ensure that need assessments, eligibility determinations, and benefit amounts are based on a current realistic picture of the financial resources available to a household. This rule is reasonable given the nature of jointly owned personal checking and savings accounts where each owner owns the account in full and has complete access to all of the funds in the account.

Subp. 5. **Asset limits.** New subpart 5, items A and B establish how maximum household asset limits are determined for asset-based program activities, where maximum household asset limits can be found, and when a household is not eligible for those activities. Items C and D establish restrictions on asset transfers and the approved means for reducing household assets.

New item A establishes that maximum household asset limits are based on household size and provided in the schedule of maximum monthly allowances. (SONAR exhibit S-1) Providing maximum asset limits on a schedule of allowances is needed to ensure maximum household asset limits can be changed outside of the rulemaking process in response to changes in the number of individuals in need of benefits from the state soldiers' assistance program, and if state soldiers' assistance funding were unexpectedly increased or reduced by a substantial amount. Asset limits based on household size are a standard feature of numerous assistance programs such as GA and the MFIP administered by the DHS.

New item B establishes that a household is not eligible for benefits from a state soldiers' assistance program activity that is asset-based if the household assets are greater than or equal to their maximum household asset limit. This rule is needed to ensure only those households truly in need of benefits are the ones who receive benefits and reflect an appropriate concern for the limited nature of state soldiers' assistance funding and the need to prevent wasteful and unnecessary spending of state soldiers' assistance funding. This rule is consistent with the procedures of asset-based programs such as GA and the MFIP administered by the DHS.

New item C prohibits the transferring of household assets for the purpose of attaining program eligibility, and that the commissioner must include the value of improperly transferred assets when calculating household assets. This part is needed to ensure the state soldiers' assistance program administration is carried out with integrity by prohibiting households who are over their maximum household asset limit from merely transferring assets to a person who is not considered for benefits only to have the assets transferred back once benefits are attained. It is reasonable to prevent households who do not need assistance from receiving benefits from asset-based programs. This rule is consistent with the administrative rules of programs administered by other agencies.

New item D establishes that a household may reduce their household assets to attain program eligibility and the requirements to do so. This rule is needed to ensure a person's basic needs are being met but eliminates the chances of the assets being transferred back to them. If the amount of households assets are over the maximum household asset limit is not sufficient to address the need the person is applying for benefits for, it is reasonable to allow the person to decrease their assets by using them to pay for basic needs. The provisions of this rule help ensure need assessments, eligibility determinations and benefit amounts are based on a current realistic picture of the financial resources available to a household. This rule is consistent with those of other programs that require a "spend-down" of resources before public assistance is authorized.

Subp. 6. Asset documentation. New subpart 6, items A to C establish the types of asset documentation that are accepted and the required information therein an applicant or recipient must provide in order to be considered for benefits and services. This rule is needed to ensure state soldiers' assistance program administration is consistent and transparent and that decisions are based on established procedures and processes that examine and evaluate standard pieces of asset documentation. This rule ensures persons applying for or receiving benefits and services from the department are fully aware of what information must be found in the asset documentation they provide.

New item A requires an applicant or recipient verify their household assets and establishes the types of documentation that are acceptable to confirm assets. This rule is needed because monthly household income is a determinant of eligibility for benefits from certain state soldiers' assistance program activities and in calculating benefit amounts. The types of asset documents that are acceptable in confirming a person's assets listed in item A, subitems (1) to (3) are common and an applicant or recipient having to produce these documents does not constitute an

unreasonable burden. Standardizing the types of income documentation that are accepted relieves any burden caused by ambiguity and inconsistency in program administration and helps to eliminate inconsistent and unpredictable decision making. It is reasonable to inform an applicant or recipient of what asset documentation information is required of them from the beginning of the application process through the termination of benefits or services.

New item B requires that decisions based on household assets be arrived at by examining the most current asset documentation available. This rule is needed to ensure assessments, eligibility determinations, and benefit amounts are based on a current realistic picture of the financial resources available to a person by requiring the most recent asset documentation available. Therefore, it is reasonable to require an applicant or recipient submit the most current asset documentation to the commissioner for the type of asset that is being calculated.

New item C requires the documentation submitted by an applicant or recipient be verified and establishes what information must be provided in the asset documentation submitted. This rule is needed to identify the specific information that must be provided in order to confirm the household assets. The information that must be provided for the types of asset documentation listed in item C, subitems (1) to (5) are common and an applicant or recipient having to submit documentation containing the required information does not constitute an unreasonable burden. Standardizing the types of asset documentation that are accepted and the information that must be present in the documentation relieves any burden caused by ambiguity and inconsistency in program administration and helps eliminate inconsistent and unpredictable decisions. It is reasonable to inform an applicant or recipient of what asset information is required of them from the beginning of the application process through the termination of benefits or services.

Subp. 7. Allowed withholdings and reductions. New subpart 7 requires that the commissioner must reduce the gross value of an asset by the withholdings and reductions in items A to D to calculate the assets value to determine the household's eligibility for benefits. This rule is needed to ensure only the financial resources that are actually available to a person to meet their needs are used in eligibility determinations and benefit calculations. The MDVA recognizes the mandatory withholdings for state and federal income taxes and it also takes into consideration the likely penalties and fees and other costs associated with the early liquidation of some assets. It is reasonable to reduce the gross value of an asset by the most common withholdings and reductions to include penalties and fees that are incurred when converting the asset to cash. This rule is consistent with the administrative rules of programs administered by other agencies.

Subp. 8. Excluded assets. New subpart 8 establishes the types of assets that the commissioner must exclude when calculating household assets; new items A to C list the types of excluded assets. This rule is needed to ensure that certain vital assets will not be included in the household asset calculation. It is reasonable that an applicant for or recipient of benefits is informed of what types of assets will be excluded from household asset calculations. The reasonableness of each item is provided below.

New item A excludes irrevocable burial policies or irrevocable trusts. This item is reasonable because burial policies and trusts that are irrevocable cannot be liquidated to meet the individuals financial needs.

New item B excludes the cash value and proceeds from life insurance policies. This item is reasonable as the MDVA finds it important that the covered individual continue to have life insurance.

New item C excludes financial accounts of minor children if the accounts are custodial. This item is reasonable due to the limitations parents have regarding the use of funds in a custodial account.

PART 9055.0315 SCHEDULE OF MAXIMUM MONTHLY ALLOWANCES

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program and the disbursement of state soldiers' assistance funding. New part 9055.0315 ensures consistency and transparency in making available to the public the maximum monthly household income and maximum household asset limits that are part of the eligibility requirements of certain state soldiers' assistance program activities as well as transparency and consistency in publishing the benefit amounts available from these program activities. It is necessary and reasonable to ensure every individual in need of benefits from the MDVA is informed of the maximum monthly household income and maximum household asset limits that may apply to them, where this information can be found, and the frequency of updates.

New item A establishes that the schedule of maximum monthly allowances (SONAR exhibit S-1) is incorporated by reference in this rule. As defined in part 9055.0160, subpart 35, a schedule of maximum monthly allowances is used to determine eligibility and to calculate the amount of assistance a household is authorized to receive from a state soldiers' assistance program activity. The schedule of maximum monthly allowances is used by the commissioner to determine the benefit amounts provided under a state soldiers' assistance program activity. It is reasonable to make available the schedule of maximum monthly allowances in order for applicants and recipients of state soldiers' assistance funding to be informed of the maximum household income and asset limits that apply to a state soldiers' assistance program activity in order to be eligible for assistance.

New item B establishes that the schedule of maximum monthly allowances is updated annually; subitems (1) and (2) identify the types of updates that are made. Subitem (1) establishes that the schedule is updated annually to incorporate changes in maximum monthly household income limits and maximum household asset limits. Subitem (1) is needed because it allows updates to income and asset limits without going through the rulemaking process. Doing so allows the MDVA to respond much quicker to possible changes in the levels of state soldiers' assistance funding and changes in the numbers of individuals in need of assistance from the state soldiers'

assistance program. It is also reasonable to update this information annually because annual updates coincide with the frequency of updates for other similar programs such as those administered by the USDVA and the DHS.

Subitem (2) establishes that the schedule is updated annually to incorporate changes in benefit amounts under a state soldiers' assistance program activity. Subitem (2) is needed because it allows updates to benefit amounts without going through the rulemaking process. Once again, doing so allows the MDVA to respond much quicker to possible changes in the levels of state soldiers' assistance funding and changes in the numbers of individuals in need of assistance from the state soldiers' assistance program.

PART 9055.0320 STATE SOLDIERS' ASSISTANCE PROGRAM DENTAL AND OPTICAL PROGRAM ACTIVITIES.

This new part replaces Minn. R. 9055.0085 which is proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the commissioner adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is reasonable because it replaces rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

Minn. Stat. § 197.06, item (3) states:

"The duties and powers of the commissioner of veterans affairs, in addition to those provided elsewhere by law, shall be to:

(3) establish and provide assistance to former soldiers and their dependents who are in need of assistance with optical, dental, or other emergency medical needs; and..."

To provide the assistance called for in Minn. Stat. § 197.06, item (3) in a consistent and transparent manner while recognizing the limited nature of state soldiers' assistance funding and the need for program integrity, it is reasonable to adopt a comprehensive rule part that establishes and makes clear the policies and procedures that must be followed by the commissioner when providing dental and optical assistance to veterans and veterans dependents. The provisions of this rule part are reasonable because they provide efficient and effective processes for fulfilling the requirements of Minn. Stat. § 197.06, item (3) in a manner that respects state soldiers' assistance funding and ensures public trust and program integrity.

The dental and optical program activities are at the core of the state soldiers' assistance program and have been in operation for decades. With that said, the dental and optical needs of Minnesota veterans and veterans' dependents have changed. In order to provide needed dental and optical care to veterans and veterans' dependents in the most transparent and consistent manner that respects the limited nature of state soldiers' assistance funding reasonable measures have been put in place. Maximum monthly household income limits and maximum household asset limits

as well as maximum benefit amounts and lifetime caps on benefit amounts for certain treatment and services have been established. Limits to the frequency in which an individual may receive benefits, prohibiting the combination or transfer of benefit amounts between household members and benefit tiers, and the commissioner never being the primary payer if an individual has public or private dental or optical insurance have been adopted to conserve and prevent the unnecessary spending of state soldiers' assistance funding.

Subpart 1. Program purpose. New subpart 1, items A to C establish the commissioner's duty to provide dental and optical care to veterans and veteran's dependents while making clear the requirement that an individual apply and be approved for dental and optical benefits. This rule is reasonable in that it specifies who is authorized to apply for dental and optical benefits and the rule clarifies that the rule part overall only applies to the dental and optical program activities.

New item A makes clear the commissioner's responsibility to provide dental and optical care and to veterans and veterans' dependents while adding the condition of, "upon application approval." This rule is reasonable in that it makes clear who the intended recipients of dental and optical are while establishing the condition that an application and approval process must be followed.

New item B limits who can actually apply for dental and optical benefits to veterans and the surviving spouses of veterans. This rule is reasonable in that it clarifies who can actually submit an application for dental and optical benefits and makes clear that the requirements of this rule part must also be met.

New item C states that the terms and conditions of this rule apply only to the dental and optical program activities and is necessary given the differences between state soldiers' assistance program activities. This rule is reasonable as it ensures that the dental and optical program activities are consistent and transparent and that all applicant's for and recipients of dental and optical care as well as other interested parties are aware that these rules cannot and will not be applied to other program activities.

Subp. 2. Income and asset limits for dental and optical. New subpart 2, items A to D make clear eligibility for dental and optical benefits is based on an applicant's level of monthly household income and household assets. This rule is reasonable in that it ensures dental and optical care are provided to those eligible applicants who are most in need of financial assistance with paying for dental and optical care.

New item A establishes that an applicant's monthly household income and household assets are determinants of eligibility for the dental and optical program activities. This rule is needed given that state soldiers' assistance funding is limited. Establishing income and assets as factors of eligibility for dental and optical care is reasonable and consistent with the administrative rules for similar programs such as the Medical Assistance program administered by the DHS.

New item B establishes that the maximum monthly household income limit and maximum household asset limit for the dental and optical program are provided in the schedule of maximum monthly allowances for the dental and optical program activity. Providing maximum

monthly household income and maximum household asset limits on a schedule of allowances is reasonable because a schedule of allowances can be updated outside of the rulemaking process in response to changes in the number of individuals in need of dental and optical benefits and in the event of a substantial increase or decrease in state soldiers' assistance funding.

New item C makes clear the commissioner's duty to calculate an applicant's monthly household income and household assets to determine the individual's eligibility for dental and optical benefits. This rule is reasonable in that it ensures the dental and optical program activities are consistent and transparent and that the commissioner calculates an applicant's monthly household income and household assets in accordance with standard procedures and processes contained in the stated rule parts.

New item D requires that an applicant's monthly household income and household assets must be less than the applicant's maximum monthly household income and maximum household asset limits for the dental and optical program activities. This rule is reasonable due to the limited nature of state soldiers assistance funding and will help ensure only those individuals truly in need of dental and optical care and who can least afford it are the ones who receive dental and optical care. This rule is consistent with the administrative rules for the Medical Assistance program administered by the DHS.

Subp. 3. Dental and optical benefit periods. New subpart 3, items A to F make clear the commissioner's duty to establish dental and optical benefit periods and to establish procedures for extending a dental or optical benefit periods when circumstances warrant. This rule is reasonable in that it ensures the dental and optical program activities are consistent and transparent and operate efficiently, and that a recipient of dental and optical care fully understands what a benefit period is and that it is the recipient's responsibility to manage the benefit period and the care that is received.

New item A makes clear the commissioner's duty to create and define dental and optical benefit periods. This rule is reasonable in that the period in which a recipient may receive dental or optical care must be of a specific duration in order to facilitate efficient administration of the dental and optical program activities and managing the timing of state soldiers' assistance funding spent on providing dental and optical care.

New item B establishes the right of a recipient to request an extension of their current dental or optical benefit period for the purpose of completing treatment that has started. This rule part is reasonable given that circumstances arise which prevent a recipient from completing the needed dental or optical treatment within the established benefit period. Allowing a recipient to request an extension of a benefit period is reasonable provided the process is efficient. Doing so balances the need to efficiently administer the dental and optical program activities while ensuring each program activity can fulfill its purpose. It is reasonable that an extension of a dental or optical benefit period will only be granted for treatment that has begun before the end of the benefit period on the grounds that the duration of an extension is limited, and for a recipient who has yet to begin treatment, it is more beneficial to the recipient and more efficient for the commissioner to let the current benefit period expire and have the recipient reapply for dental and optical benefits. Approval under a new application will result in a new benefit period of full duration being issued.

New item C establishes how a recipient is to request a dental or optical benefit period extension. Requiring that a request to extend a dental or optical benefit period be submitted through a county veterans service officer, a department field operations claim representative, or a department tribal veteran's service officer is reasonable given the need for efficiency in the administration of the dental and optical program activities. This rule aids in the processing and tracking of requests for benefit period extensions and the reasons for the requests. County veteran's service officers, department field operations claim representatives, and department tribal veteran's service officers are key to effectively providing benefits and services. Therefore, it is reasonable to keep these individuals informed of and involved in the dental and optical care of the recipients who the county veteran's service officers, department field operations claim representatives, and department tribal veterans service officers assisted in applying for dental and optical benefits.

New item D establishes that a recipient who is requesting to extend a dental or optical benefit period must 1) submit the request in writing to the commissioner not more than 30 days after the current period has ended; and 2) to explain the need for the extension helps promote efficient administration of the dental and optical program activities. These two requirements are reasonable in that the requirements help ensure that the opportunity to extend a benefit period is not abused, and that the number of extension requests and the reasons for extension requests are tracked. Tracking extension requests and the reasons for the requests provides the commissioner with the information needed to make program adjustments when necessary.

New item E, subitems (1) to (3) establish the conditions under which a dental or optical benefit period can be extended. Subitems (1) to (3) are the most common reasons for extending a dental or optical benefit period and all three of these circumstances are out of the recipient's control. Subitem (4) is reasonable in that it accounts for other circumstances but states in the requirement that any other circumstance must also be "unforeseen." Requiring that the reasons for extending the length of a dental or optical benefit period be out of the recipient's control is reasonable in

that it helps prevent abuse of the opportunity to extend the benefit period for reasons a recipient clearly has control over and that could have been avoided.

New item F requires that if a benefit period expires before treatment has begun the recipient must reapply for the dental or optical benefit. This rule is reasonable because it ensures that a recipient who was once approved for dental and optical care but failed or was unable to seek care before the benefit period ended continues to meet the eligibility requirements and is under the income and asset limits for the dental and optical program activity. This rule part is reasonable in that it more advantageous for a recipient who remains eligible for dental and optical benefits to reapply. Benefit period extensions are much shorter than the actual benefit period and when a recipient reapplies for the benefit and is approved an entirely new benefit period begins.

Subp. 4. Dental and optical authorization letters. New subpart 4, items A to D establish the requirements for issuance of an authorization letter to recipient's approved for dental and optical assistance. The authorization letter must contain the information needed to take full advantage of the dental and optical benefits. This rule is reasonable in that it ensures the subsistence program activity is consistent, transparent, and efficient in providing dental and optical care.

New item A makes clear the commissioner's duty to create and issue to each recipient approved for dental or optical benefits a dental or optical authorization letter. The dental and optical authorization letters are a reasonable mechanism to provide a recipient and the recipient's dental or optical provider proof of the recipient's eligibility for dental and optical benefits.

New item B, subitems (1) to (4) provide the information that is most vital to a recipient of dental and optical benefits and the information that is necessary for the informed participation in the dental and optical program activities. This rule is reasonable in that it ensures the dental and optical program activities are consistent and transparent and efficient in each program's administration.

New item B, subitem (1) is reasonable in that it ensures both the recipient of the dental or optical benefit and the providers of dental and optical treatment understand the dental and optical program guidelines and administrative procedures. This rule is key to ensuring that both a recipient receiving treatment and the provider can maximize the dental or optical benefit without incurring an overpayment or a financial loss on the services provided.

New item B, subitem (2) is reasonable in that it helps prevent treatment being provided outside of the dental or optical period. Paying for treatment outside the benefit period is prohibited unless approved by the commissioner. Avoiding this situation is key to the efficient administration of the dental and optical program activities.

New item B, subitem (3) is reasonable in that it ensures a recipient can maximize the treatment the recipient receives while helping prevent the maximum dental or optical benefit amounts from being exceeded. Exceeding the dental or optical maximum benefit amount leaves the recipient receiving treatment responsible for the unpaid balance while at the same time creating a financial loss for the provider. Maximum dental and optical benefit amounts are hard limits and under no circumstances will the commissioner authorize paying more than the maximum limits.

New item B, subitem (4) is reasonable in that it helps ensure treatment is received only from the authorized provider.

New item C limits whom a recipient may receive treatment from to the provider stated on the authorization letter. This is key to the efficient operation and administration of the dental and optical program activities; that use of the benefit can be tracked thereby helping to ensure the maximum benefit amount will not be exceeded. Tracking multiple payments to multiple providers with a capped benefit amount places an unreasonable burden on MDVA. Dispersing dental and optical benefit amounts among multiple providers creates confusion and increases the likelihood that a provider will not be paid for the services provided. Recipients of dental and optical benefits are afforded the opportunity to choose the provider they wish to receive treatment from, and subsequent rules allow for changing providers or adding providers to the authorization letter; therefore, this provision does not constitute a burden to those receiving benefits.

New item D limits the use of providers to only those located in Minnesota or surrounding border communities. This rule is reasonable as state soldiers' assistance funding comes exclusively from Minnesota businesses and residents.

Subp. 5. Dental and optical denial letter. New subpart 5, items A to C establish the requirements for a denial letter containing a full explanation of why a recipient was denied dental and optical benefits. This rule is reasonable in that it ensures the dental and optical program activities are consistent, transparent, and efficient. This subpart replaces Minn. R. 9055.0075 which is proposed for repeal.

New item A makes clear the commissioner's duty to issue a dental and optical denial letter. The dental and optical denial letter is a reasonable mechanism to inform a recipient that they are denied dental and optical benefits, and that the recipient has the right to appeal the denial.

New item B establishes the information which must be provided in the dental and optical denial letter. This rule is reasonable in that it ensures a recipient understands the reasons for denial and their right to appeal. It is reasonable to give a full explanation of the reasons why the recipient was denied dental and optical benefits because without such an explanation the recipient's ability to effectively appeal the denial is impeded.

New item C requires the commissioner provide a written explanation how the applicant's monthly household income and household assets are calculated. The most common reasons for denial of dental and optical benefits are that an applicant is over the maximum monthly

household income limit or maximum household asset limit. To aid an applicant in the appeal process it is necessary to explain to the individual applicant how their monthly household income and household assets are calculated.

Subp. 6. Provider participation. New subpart 6, items A and B establish the requirements for provider participation in the dental and optical program activities.

New item A establishes the requirements for dental and optical providers to participate in the dental and optical program activities; subitems (1) to (5) list the requirements. This rule ensures transparent administration of the dental and optical program activities without creating a compliance burden for providers who wish to participate in the dental and optical program activities.

New item A, subitem (1) requires the dental or optical provider comply with this part and follow the guidelines and administrative procedures established by the commissioner. This rule is reasonable because nothing short of full compliance with the provisions of this rule part and the guidelines and administrative procedures of the department will be accepted by MDVA.

New item A, subitem (2) requires the dental or optical provider coordinate treatment and follow-on care with the commissioner. Providing dental and optical care efficiently requires that the commissioner and providers work together in coordinating treatment in order to prevent exceeding the maximum benefit amount while also ensuring a recipient maximizes the benefit amount the recipient is entitled to receive.

New item A, subitem (3) requires the dental or optical provider bill only for the treatment period. This rule is reasonable because billing only for the treatment provided protects the integrity of the dental and optical program activities and prevents unnecessary spending of state soldiers' assistance funding.

New item A, subitem (4) requires the dental or optical provider comply with all MDVA and Minnesota Management and Budget (MMB) billing and payment requirements. This rule is reasonable because compliance with billing and payment requirements of the MDVA and MMB is necessary for efficient operation and administration of the dental and optical program activities.

New item A, subitem (5) requires the dental or optical provider report any possible conflicts of interest that may result from providing dental or optical treatment. This rule is reasonable because reporting conflicts of interest protects the integrity of the veteran's relief grant program activity and ensures public trust in the providers participating in the dental and optical program activities and MDVA.

New item B requires halting a provider's participation in the dental and optical program activities and initiating an investigation as the proper course of action if there is any indication of provider misconduct. Taking such actions ensures public trust in the providers participating in the dental and optical program activities and MDVA. The commissioner has a duty to administer

the dental and optical program activities in ways that are effective in providing dental and optical care to veterans and veterans' dependents while keeping in mind limits to state soldiers' assistance funding. This rule is reasonable in that it ensures the commissioner takes the necessary steps to prevent the unnecessary spending of state soldiers' assistance funding and to ensure recipients receive the scope of benefits they have been approved for.

Subp. 7. Changing providers. New subpart 7, items A to D establish the procedures that must be followed when a recipient requests to change dental or optical providers. This rule is needed to ensure the opportunity to change a dental or optical provider can be achieved in an efficient manner that ensures all participants are aware of the circumstances and conditions that apply once a provider is changed. This rule is reasonable in that it ensures administration of the dental and optical program activities is consistent and transparent while giving recipients receiving dental and optical care the opportunity to change dental and optical providers under certain circumstances and by following certain procedures and processes.

New item A establishes the conditions under which a request to change providers can be made. The purpose of the dental and optical program activities is to provide needed dental and optical care to eligible individuals. The commissioner realizes not all providers are a good fit for a recipient and other circumstances arise that prevent the completion of treatment from a specific provider. To ensure dental and optical care can be effectively provided it is necessary to allow a recipient to change providers. However, for the purposes of consistency and transparency and in order to administer the dental and optical program activities in an efficient and organized manner, it is reasonable to establish conditions under which a request to change providers can be made. If there is a conflict between a recipient and the original provider they chose, the recipient should be afforded the opportunity to change providers. Also, if there are other circumstances that prevent a recipient from completing treatment with the original provider, it is reasonable to provide the recipient with the opportunity to change providers.

New item B makes clear that a request to change dental or optical providers must be submitted through the county veterans service officer, a department field operations claim representative, or a department tribal veterans service officer with a written explanation of the reasons for changing providers. This rule is needed to ensure consistency and efficiency in the administration of the dental and optical program activities. These two requirements help ensure that the opportunity to change dental or optical providers is not abused, and that the number of requests to change providers and the reasons for the change requests are tracked. County veteran's service officers, department field operations claim representatives, and department tribal veteran's service officers are key to effectively providing benefits and services; therefore, it is necessary to keep these persons informed and involved in the dental and optical care of the individuals who were helped to apply for dental and optical care. Tracking provider change requests and the reasons for the requests is reasonable because it helps identify problems with a particular provider and gives the commissioner information needed to make program adjustments when necessary.

New item C, subitems (1) to (3) establish the requirements for when recipient may request to change dental and optical providers before treatment has begun. This rule is needed to help prevent the waste of time and resources by continuously changing providers for frivolous reasons. Yet it also gives the recipient a chance to find a suitable provider that meets the recipient's needs and it starts a completely new benefit period giving the recipient the full amount of the allotted time to complete treatment. This rule helps to ensure the opportunity to change dental and optical providers can be achieved in an efficient manner that ensures recipients receiving dental and optical benefits and the providers are aware of the circumstances and conditions that apply. The conditions and implications of a recipient requesting to change dental or optical providers before treatment has begun are different from those individuals requesting to change providers after treatment has begun; therefore, it is reasonable to establish different requirements for the different situations.

New item C, subitem (1) requires the current dental or optical authorization letter be voided and the current benefit period be terminated. This rule is reasonable in that it severs ties with the original provider and relieves MDVA of any obligation to that provider which in turn prevents the unnecessary spending of state soldiers' assistance funding. If a recipient were to receive treatment from the provider on the authorization letter that is now void, the recipient and not MDVA is responsible for any charges incurred.

New item C, subitem (2) requires a new dental or optical authorization be issued to begin a new benefit period. This rule aligns with the requirements of subpart 4 of this part, which requires the commissioner to create and issue to each individual approved for dental or optical benefits a dental or optical authorization letter. It is reasonable that if one benefit period is terminated then a new authorization is needed to begin a new benefit period.

New item C, subitem (3) requires that additional requests to change providers during a new benefit period must be approved by the commissioner. This rule is needed to prevent abuse of the opportunity to change providers. It is reasonable to expect that before a recipient applies for dental and optical benefits the recipient has researched prospective providers and made an informed decision so the recipient will likely not have to change providers.

New item D establishes the procedures and processes that must be followed when requesting to change dental or optical providers after treatment has begun. This rule ensures that the opportunity to change dental and optical providers can be achieved in an efficient manner that ensures all participants are aware of the circumstances and conditions that now apply. The conditions and implications of an individual requesting to change dental or optical providers after treatment has begun are different from those individuals requesting to change providers before treatment has begun; therefore, different procedures and requirements must be established for the different situations. The conditions of this rule balance the needs of the individual receiving dental and optical care and the need for consistency and transparency by establishing which provider is authorized to provide treatment; by managing payments and communications

to multiple providers; by clarifying the status of the original benefit period; and by ensuring the original provider is rightly compensated for any services they have provided.

New item, D subitem (1) establishes that MDVA will not pay a dental or optical provider for treatment that is provided before the new provider was authorized. This rule aligns with subpart 4, item C of this part. The MDVA has not had the opportunity to provide the necessary information to the new provider regarding program guidelines, what treatment is covered and not covered, and what if any balance is remaining from the maximum benefit amount.

New item D, subitem (2) establishes that MDVA will not retroactively pay a dental or optical provider that was not authorized to provide treatment. This rule aligns with subpart 4, item C of this part, and MDVA has no obligation to pay a dental or optical provider who was not the authorized provider at the time treatment was provided.

New item D, subitem (3) establishes the priority of the payments to be made to dental and optical providers. This rule is needed to ensure public trust in the MDVA and the integrity of the dental and optical program activities. It is reasonable that once a provider is authorized by the commissioner to provide dental or optical treatment, MDVA is assuming an obligation to pay the provider for their services.

New item D, subitem (4) establishes that only the remaining balance of the maximum benefit amount is available to the new provider. This rule is reasonable in that under no circumstance is the maximum dental or optical benefit amount ever exceeded.

New item D, subitem (5) establishes that the benefit period duration remains unchanged when changing dental or optical providers after treatment has started. Without a valid reason, simply changing providers after treatment has begun does not warrant any changes in the duration of the benefit period. This rule is reasonable because there are requirements in part 9055.0340 for the disaster relief program activity that provide for extending a benefit period if need be.

New item D, subitem (6) establishes that treatment from the original provider is prohibited once a new provider is approved. This rule is essential to the efficient administration of the dental and optical program activities in that it prevents the MDVA from being obligated to make multiple payments to multiple providers and prevents a recipient from exceeding the maximum benefit amount and a provider not getting properly compensated for their services. This rule is reasonable because the recipient of the dental and optical benefit has made it clear by requesting to change providers that the original provider is no longer suitable. Therefore, the MDVA has every right to sever its obligation to the original provider.

Subp. 8. Adding providers. New subpart 7, items A to F establish the procedures that must be followed when a recipient requests to add an additional dental or optical provider to the current dental or optical authorization letter. This rule is needed to ensure administration of the dental and optical program activities is consistent and transparent while giving recipients receiving dental and optical care the opportunity to add dental and optical providers. This rule is reasonable because it ensures the opportunity to add a dental or optical provider can be achieved

in an efficient manner that ensures all participants are aware of the circumstances and conditions that apply once a provider is added.

New item A provides for a recipient to add a dental or optical provider to the current dental or optical authorization letter. The purpose of the dental and optical program activities is to provide needed dental and optical care to eligible individuals. This rule is needed because not all providers can provide the wide range of treatment a recipient may need. To administer the dental and optical program activities in an efficient and organized manner, it is necessary to establish conditions under which a request to add providers must be made and the procedures that must be followed. To ensure needed dental and optical care can be effectively provided it is reasonable to allow the addition of a provider to a recipient's current authorization letter.

New item B establishes the procedure that must be followed when requesting to add a dental or optical provider to a recipient's current authorization letter. The requirement that a request to add a dental or optical provider be submitted from the original or current provider with a written referral to the added provider is reasonable because it is the original or current provider who is aware of the recipient's treatment needs and it will be the original or current provider that will be sharing the maximum benefit amount with the added provider.

New item C establishes that an added provider must be approved by the commissioner before the provider is authorized to provide treatment and that retroactive payment for treatment before approval is prohibited. It is reasonable that before providing treatment the added provider must understand the program guidelines and administrative procedures of the program activity.

New item D establishes the maximum benefit amount is shared between the original or current provider and the added provider and that treatment and payment priorities must be coordinated between the two providers. This rule is reasonable because there are no provisions for exceeding the maximum benefit amount; therefore, any remaining balance of the maximum benefit amount must be distributed between the original or current provider and the added provider.

New item E makes clear that the benefit period duration remains unchanged when adding a dental or optical provider. Without a valid reason, simply adding a provider does not warrant any changes in the duration of the benefit period. This rule is reasonable because the addition of a provider can add additional scheduling concerns; however, there are requirements in part 9055.0340 for the disaster relief program activity that provide for extending a benefit period if need be.

New item F establishes that the original or current provider is still authorized to provide treatment if a provider is added. This rule is needed to ensure consistent dental or optical care for a recipient while allowing for efficient administration of the dental and optical program activities. This rule is reasonable because in most cases an additional provider is required to perform some type unique treatment and once the treatment is concluded the recipient will need additional treatment from the original or current provider.

Subp. 9. Dental and optical program activities are not insurance. New subpart 9, items A to D establish the requirements for when a recipient receiving dental or optical care has other insurance that may cover the recipient's treatment. This rule is needed to ensure the dental and optical program activities are consistent and transparent and administered in a manner that looks out for the interests of both the recipient receiving dental and optical care and the provider furnishing the care. This rule is reasonable as it reflects the limited nature of state soldiers' assistance funding and the commissioner's duty to prevent the unnecessary spending of state soldiers' assistance funding.

New item A establishes that in all cases the state is never the primary payer for dental and optical treatment if a recipient has other insurance, and that an applicant for benefits from the dental and optical program activities is always required to disclose whether the applicant has other insurance. The sole purpose of dental and optical insurance is to pay for dental and optical treatment received by the covered individual using a dedicated source of funding, i.e. premiums. The dental and optical program activities do not have a dedicated source of funding exclusively for dental and optical treatment. The dental and optical program activities are but two of many state soldiers' assistance program activities vying for state soldiers' assistance funding. For these reasons the commissioner paying for services covered by other insurance constitutes misuse of state soldiers' assistance funding when funding from other insurance is specifically delegated for such purposes. This rule is reasonable as it ensures the dental and optical program activities are transparent and the rule is consistent with the rules of programs administered by the DHS and the USDVA.

New item B establishes the evidentiary requirements a dental or optical provider must submit if a recipient has dental or optical insurance that covers the treatment provided. This rule is reasonable in that the "Explanations of Benefits" are the only documents that break down coverage in sufficient detail to confirm the amounts not covered by insurance that a recipient will be responsible for paying.

New item C requires the commissioner to only pay up to the amount a recipient is obligated to pay under the terms and conditions of the recipient's insurance plan, not to exceed the maximum authorized benefit amount. This rule is needed to provide consistency and transparency to the dental and optical program activities and to prevent unnecessary spending of state soldiers' assistance funding. This rule is reasonable given the purpose of the dental and optical program activities is to provide needed dental and optical care to eligible applicants and not to make dental and optical providers financially whole.

New item D requires the commissioner must pay up to the maximum benefit amount when a recipient has dental or optical insurance and specific treatment is not covered or denied in full. In certain situations, such as with Medical Assistance, a provider can be denied payment for treatment that is not covered by Medical Assistance, but the provider is prohibited from billing the recipient. In other cases the treatment a recipient receives is simply not covered by their insurance, the treatment is denied in full, yet the insurance carrier does not issue an "Explanation

of Benefits” showing the amount the recipient is responsible for paying. In such cases the commissioner does not have the authority to prevent a provider from billing the recipient. Therefore, it is reasonable under the above circumstances to pay for dental and optical care not to exceed the maximum amount allowed under the dental or optical program activities.

Subp. 10. **Benefits provided.** New subpart 10 makes clear that the commissioner must administer the dental benefit in two tiers. This rule is reasonable because of the comprehensive treatment provided under the dental program activity, the benefit amounts provided for different treatments, and the allowed frequency of the different treatments. Most of treatment provided under the dental benefit is authorized on an annual basis with a specific benefit amount provided each year. The remaining and very specific types of treatment are provided up to a lifetime benefit amount. To facilitate program efficiency it is necessary and reasonable to separate the treatments with different frequencies and benefit amounts into two separate tiers that maintain separation.

New item A establishes that the first-tier of the dental benefit pays up to a maximum amount on an annual basis for specific dental treatment. A recipient’s dental health depends on regular care and treatment; therefore, providing dental care on an annual basis with a benefit period of sufficient duration is an effective way to ensure the dental health of eligible recipients. State soldiers’ assistance funding is limited; therefore, it is reasonable that the first-tier dental benefit has limits to the types of treatments that are authorized and that eligibility for dental care is authorized on an annual basis as opposed to more frequently.

New item B establishes that the second-tier of the dental benefit pays up to a maximum per-lifetime benefit amount for specific types of dental treatment. Rather than making second-tier dental treatment a once-per-lifetime occurrence where a maximum benefit amount is issued only once in a recipient’s lifetime and once the benefit is used it is no longer available regardless of the amount used, it is more effective to establish a once per-lifetime benefit amount that can be spread out over more than one occurrence. The different treatments provided under this rule part are needed and appropriate given the comprehensive treatments offered under the first-tier of benefits and most logical as recipient’s age. This rule is reasonable because the treatment provided under the second-tier of the dental program activity is not recurring in nature like the treatment provided under the first-tier but is such that the treatment may need to be spread out over several years.

Subp. 11. **First-tier dental benefit.** New subpart 11, items A to F establish the basic level of dental care furnished under the dental program activity and sets forth the requirements that must be followed in providing basic dental care. This rule is reasonable in that it ensures the commissioner efficiently administers the dental program activity in ways that are consistent and transparent and are most effective in meeting the wide range of dental needs of eligible applicants.

New item A establishes the duty of the commissioner to issue a dental authorization letter to each recipient approved for first-tier dental benefits. Recipients approved for the first-tier dental

benefit will need proof of eligibility that can be presented to the dental provider; hence, it is the commissioner's duty to determine a recipient's eligibility for the first-tier dental benefit and if approved the commissioner must provide the recipient with the appropriate proof that confirms the recipient's eligibility for the benefit. The dental authorization letter is the most logical means of proving eligibility.

New item B establishes that the maximum benefit amount for the first-tier dental benefit is provided in the schedule of maximum monthly allowances for the dental program activity. It is necessary to provide the maximum first-tier benefit amount on a schedule of allowances that can be updated as necessary outside of the rulemaking process. This provides needed flexibility to react to changes in the number of individuals in need of first-tier dental benefits and in the event of a significant increase or decrease in state soldiers' assistance funding.

New item C establishes that the full first-tier benefit amount is made available at the beginning of each dental benefit period. Each dental benefit period has a definite beginning and ending with a period of ineligibility between benefit periods, benefit amounts remaining at the end of a benefit period do not carry over for future use, and each new benefit period requires a reestablishment of eligibility. For these reasons it is reasonable and appropriate that the maximum benefit amount be authorized at the beginning of each first-tier dental benefit period an individual is approved for.

New item D establishes that remaining first-tier dental benefit amounts do not carry over from one benefit period to the next and cannot be combined or transferred among household members. This rule is needed to prevent large households with multiple eligible members from accumulating maximum first-tier dental benefit amounts for household members who need little or no first-tier dental care for the sole purpose of transferring the benefit amounts to other household members whose treatment cost may exceed the maximum first-tier dental benefit amount. The end of each dental benefit period signifies the end of eligibility and the end of any claim to the remaining balance of the maximum first-tier dental benefit amount from that period. For this reason when eligibility is reestablished, a new benefit period begins with the maximum benefit amount made available at the beginning of the new benefit period. This rule is reasonable because carrying over remaining benefit amounts from one period to the next defeats the purpose of having a maximum first-tier dental benefit amount and would result in ever increasing unsustainable dental expenditures. This rule is also reasonable because it ensures the equitable administration of the dental program activity. First-tier dental benefits are allocated on a per individual basis as opposed to a household basis. Each recipient approved for first-tier dental care is assigned their own benefit period and awarded the maximum first-tier dental benefit amount at the beginning of each benefit period. This rule maintains equity among recipients of the first-tier dental benefit because it ensures no one recipient receives more than the maximum first-tier dental benefit amount.

New item E establishes the different dental treatments covered under the first-tier dental benefit; subitems (1) to (8) list some of the most commonly needed dental treatments. Because dental

benefits are administered on an annual basis it is reasonable that the treatments authorized in this rule are very comprehensive and include the most common procedures required.

New item F establishes the different dental treatments that are not covered under the first-tier dental benefit; subitems (1) to (5) list the types of treatments not covered. This rule is reasonable as it accounts for the limited nature of state soldiers' assistance funding and the fact that the dental treatments included in this rule generally cost far more than what the maximum benefit amount could realistically cover and, in some cases are merely cosmetic.

Subp. 12. Frequency of first-tier dental benefits. New subpart 12, items A to C limit first-tier dental benefits to one benefit every 12 months and require an individual to reestablish the individual's eligibility for each benefit. This rule is reasonable as it conserves state soldiers' assistance funding and helps ensure dental care is provided to those individuals who are most in need.

New item A establishes that the first-tier dental benefit is limited to one benefit every 12 months. In the majority of cases a recipient visits the dental provider several times within a benefit period; therefore, rarely does a recipient experience a 12 month break between dental appointments. The limit of one benefit period every 12 months is reasonable because each benefit period lasts several months and there are provisions for extending the length of a benefit period if necessary.

New item B establishes the procedure for calculating when a recipient who has previously received the first-tier dental benefit is eligible for the benefit again. This rule is reasonable given the long duration of the dental benefit period. For example, if a recipient of the dental benefit has a dental exam in the first week of a benefit period and once again at the end of the benefit period, the time between the recipient's last treatment and their upcoming eligibility date is considerably less than 12 months.

New item C requires that a recipient must reestablish their eligibility prior to each subsequent first-tier dental benefit period. This rule is reasonable as it ensures a recipient applying for the first-tier dental benefit regardless of the number of times the recipient has previously received the benefit continues to maintain Minnesota residency, that the recipient's dependents are still eligible for benefits, and that the recipient is still under the maximum monthly household income and maximum household asset limits.

Subp. 13. Second-tier dental benefits. New subpart 13, items A to I establish a second level of advanced dental care furnished under the dental program activity and sets forth the requirements that must be followed in providing advanced dental care. This rule is reasonable as it ensures the commissioner efficiently administers the dental program activity in ways that are consistent and transparent and are most effective in meeting the more advanced dental needs of eligible recipients.

New item A establishes the treatments covered under the second-tier dental benefit and that second-tier dental benefits are a maximum per-lifetime benefit amount; covered treatments are

identified in subparts (1) and (2). Rather than making second-tier dental treatment a once-per-lifetime occurrence where a maximum benefit amount is issued only once in a recipient's lifetime and once the benefit is used it is no longer available regardless of the amount used, it is more effective to establish a once per-lifetime benefit amount that can be spread out over more than one occurrence. The different treatments provided under item A are needed and appropriate given the comprehensive treatments offered under the first-tier of benefits and most logical as recipient's age. This rule is reasonable because the treatment provided under the second-tier of the dental program activity is not recurring in nature like the treatment provided under the first-tier but is such that the treatment may need to be spread out over several years.

New item B establishes that the maximum lifetime benefit amount for the second-tier is provided in the schedule of maximum monthly allowances for the dental program. This rule is needed to provide the maximum second-tier benefit amount on a schedule of allowances that can be updated as necessary outside of the rulemaking process. This provides the flexibility to react to changes in the number of individuals in need of second-tier dental benefits and to react to a significant increase or decrease in state soldiers' assistance funding.

New item C establishes the procedure for administering second-tier dental benefits on a maximum lifetime benefit amount basis. The maximum benefit amount is authorized at the start of the first second-tier benefit period. From that point on benefit amounts remaining at the end of a benefit period will continue to carry over until the maximum per-lifetime benefit amount is exhausted.

New item D requires a previous recipient of the second-tier dental benefit to complete and submit a new application for each second-tier benefit period and meet all eligibility requirements. This rule is reasonable to ensure only those persons eligible for benefits receive them.

New item E requires the commissioner to issue a separate dental authorization letter to each recipient approved for a second-tier dental benefit. Recipients approved for the second-tier dental benefit will need proof of eligibility that can be presented to the dental provider. Issuing an authorization letter each time a recipient is approved for a second-tier dental benefit is the only means by which the recipient and the provider are made aware of the recipient's eligibility and how much of the lifetime benefit amount remains. This rule is needed because the dental authorization letter is the most logical means of proving eligibility. The commissioner determines a recipient's eligibility for the second-tier dental benefit; therefore, if approved the commissioner provides the recipient with the appropriate proof that confirms the recipient's eligibility for the benefit.

New item F establishes that second-tier dental benefit amounts cannot be combined or transferred among household members. Second-tier dental benefits are allocated on a per individual basis. Each recipient approved for second-tier dental care is assigned their own maximum lifetime benefit amount at the beginning of the initial second-tier benefit period. This rule is needed to maintain equity among recipients needing second-tier dental benefits because it

ensures no one recipient receives more than the maximum lifetime benefit amount for a second-tier dental treatment. Prohibiting the transfer and combination of benefit amounts between household members is reasonable because allowing such transfers and combinations of benefit amounts defeats the purpose of having a maximum benefit amount and would result in ever increasing unsustainable dental expenditures.

New item G establishes the second-tier dental benefit is exclusive and cannot be combined with each other or with the first-tier benefit amount. To ensure equitable administration of the dental program activity second-tier dental benefits are allocated on a per treatment basis. This rule is needed to ensure no recipient receives more than the maximum lifetime benefit amount for a second-tier dental treatment. Each recipient approved for second-tier dental care is assigned their own benefit period and awarded the maximum lifetime benefit amount for the particular second-tier dental treatment that is needed. Prohibiting the combination of benefit amounts between treatment types and the first-tier dental benefit amount is reasonable because allowing such combinations of benefit amounts defeats the purpose of having a maximum benefit amount and would result in ever increasing unsustainable dental expenditures.

New item H requires that the commissioner preauthorize the second-tier dental benefit. To efficiently manage the second-tier dental benefit it is necessary to require that the pre-authorization requests for second-tier dental benefits be submitted during a current first-tier dental benefit period. This rule is reasonable as it ensures the commissioner is made aware of a recipient's need for second-tier dental benefits and ensures the amount remaining of the recipient's maximum lifetime benefit amount is verified.

New item I establishes that when a recipient's second-tier maximum lifetime benefit amount is exhausted the recipient can use the first-tier dental benefit for second-tier dental treatment. This rule is reasonable because there may be situations when the maximum lifetime benefit amount for a particular second-tier treatment is not enough for all of the treatment a recipient may need. For this reason the commissioner permits the use of the first-tier dental benefit to receive second-tier dental treatment if the maximum lifetime benefit amount for the second-tier treatment is exhausted.

Subp. 14. **Optical benefits.** New subpart 14, items A to F establish the basic level of optical care furnished under the optical program activity and sets forth the policies, procedures, and processes that must be followed in providing basic optical care. This rule is reasonable because it ensures the commissioner efficiently administers the optical program activity in ways that are consistent and transparent and are most effective in meeting the wide range of optical needs of eligible individuals.

New item A establishes the frequency of the optical benefit and the duty of the commissioner to issue an optical authorization letter to each recipient approved for optical benefits. This rule is needed because a recipient's eyesight depends on regular care and treatment; therefore, providing optical care on an annual basis with a benefit period of sufficient duration is effective way to ensure the optical health of eligible recipients. State soldiers' assistance funding is

limited; therefore, it is reasonable that the optical benefit has limits to the types of treatments that are authorized and that eligibility for optical care is authorized on an annual basis as opposed to more frequently. Recipients approved for the optical benefit will need proof of eligibility that can be presented to the optical provider. The commissioner determines a recipient's eligibility for the optical benefit, and if approved the commissioner must provide the recipient with the appropriate proof that confirms the recipient's eligibility for the benefit. The optical authorization letter is the most logical means of proving eligibility.

New item B establishes that the maximum annual benefit amount for the optical benefit is provided in the schedule of maximum monthly allowances for the optical program. This rule is needed to provide the maximum optical benefit amount on a schedule of allowances that can be updated as necessary outside of the rulemaking process. This provides the flexibility needed to react to changes in the number of individuals in need of optical benefits and to react to a significant increase or decrease in state soldiers' assistance funding.

New item C establishes that the full optical benefit amount is made available at the beginning of each optical benefit period. Each optical benefit period has a definite beginning and ending with a period of ineligibility between benefit periods, benefit amounts remaining at the end of a benefit period do not carry over for future use, and each new benefit period requires a reestablishment of eligibility. For these reasons it is appropriate that the maximum benefit amount be authorized at the beginning of each optical benefit period an individual is approved for.

New item D establishes that remaining benefit amounts do not carry over from one optical benefit period to the next and cannot be combined or transferred among household members. This rule is needed to prevent large households with multiple eligible members from accumulating maximum optical benefit amounts for household members who need little or no optical care for the sole purpose of transferring the benefit amounts to other household members whose treatment cost may exceed the maximum benefit amount. The end of each optical benefit period signifies the end of eligibility and the end of any claim to the remaining balance of the maximum benefit amount from that period. For this reason when eligibility is reestablished, a new benefit period begins with the maximum benefit amount made available at the beginning of the new benefit period. This rule is reasonable because carrying over remaining benefit amounts from one period to the next defeats the purpose of having a maximum benefit amount and would result in ever increasing unsustainable optical expenditures. This rule is also reasonable because it ensures the equitable administration of the optical program activity. Optical benefits are allocated on a per individual basis as opposed to a household basis. Each recipient approved for optical care is assigned their own benefit period and awarded the maximum optical benefit amount at the beginning of each benefit period. This rule maintains equity among recipients receiving the optical benefit because it ensures no one recipient receives more than the maximum optical benefit amount.

New item E establishes the different optical treatments and eyewear covered under the optical benefit; subitems (1) to (3) list some of the most commonly needed optical treatments and eyewear. Because dental benefits are administered on an annual basis it is reasonable that the treatments authorized in this rule are very comprehensive and include the most common procedures required.

New item F establishes the different optical treatments and hardware that are not covered under the optical benefit; subitems (1) to (3) list the treatments not covered. This rule is reasonable as it accounts for the limited nature of state soldiers' assistance funding and the fact that the optical treatments included in this rule generally cost far more than what the maximum benefit amount could realistically cover, and the prohibited hardware and warranty plans are not optical treatment but rather accessories.

Subp. 15. Frequency of optical benefits. New subpart 15, items A to C limit optical benefits to one benefit period every 12 months and require a recipient to reestablish their eligibility for each benefit period. This rule is reasonable as it conserves state soldiers' assistance funding and helps ensure optical care is provided to those recipients who are most in need.

New item A establishes that the optical benefit is limited to one benefit period every 12 months. This rule is necessary as it is recommended that recipients who rely on prescription eyewear and who fit the health demographics of many of the state's older veterans have more frequent eye exams. The limit of one benefit period every 12 months is reasonable because each benefit period lasts several months and there are provisions for extending the length of a benefit period if necessary.

New item B establishes the procedure for calculating when a recipient who has previously received the optical benefit is eligible for the benefit again. This rule is reasonable in that it allows for a recipient to receive an optical exam every 12 months.

New item C requires that a previous recipient must reestablish their eligibility prior to each subsequent optical benefit period. This rule is reasonable as it ensures a recipient of the optical benefit, regardless of the number of times the recipient, has previously received the benefit continues to maintain Minnesota residency, that the recipient's dependents are still eligible for benefits, and that the recipient is still under the maximum monthly household income and maximum household asset limits.

Subp. 16. Dental and optical payments. New subpart 16, items A to C establish the requirements to make payments to dental and optical providers. This rule ensures the dental and optical payments are processed in a consistent and transparent manner.

New item A establishes that dental and optical providers are responsible for submitting the necessary documentation for payment to the commissioner. It is the dental and optical providers who know what treatment and services were provided to a recipient, who complete the required billing documentation, and it is the providers that will be paid directly. Therefore, it is reasonable

that the dental and optical providers are the ones to submit the billing documentation for the treatment and services provided.

New item B requires that payment for treatment and services provided is made directly to the dental and optical providers. This rule is needed to facilitate the efficient administration of the dental and optical program activities and prompt accurate payment. Direct payment to the dental or optical provider eliminates the recipient receiving the dental and optical services from playing any role in the payment process. This is reasonable because it ensures dental and optical providers receive proper payment for the treatment and services provided, and eliminates the possibility of misuse of state soldiers' assistance funds.

New item C requires certain information must be included on dental and optical bills that are submitted to the commissioner for payment; subitems (1) to (7) list the information. This rule is needed because the information required on dental and optical bills ensures payments are only made for recipients approved for the dental or optical benefit, the dates of service meet benefit period requirements, and the services billed for are covered under the particular program activity. The information required on dental and optical bills allows the commissioner to track the services and treatment provided and their cost, which in turn allows the commissioner to make needed program adjustments.

New item C, subitem (1) is reasonable because the name of the recipient receiving treatment identifies the recipient for whom the bill is submitted.

New item C, subitem (2) is reasonable because it identifies the name of recipient who applied for the benefits, which should be the same name as the recipient receiving treatment.

New item C, subitem (3) is reasonable because the dental or optical authorization letter ensures the recipient for whom the bill is submitted has been approved to receive dental or optical benefits.

New item C, subitem (4) is reasonable because the dates of service treatment was provided ensures treatment was provided within the benefit period.

New item C, subitem (5) is reasonable because the amount charged for each treatment is needed to know the payment amount.

New item C, subitem (6) is reasonable because the provider's name, location, and payment address are needed to know where to send the payment.

New item C, subitem (7) is reasonable to know if the recipient receiving treatment has other insurance and the "Explanation of Benefits" is needed to determine the recipient's responsibility to pay for the treatment received.

PART 9055.0330 STATE SOLDIERS' ASSISTANCE PROGRAM VOUCHER DEPOSIT ASSISTANCE PROGRAM (VDAP) ACTIVITY.

New part 9055.0330 creates the Voucher Deposit Assistance Program (VDAP) activity and the rules for its administration.

Minn. Stat. §§ 196.04 and 14.06 mandate the commissioner adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program.

Minn. Stat. § 196.05, subd. 1, item (8) and Minn. Stat. § 197.06 (4) require the commissioner to supplement the benefits provided by federal agencies when the conditions of an individual case make it necessary. To provide the assistance called for in these state statutes in a consistent and transparent manner while recognizing the limited nature of state soldiers' assistance funding and the need for program integrity, it is reasonable to adopt a comprehensive rule that establishes the VDAP activity and makes clear the policies and procedures that must be followed by the commissioner when fulfilling the commissioner's responsibility to, "cooperate with United States governmental agencies providing compensation, pensions, insurance, or other benefits provided by federal law, by supplementing the benefits prescribed therein, when conditions in an individual case make it necessary." The VDAP activity supplements the benefits provided through programs administered by various federal agencies such as the USDVA and the United States Department of Housing and Urban Development.

This rule ensures the VDAP activity is consistent and transparent and the commissioner efficiently administers the VDAP activity in ways that are effective in providing needed financial assistance while also recognizing the limited nature of state soldiers' assistance funding and need for program integrity. The MDVA believes that the rule requirements placed on individuals applying for or receiving voucher deposit assistance do not constitute a burden. Part 9055.0330 is reasonable and provides standard procedures, processes, and eligibility criteria that are applied to the circumstances and situations of each individual applying for or receiving the VDAP benefit. This eliminates the magnitude in which decisions vary based solely on who is making the decisions.

Subpart 1. **Program purpose.** New subpart, 1 items A to D make clear that it is the duty of the commissioner to provide financial assistance to a veteran and the veteran's dependents who are participants in a publicly funded subsidized housing program, and in need of a security or damage deposit to take possession of permanent housing. The rule is necessary because it recognizes the need for additional residency verification procedures to facilitate eligibility determinations. It is reasonable to specify who is authorized to apply for the VDAP benefit and to establish the requirement of participation in a subsidized household program and the need for a security or damage deposit.

New item A makes clear the commissioner's duty to provide financial assistance to a veteran and the veteran's dependents who are participants in a publicly funded subsidized housing program.

This rule is needed to identify who the intended recipients of the VDAP benefit are, and to establish the condition that an individual's application must be approved before assistance is provided. Item A is reasonable as it is critical to the administration of the VDAP activity in a manner that reflects the intent of the statutes.

New item B establishes who the applicants are that may apply for the VDAP, and it establishes that an applicant must meet the requirements of this rule and actually be in need of a security or damage deposit to attain permanent housing. It is reasonable that an applicant be in need of a security or damage deposit otherwise there is no need for the assistance provided by the VDAP activity. Limiting who can apply for the VDAP benefit to veterans and the surviving spouses of veterans ensures the application process for the benefit is consistent and transparent and efficient.

New item C helps ensure the VDAP program activity is administered in a way that is effective in meeting the needs of as many applicants as possible who are in need of the VDAP benefit. Many applicants who would be eligible for a subsidized housing program cannot provide the residency verifications required in Minn. Stat. § 197.05 (b); therefore, it is reasonable to allow staff members of subsidized housing programs working with applicants for VDAP assistance to confirm the applicant has been living in Minnesota for at least 30 days and intends to reside in Minnesota. If an applicant has been approved for subsidized housing in Minnesota it is a reasonable conclusion that the applicant intends to reside in Minnesota.

New item D establishes that part 9055.0330 applies only to the VDAP program. This rule is needed because the differences between state soldiers' assistance program activities are significant. Item D ensures the VDAP activity is consistent and transparent and all applicants for and recipients of the VDAP benefit are informed that these rules cannot and will not be applied to other program activities.

Subp. 2. **Benefits provided.** New subpart 2, items A to E establish what VDAP financial assistance is used for, the frequency of the VDAP benefit, and removes from the VDAP eligibility criteria any type of income and asset limits. Subpart 2 also establishes the policies and procedures governing the reimbursement of security or damage deposits and the responsibilities of property owners and managers when reimbursing a security or damage deposit. This rule is reasonable because it creates the policy governing the eligibility of a veteran or the surviving spouse of a veteran for the VDAP benefit and establishes the policy and procedures for determining an applicant's VDAP benefit amount.

New item A establishes what the VDAP benefit does and why. The goal of the VDAP activity is to assist eligible applicants in attaining permanent housing. The VDAP activity fulfills the need for a security or damage deposit to be paid in full. This rule is reasonable because approval for subsidized housing does not include payment of a security or damage deposit; however, a security or damage deposit paid in full is always required to attain rental housing regardless of whether the housing is subsidized or not.

New item B establishes that the VDAP benefit is a once-per-lifetime benefit that is not subject to maximum monthly household income limits or maximum household asset limits. The purpose behind a security or damage deposit when renting property is that when a tenant relinquishes the property to the owner in an undamaged condition, the security or damage deposit is returned to the former tenant for use as a security or damage deposit at another residence or to meet other housing needs. For this reason, in addition to limits in state soldiers' assistance funding it is reasonable to make the VDAP benefit a once-per-lifetime benefit. It is more likely than not that an applicant who is eligible for subsidized housing has very little income or assets and has to have met any income and asset limits of the subsidized housing program. Therefore, it serves no purpose for the commissioner to establish MDVA specific income and asset limits, for if the income or asset limits established by MDVA are different from those of the subsidized housing program this could defeat the purpose of the VDAP activity.

New item C establishes the conditions governing a veteran's and the surviving spouse of a veteran's eligibility for the VDAP benefit. If a veteran is married and receives financial assistance from the VDAP activity, the veteran's spouse is also a recipient of the financial assistance. Should the veteran and spouse decide to change residences, the security or damage deposit is reimbursed and is available for the veteran and spouse to attain new housing. If the veteran passes away and the surviving spouse were to change residences, the security or damage deposit would be reimbursed to the surviving spouse to use to meet his or her housing needs. If on the other hand the veteran were to pass away without having received VDAP financial assistance, only then would the surviving spouse be in need of assistance with a security or damage deposit. It is reasonable that the MDVA would assist the surviving spouse under these circumstances.

New item D establishes what factors determine the maximum VDAP benefit amount. This rule is needed because each situation a security or damage deposit is required to attain permanent housing is different. It is not reasonable or realistic to establish a maximum benefit amount that applies to all situations. The proposed lease agreement becomes the legal contract between the individual approved for the VDAP benefit and the lessor. Therefore, it is necessary to pay the amount stated on the proposed lease agreement as being for the security or damage deposit plus any additional amounts required for move-in. Not paying the full amount of the security or damage deposit and additional amounts required for move-in would in many cases render the VDAP activity useless if the maximum benefit amount is not sufficient.

New item E establishes the amount of time that determines who is reimbursed the security or damage deposit depending on when the veteran or surviving spouse of the veteran vacates the property being rented. This rule is needed to prevent abuse of the VDAP benefit. The purpose of the VDAP activity is to assist an individual with attaining and maintaining permanent housing. Therefore it is reasonable to require an individual to live at a residence for a minimum period of time before the security or damage deposit is reimbursed to the individual.

Subp. 3. VDAP approval letter and shelter authorization forms. New subpart 3, items A to C establish the commissioner's duty to provide an approval letter and shelter authorization form containing the information needed to take full advantage of the VDAP benefit. This rule is reasonable in that it ensures the VDAP activity is consistent, transparent, and efficient in the VDAP approval process.

New item A makes clear the commissioner's duty to create and issue a VDAP approval letter and shelter authorization form. The VDAP approval letter and shelter authorization form combined form a reasonable mechanism to inform a veteran or surviving spouse of their approval for the VDAP benefit; to explain VDAP guidelines and administrative procedures; and to provide a standard document that contains all of the necessary information required by the commissioner and MMB for payment of the VDAP benefit.

New item B establishes the completed VDAP shelter authorization form as the only billing document accepted by the commissioner for payment of the security or damage deposit. This rule is needed in order to provide a uniform method of payment. It is reasonable to require a standard document that captures all of the information required by the commissioner and MMB for prompt payment of the security or damage deposit to the property owner or manager.

New item C, subitems (1) to (4) identify the information that the VDAP approval letter and shelter authorization form must explain and confirm. It is reasonable that specific information be provided in the VDAP approval letter and shelter authorization form in order to ensure that veteran or surviving spouse, and property owners and managers are informed of and understand what is expected of them.

New item C, subitem (1) is reasonable as a veteran or surviving spouse approved for the VDAP benefit and a property owner or manager must understand the guidelines and administrative procedures of the VDAP activity.

New item C, subitem (2) is reasonable in that it notifies all parties of the amount approved for the security or damage deposit and confirms the commissioner has approved the correct amount for a veteran or surviving spouse's security or damage deposit.

New item C, subitem (3) is reasonable in order to confirm the name and address of the property owner or manager to be paid the security or damage deposit which facilitates efficient payment processing.

New item C, subitem (4) is reasonable because providing instructions for completing the shelter authorization form helps to ensure a veteran or surviving spouse approved for the VDAP benefit and the veteran or surviving spouse's property owner or manager understand how to complete the form.

Subp. 4. VDAP denial letter. New subpart 4, items A and B establish the commissioner's duty to provide a denial letter containing a full explanation of why an individual was denied the VDAP benefit and the necessary information and procedures for filing an appeal. It is reasonable

that a veteran or surviving spouse be notified if they have been denied financial assistance through the VDAP activity benefit.

New item A makes clear the commissioner's duty to issue a VDAP denial letter. The VDAP denial letter is a reasonable means to inform a veteran or surviving spouse that they been denied the VDAP benefit, the reasons for denial, and the right to appeal the denial.

New item B makes clear the information which must be provided in the VDAP denial letter to ensure a veteran or surviving spouse understand the reasons for denial and the individual's right to appeal. This rule is reasonable because not knowing the reasons why the VDAP benefit was denied impedes the veteran's or surviving spouse's ability to effectively appeal the denial.

Subp. 5. Property owner or manager participation. New subpart, items A to C establish the minimum requirements that property owners and managers must meet to ensure accountability and protect the interests of all parties participating in the VDAP activity. This rule is reasonable and straightforward and does not create a compliance burden for the property owners and managers willing to provide housing to veterans or the surviving spouses of veterans.

New item A is reasonable to require full compliance with this rule part to ensure the integrity of the VDAP activity.

New item B is reasonable because a standard lease agreement protects the interests and ensures the rights of the veteran or surviving spouse renting the property and the property owner or manager. It is also reasonable that the property owner or manager complete the required portion of the shelter authorization form because the form is the official billing document for the security or damage deposit and the property owner or manager needs to be informed of this information.

New item C is reasonable because compliance with billing and payment requirements of the MDVA and MMB is necessary for efficient operation and administration of the VDAP activity.

Subp. 6. Changing residences. New subpart 6, items A to E provide that a veteran or surviving spouse approved for the VDAP benefit have an opportunity to change residences under certain circumstances by following certain procedures and processes. This rule is needed to help ensure the opportunity to change residences can be achieved in an efficient manner by making all participants aware of the circumstances and conditions that apply once a residence change is requested and approved. The requirements of items A to E are reasonable because they balance the needs of a veteran or surviving spouse approved for the VDAP benefit to have a suitable residence with the administrative concerns of the commissioner pertaining to the residence the veteran or surviving spouse will be occupying, which property owner or manager is authorized to receive payment, having the proper documentation in place for the protection of the veteran or surviving spouse, and the need for program accountability.

New item A establishes when a veteran or surviving spouse may request to change residences. The purpose of the VDAP activity is to assist a veteran or surviving spouse approved for the benefit in attaining permanent housing. The commissioner recognizes not all residences or property owners, or managers turn out to be a good fit for an individual, or other circumstances arise that prevent the individual from moving into a specific residence. To ensure a veteran or surviving spouse moves into a suitable residence they are likely to remain in for an extended period, it is necessary under certain circumstances to allow an individual to change residences. If a residence becomes unavailable or if a conflict arises between a veteran or a surviving spouse and a property owner or manager before the individual moves into the residence it is the best interest of all parties to allow for a change of residence. For efficiency and to prevent abuse of the VDAP activity and out of fairness to property owners and managers, it is reasonable to require that a request to change residences must be made before the scheduled move-in date. The vetting and inspection process for subsidized housing is rigorous; therefore, it is reasonable to expect that any conflicts with the original property owner or manager or defects in the original residence be discovered and addressed before move-in.

New item B establishes that a request to change residences be submitted through a county veterans service officer, a department field operations claim representative, or a department tribal veterans service officer. Item B is necessary to aid in tracking requests to change residences and the reasons for the requests. This rule is reasonable because county veteran's service officers, department field operations claim representatives, and department tribal veteran's service officers are the key personnel to effectively providing benefits and services; therefore, it is necessary to keep them informed of and involved in the housing process of the individuals who they helped apply for the VDAP benefit.

New item C establishes the process a veteran or surviving spouse must follow when requesting to change residences. Requiring a veteran or surviving spouse to submit a request to change residences in writing to the commissioner with an explanation of the need to change residences ensures that requests to change residences are documented and are granted for appropriate reasons. The requirement a veteran or surviving spouse return the original VDAP approval letter and shelter authorization form is necessary to maintain program integrity and to maintain control over the documents that are used for approval and payment. These requirements help ensure that the opportunity to change residences is not abused, and that the number of requests to change residences and the reasons for change requests are tracked. Tracking residence change requests and the reasons for the requests helps identify problems with a particular property owner or manager and gives the commissioner information it may need to make program adjustments when necessary.

New item D establishes the documentation requirements when changing residences. Requiring a veteran or surviving spouse who was previously approved for the VDAP benefit to provide updated documentation from the agency approving the individual for subsidized housing, and a proposed lease agreement with the new property owner or manager is reasonable to ensure the

individual is still eligible for subsidized housing and is needed to determine the security or damage deposit amount that is required from the new property owner or manager.

New item E requires the commissioner approve the new residence before move-in and payment of the security or damage deposit is authorized. To protect the interests of the MDVA, it is necessary to not make retroactive payments to a property owner or manager that is different from who was originally approved. This rule is reasonable in that it ensures the commissioner has the opportunity to inspect the proposed lease agreement between the individual approved for the VDAP benefit and a different property owner or manager before approval of the new residence and before payment of the security or damage deposit.

Subp. 7. VDAP payments. New subpart 7, items A to C establish the requirements for VDAP payments. It is reasonable to ensure VDAP payments are based on established policies and are carried out in accordance with standard procedures and processes.

New item A establishes the responsibilities of a veteran or surviving spouse approved for the VDAP benefit in order to be eligible for payment. This rule is needed to ensure a veteran or surviving spouse approved for the VDAP benefit takes responsibility for finalizing the lease agreement with the property owner or manager and completing the shelter authorization form with the property owner or manager. It is reasonable the veteran or surviving spouse are informed of the requirements they must meet to be eligible for VDAP payment.

New item B makes clear the commissioner's duty to pay only the documented property owner or manager. The first requirement of this rule is reasonable to ensure the property owner or manager who has entered into the contractual agreement with a veteran or surviving spouse approved for the VDAP benefit is the party that the security or damage deposit is paid to. The second requirement removes a veteran or surviving spouse receiving the VDAP benefit from the process of delivering payment to the property owner or manager.

New item C, subitems (1) to (3) identify the documentation to be submitted to the commissioner to receive payment of a security or damage deposit. This is reasonable to ensure VDAP integrity and accountability and that the documentation is collected before a payment is made to a property owner or manager.

New item C, subitem (1) is reasonable because the VDAP approval letter is the single document that confirms the veteran or surviving spouse is eligible for the VDAP benefit.

New item C, subitem (2) is reasonable because the completed shelter authorization form is the only approved billing document for the veteran's or surviving spouse's security or damage deposit. It is part of the financial record and is proof that the security or damage deposit was paid.

New item C, subitem (3) is reasonable because the finalized lease agreement confirms that the veteran or surviving spouse and the property owner or manager have entered into an agreement that gives each party specific rights and responsibilities. The lease agreement prevents the property owner or manager from arbitrarily evicting the veteran or surviving spouse and keeping the security or damage deposit and provides a degree of protection to the commissioner's expenditure for the security or damage deposit.

PART 9055.0340 STATE SOLDIERS' ASSISTANCE PROGRAM DISASTER RELIEF PROGRAM ACTIVITY.

New part 9055.0340 creates the Disaster Relief Program activity and the rules for its administration.

Minn. Stat. §§ 196.04 and 14.06 mandate the commissioner adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program.

Minn. Stat. § 196.05, subd. 1, item (8) and Minn. Stat. § 197.06 (4) require the commissioner to supplement the benefits provided by federal agencies when the conditions of an individual case make it necessary. To provide the assistance called for in these state statutes in a consistent and transparent manner while recognizing the limited nature of state soldiers' assistance funding and the need for program integrity, it is reasonable to adopt a comprehensive rule part that establishes the disaster relief program activity and makes clear the policies and procedures that must be followed by the commissioner when fulfilling the commissioner's responsibility to, "cooperate with United States governmental agencies providing compensation, pensions, insurance, or other benefits provided by federal law, by supplementing the benefits prescribed therein, when conditions in an individual case make it necessary." The disaster relief program activity supplements the benefits provided through programs administered by various federal agencies such as the United States Department of the Treasury, the United States Department of Labor, the Federal Emergency Management Agency, the Small Business Administration, and the United States Department of Agriculture.

This rule ensures the disaster relief program activity is consistent and transparent and the commissioner efficiently administers the disaster relief program activity in ways that are effective in providing needed financial assistance while also recognizing the limited nature of state soldiers' assistance funding and need for program integrity. The MDVA believes that the rule requirements placed on individuals applying for or receiving the disaster relief benefit do not constitute a burden. Part 9055.0340 is reasonable and provides standard procedures and processes and eligibility criteria that are applied to the circumstances and situations of each individual applying for or receiving the disaster relief benefit. This eliminates the magnitude in which decisions vary based solely on who is making the decisions.

Subpart 1. **Program purpose.** New subpart, 1 items A to D establish the commissioner's duty to provide financial assistance, under what circumstances, and to whom assistance is to be

provided. Items A to D establish who is authorized to apply for the disaster relief benefit, the requirements that applies when two veterans are married to each other, and that this rule part only applies to the disaster relief program activity.

New item A requires that upon application approval, the commissioner provide financial assistance to eligible persons who have been adversely affected by a disaster event; subitems (1) and (2) identify these persons. Eligible persons are a veteran and veteran's dependents affected by a disaster event, and a member of the armed forces called from reserve status to extended active duty affected by a disaster event. The requirements of subitems (1) and (2) are critical to the administration of the disaster relief program activity in a manner that reflects the intent of the state statutes governing the MDVA. It is reasonable that an application must be approved before assistance is provided, that it states who the intended recipients of the disaster relief benefit are, and that it requires an applicant be adversely affected by a peacetime emergency so that the commissioner can provide financial assistance to those who are eligible.

New item B, subitems (1) to (3) establish who can apply for the disaster relief benefit and requires that an applicant meet the remaining requirements of the rule part. Limiting who can apply for the disaster relief benefit to veterans, the surviving spouses of veterans, and members of the armed forces is reasonable as it ensures the application process for the disaster relief benefit is consistent and efficient, and the financial assistance goes to whom the program intends.

New item C establishes that two veterans married to each other are authorized to receive the disaster relief benefit for a declared emergency. This rule is needed because eligibility for the disaster relief benefit is based on being a veteran and meeting all of the requirements of this rule part. Every veteran who meets all of the requirements of part 9055.0340 is entitled to 100 percent of the benefit. This rule is reasonable because if two veterans are married to each other with only one eligible for the benefit would be denying the other veteran a benefit the veteran is entitled to.

New item D establishes that part 9055.0340 applies only to the disaster relief program activity. Item D is needed because the differences between state soldiers' assistance program activities are significant. This rule is reasonable because it ensures the disaster relief program activity is consistent and transparent, and all applicants for and recipients of the disaster relief benefit are informed that these rules do not apply to other program activities.

Subp. 2. Activation of disaster relief program activity. New subpart 2 makes clear the commissioner's duty to administer the disaster relief program activity when the governor issues an emergency executive order and the order authorizes the MDVA to provide assistance under this program. This rule is reasonable because the commissioner's is the only individual responsible for activating the disaster relief program activity provided all of the requirements for activation have been met.

Subp. 3. Residency requirement. New subpart 3 requires the applicant meet specific residency requirements to be eligible for financial assistance under the disaster relief program activity. When a disaster affects certain counties and not others it is reasonable that only those applicants living in those counties included in the governor's emergency executive order be eligible for the disaster relief benefit. The commissioner recognizes that applicants in adjacent counties may also have been adversely affected by the disaster event; however, due to the limited nature of state soldiers' assistance funding it is reasonable to exclude applicants not residing in counties covered by the governor's emergency executive order from the disaster relief program activity.

Subp. 4. Frequency of disaster relief benefits. New subpart 4, items A to C establish the number of times during a declared peacetime emergency an individual may receive a disaster relief benefit. This rule is reasonable because different disaster events require different types of assistance and are of varying durations.

New item A establishes that the number of times an individual may receive the disaster relief benefit depends on the type of disaster event. This rule is reasonable because disaster events can be singular in nature such as a tornado or flood or a disaster event can be ongoing such as the COVID-19 pandemic.

New item B establishes that a recipient can receive only one disaster relief benefit if the disaster event is a single incident. This rule is reasonable because the state soldiers' assistance funding is limited, the needs created by the disaster event are typically specific, and the recovery time from a single disaster event is likely to be of shorter duration if assistance is provided.

New item C establishes that the commissioner may authorize more than one disaster benefit for a disaster event that is ongoing, lasting for an extended period of time. This rule is reasonable because as a disaster event continues different types of needs may arise that may require additional assistance.

Subp. 5. Benefits provided New subpart 5, items A to G establish the conditions for when disaster relief benefits are provided. The reasonableness of each item is provided below.

New item A establishes the limitations of the disaster relief benefit; subitems (1) to (3) identify what disaster relief financial assistance is provided for and under what circumstances an individual may receive the disaster relief benefit.

New item A, subitem (1) limits financial assistance to offset a reduction in monthly household income or assets resulting from a disaster event. This rule is reasonable because an individual who has experienced a reduction in monthly household income and household assets due to a prolonged peacetime emergency or natural disaster is likely to need assistance with meeting the individual's basic needs.

New item A, subitem (2) limits financial assistance to pay for increased costs or expenses resulting from a disaster event. This rule is reasonable an individual who has experienced an increase in costs or expenses resulting from a prolonged peacetime emergency or natural disaster is also likely to need assistance with meeting the individual's basic needs.

New item A, subitem (3) limits financial assistance for costs and expenses to repair or restore a primary residence or land needed for the structural integrity of the residence damaged in a disaster event. It is reasonable to expect that a natural disaster such as flooding or tornados can result in severe damage to a residence and an individual will likely need assistance with the costs and expenses incurred to repair and restore their primary residence and surrounding land vital to the structural integrity of the residence.

New item B establishes that an individual's monthly household income and household assets are not considered when determining the individual's eligibility for the disaster relief benefit. The benefit is only authorized for individuals residing in a county included in the governor's executive order. The impact of the disaster relief benefit on state soldiers' assistance funding can be limited by the level of the maximum benefit amount while providing assistance to the greatest number of households.

New item C establishes that the maximum benefit amount that is authorized for a given disaster event and what costs and expenses are covered under the disaster relief benefit for a declared emergency are based on the type of disaster and the impact and duration of the disaster event. Disaster events are unique and vary in severity and the type of damage caused; therefore, it is reasonable that there is leeway to determine what costs and expenses are covered under the disaster relief benefit for each declared emergency. This rule ensures the financial assistance provided is the most effective in meeting the needs of individuals adversely affected by the disaster event.

New item D establishes that the maximum benefit amount is exclusive to the declared emergency and that it expires at the end of the emergency with no carryover of remaining amounts for future use. Disaster events are unique and vary in severity and the type of damage caused; however, subsequent disaster events can often affect the same areas; therefore, affecting the same individuals. To ensure equity in the distribution of the disaster relief benefit it is appropriate that the maximum benefit amount established for a declared emergency applies only to that emergency and that amounts remaining at the end of the benefit period for that emergency do not carry over for future use regardless of whether an individual is affected by a disaster event in the future.

New item E establishes how the disaster relief benefit is disbursed. Recovery from a disaster event can put an immediate financial strain on a household; therefore, it is reasonable to allow for a direct payment or reimbursement to an individual approved for the disaster relief benefit. However, in certain instances an individual does not have the financial resources on hand for repairs or restorations that must be accomplished by a vendor or contractor; therefore, it is reasonable to allow for a direct payment to a vendor or a contractor.

New item F establishes that any form of redundant benefits being paid to an individual eligible for the disaster relief benefit are prohibited. This rule ensures state soldiers' assistance funding will be used only for assistance with costs and expenses and for repairs and restorations that are not covered by private insurance and/or other state and federal agencies or programs.

Subp. 6. Responsibility for repair and restoration. New subpart 6, items A to G establish requirements for the ownership and leasing of property affected by a disaster event and the responsibilities for repair and restoration of the property under the disaster relief benefit. This rule is reasonable in that it helps ensure disaster relief benefits disbursed for repair and restoration costs of an individual's primary residence are used exclusively to meet the basic shelter needs of the individual affected by a disaster event and do not provide assistance to any individual who is not eligible for assistance from the state soldiers' assistance program.

New item A establishes limits to the property that can be repaired and restored using the disaster relief benefit; subitems (1) and (2) identify the property the benefit applies to. This rule focuses on what is most critical to an individual affected by the disaster - the dwelling that is the individual's primary residence and/or land that is vital to the structural integrity of the primary residence. The requirement that an individual receiving the disaster relief benefit or the individual's spouse be an owner or a tenant with a responsibility to repair or restore the property affected by the disaster event is a reasonable means to ensure the individuals receiving the disaster relief benefit are in need of assistance to safely meet their shelter needs, and are authorized to receive assistance using the state soldiers' assistance funds.

New item B establishes that the property affected by the disaster event must be the household's primary residence and homesteaded. It is reasonable to ensure that the property affected by the disaster is the individual's primary residence or land vital to the structural integrity of the primary residence and the property is homesteaded; thereby, providing the individual's basic need for shelter.

New item C establishes that business and agricultural buildings may not be repaired or restored using the disaster relief benefit. The disaster relief benefit is to ensure an individual can continue to meet their shelter needs and not the individual's business needs. State soldiers' assistance funding is limited; therefore, it is reasonable to exclude repairs and restorations to agricultural or business-related buildings and property not vital to the integrity of the primary residence, i.e. not vital to meeting the individual's basic need for shelter.

New item D requires that if a recipient is leasing the affected property, they must demonstrate a responsibility to repair and restore the property in terms of the lease agreement. Damage to rental property of any type is in most cases the responsibility of the property owner or manager; however, under certain circumstances an individual leasing property is obligated to repair and restore the leased property. Therefore, it is reasonable to require that if the individual receiving the disaster relief benefit or the individual's spouse is renting the property, the individual must show responsibility for the repairs and restoration in the terms of the lease agreement.

New item E establishes the type of documentation that is accepted as proof of ownership and homesteading or leasing of the affected property; subitems (1) to (6) list the documents. This rule is reasonable because these documents are the most common documents confirming ownership or a contract between a lessee or lessor. All are either provided by or approved by different government entities.

New item F, subitems (1) and (2) establish the conditions under which the disaster relief benefit paid for repair and restoration costs must be prorated. Prorating the disaster relief benefit under the conditions in this rule part is reasonable because it prevents state soldiers' assistance funding from being used to repair and restore property owned or leased by individuals who are not eligible for benefits from the state soldiers' assistance program.

New item G establishes the conditions that must be present in order for the disaster relief benefit to not be prorated. Once an individual who is not eligible for the disaster relief benefit either relinquishes ownership or ceases to lease property with an individual or the individual's spouse who is eligible for the benefit, or when the individual who is not eligible for the benefit is no longer liable for the property and its repair and restoration, there is no longer a concern that the individual who is not eligible for the disaster relief benefit will benefit from the state soldiers' assistance program. Therefore, this rule is reasonable.

Subp. 7. Disaster relief benefit period. New subpart 7, items A to F establish how the disaster relief benefit period is determined, when the benefit period begins and ends, the individual's responsibilities in managing the costs and expenses covered by the benefit period, and the recipients right to request an extension of the benefit period in order to receive the full benefit amount.

New item A, subitems (1) and (2) establish that the disaster relief benefit period is based on the type of disaster event, its impact and duration, and the period during which the commissioner must issue disaster relief benefits. Identifying a disaster relief benefit period of a specific duration during which an individual may receive financial assistance is a reasonable means of managing state soldiers' assistance funding and ensuring funding is spent on providing disaster relief. This rule is reasonable in that it allows the administration of the disaster relief program activity in a manner that aligns with the characteristics of the disaster event and circumstances of the individuals affected by the disaster event. Due to the nature of disaster events and the extended process for declaring an emergency and producing an executive order, an individual eligible for the disaster relief benefit may have lost income or begun incurring costs and expenses before the executive order is issued. An individual whose property has been damaged cannot be expected to wait on the governor and commissioner to declare the emergency and establish the benefit period. This rule provides the flexibility to adapt to varying administrative conditions, the timing and nature of the disaster event, and the changing needs of those adversely affected by the disaster event.

New item B establishes the how costs and expenses incurred on the first and final days of the benefit period are treated. Due to the nature of disaster events and that individuals eligible for the disaster relief benefit may have already incurred costs and expenses it is necessary to cover costs and expenses incurred on the first and final days of the benefit period.

New item C establishes that a recipient of the disaster relief benefit can request an extension of the benefit period to complete repairs or restoration. The purpose of the disaster relief program activity is to provide financial assistance to individuals adversely affected by a disaster event. Circumstances arise which prevent an individual from completing the needed repairs or restorations to the individual's property within the established benefit period. Allowing an individual to request an extension of a benefit period is reasonable provided the process is efficient. Doing so balances the need to efficiently administer the disaster relief program activity while ensuring the program activity can fulfill its purpose.

New item D establishes from whom the recipient of the disaster relief benefit must request an extension of the disaster relief benefit period. Requiring that a request to extend a disaster relief benefit period be submitted through the county veterans service officer, a department field operations claim representative, or a department tribal veterans service officer is reasonable in that it ensures consistency, transparency, and efficiency in the administration of the disaster relief program activity and aids in tracking requests to extend disaster relief benefit periods and the reasons for the requests.

New item E requires the request submitted under this subpart be in writing to the commissioner explaining the need for extending the disaster relief benefit period, and be submitted before the current benefit period has ended. Requiring a recipient requesting an extension to submit the request in writing before the current period has ended, and to explain the need for the extension is necessary to ensure efficient operation and administration of the disaster relief program activity. These requirements ensure that the opportunity to extend a benefit period is not abused, and that the number of extension requests and the reasons for extension requests are tracked. Tracking extension requests and the reasons for the requests is reasonable because it provides the commissioner with the information needed to make program adjustments when necessary.

New item F establish under what conditions the length of a disaster relief benefit period can be extended. Each of the conditions in subitems (1) to (3) are needed because they represent the most common conditions that prevent the completion of repairs and restorations in a timely manner and all are out of the individual's control. Establishing objective conditions for extending a benefit period is reasonable because it allows the commissioner to provide disaster relief benefits in an efficient and organized manner while meeting the needs of those receiving benefits.

Subp. 8. Disaster relief approval letter. New subpart 8, items A and B establish the commissioner's duty to provide a disaster relief approval letter containing the information needed for the recipient to take full advantage of the disaster relief benefit. This rule is

reasonable in that it ensures the disaster relief program activity is consistent, transparent, and efficient.

New item A makes clear the commissioner's duty to issue a disaster relief approval letter. The disaster relief approval letter is a reasonable mechanism to inform a recipient of their eligibility and approval for the disaster relief benefit, and to explain program guidelines and administrative procedures.

New item B establishes that the disaster relief authorization letter must explain specific information. Subitems (1) to (7) list the information that is most critical to the efficient operation of the disaster relief program activity and the information which must be provided in the disaster relief approval letter to ensure individuals, contractors, and vendors understand what is expected of them.

New item B, subitem (1) is reasonable because ensures the efficient operation of the disaster relief program activity by ensuring recipients, contractors, and vendors understand the disaster relief program guidelines and administrative procedures.

New item B, subitem (2) is reasonable because contractors and vendors need to be informed of what is specifically required of them.

New item B, subitem (3) is reasonable because a recipient needs to know the start and end dates of the benefit period so they are aware of when costs and expenses needed to accomplish repairs and restorations to their property may be incurred, and it allows a recipient to schedule repairs and restorations with contractors and vendors.

New item B, subitem (4) is reasonable because knowing the maximum benefit amount authorized helps a recipient budget the overall cost of repairs and restoration of their property.

New item B, subitem (5) is reasonable because knowing the types of items and expenses authorized helps a recipient plan the strategy of the repairs and restoration of their property.

New item B, subitem (6) is reasonable because knowing the final day on which proof of having incurred or experienced an increase in costs or expenses must be submitted to the commissioner helps a recipient plan the timing of the repairs and restoration of their property.

New item B, subitem (7) is reasonable because it ensures recipients are aware of any unique documents or actions that are necessary given the specific disaster event and emergency declaration.

Subp. 9. **Disaster relief denial letter.** New subpart 9, items A and B establish the commissioner's duty to provide a denial letter containing a full explanation of why an applicant was denied disaster relief benefits, and that the applicant has the right to appeal.

New item A makes clear the commissioner's duty to issue a disaster relief denial letter. The disaster relief denial letter is a reasonable means to inform an applicant that they have been denied the disaster relief benefit.

New item B establishes what information must be provided in the disaster relief denial letter; the reasons for denial and the applicant's right to appeal. This rule is reasonable because not knowing the reasons why the disaster relief benefit was denied impedes the individual's ability to effectively appeal the denial.

Subp. 10. **Vendor and contractor participation.** The new subpart 10, items A to C establish the requirements for vendor and contractor participation in the disaster relief program activity. Given the circumstances following a disaster and the vulnerability of an individual to fraudulent vendors and contractors, it is necessary that vendors and contractors comply with this rule part and the accompanying guidelines and procedures, be licensed to perform the work or provide the services they are offering, bill only for work completed and services provided, comply with all billing requirements, and report any conflicts of interest that may arise.

New item A is reasonable because compliance with the requirements of this rule part and the guidelines and administrative procedures of the MDVA is imperative for the efficient and equitable administration of the disaster relief program activity and state soldiers' assistance funding.

New item B is reasonable because the appropriate licensure of vendors and contractors protects the interests of both the recipient of assistance and the MDVA.

New item C is reasonable because billing only for the work completed or services provided protects the integrity of the disaster relief program activity and prevents unnecessary spending of state soldiers' assistance funding.

Subp. 11. **Disputes between vendor or contractor and household.** New subpart 11, items A and B make clear to all participants in the disaster relief program activity that the commissioner will not get involved in disputes over the quality of workmanship or services provided the recipient of the disaster relief benefit, and when the commissioner must withhold payment to a vendor or contractor.

New item A is reasonable because the commissioner does not have the resources to mediate disputes between recipients of the disaster relief benefit and vendors and contractors providing services when the disputes center only around the quality of work performed or services provided.

New item B is reasonable because it prevents the unnecessary spending and waste of state soldiers' assistance funding by withholding payment if a recipient of the disaster relief benefit claims that the vendor or contractor has failed to perform or provide any of the needed work or services.

Subp. 12. **Disaster relief payments.** New subpart 12 establishes the requirements for reimbursement or payment under the disaster relief program activity. Items A to C are needed to ensure reimbursement and payment decisions under the disaster relief program activity are based on and carried out in accordance with standard procedures and processes.

New item A requires an applicant, vendor or contractor submit the necessary documentation proving costs and expenses incurred for repair or restoration directly to the commissioner for payment or reimbursement under the disaster relief program activity. It is the recipient of the benefit or a vendor or contractor performing work or providing services who is to be reimbursed or paid; therefore, it is reasonable that these are the individuals who must submit the documentation for reimbursement or payment.

New item B establishes what proof is needed and must be submitted to the commissioner for payment or reimbursement to an applicant under this part. As listed in subitems (1) to (3), having experienced a loss of monthly household income, a loss of household assets, or an increase in costs and expenses resulting from the disaster event are rational reasons for receiving assistance. To maintain program integrity and to ensure assistance is only provided to those in need, it is reasonable to require a degree of proof of an applicant's costs and expenses incurred when requesting reimbursement or payment.

New item C establishes what information the documented proof required under items A and B must be included on receipts, invoices, billing statements, and other documentation submitted to the commissioner for reimbursement or payment of disaster relief benefits. Subitems (1) to (8) list the information the documentation must include and confirm. The information required on the documentation is reasonable because the information ensures reimbursements and payments are 1) only made to or on behalf of individuals approved for the disaster relief benefit, 2) dates of service meet benefit period requirements, and 3) the costs and expenses submitted are approved for the particular disaster event. The information required on the receipts, invoices, and billing statements is reasonable because it allows the commissioner to track the most common costs and expenses, which in turn allows the commissioner to make needed program adjustments.

New item C, subitem (1) is reasonable because it ensures the applicant receiving the disaster relief benefit or a member of the applicant's household actually experienced a loss of monthly household income or a loss of household assets or an increase in costs and expenses due to the declared peacetime emergency.

New item C, subitem (2) is reasonable because it ensures the applicant receiving the disaster relief benefit actually incurred and paid the costs and expenses to repair and restore the primary residence or land vital to the structural integrity of the primary residence.

New item C, subitem (3) is reasonable because it confirms the costs and expenses were incurred within the disaster relief benefit period.

New item C, subitem (4) is reasonable because it documents exactly what work a vendor or contractor accomplished or service provided, the cost materials and labor, and how much the vendor or contractor charged to perform or provide the work or services.

New item C, subitem (5) is reasonable because the commissioner needs to know where the payment is to be sent.

New item C, subitem (6) is reasonable because it confirms the contractors and vendors are licensed to perform services.

New item C, subitem (7) is reasonable because it is necessary to know whether a household has property insurance, the amount of any insurance payments received, and any deductible applied to the amount paid so that the correct benefit reimbursement or payment is disbursed.

New item C, subitem (8) is reasonable because all payment documentation must meet MDVA and MMB requirements.

PART 9055.0350 STATE SOLDIERS' ASSISTANCE PROGRAM SUBSISTENCE PROGRAM ACTIVITY - GENERAL.

This new part replaces Minn. R. 9055.0020, 9055.0025, and 9055.0030 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the commissioner adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is reasonable because it replaces rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

Minn. Stat. § 197.03 states that the state soldiers' assistance fund is created:

"to aid and assist any citizen of Minnesota or resident alien residing in Minnesota who served in the military or naval forces of the United States... and for the emergency relief, hospitalization, treatment and maintenance of all such persons who were bona fide residents of the state at the time their need arose and their dependents as provided by sections 196.05 and 197.04 to 197.07."

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner while recognizing the limited nature of state soldiers' assistance funding and the need for program integrity, it is reasonable to adopt a comprehensive rule part that establishes and makes clear the policies and procedures that must be followed by the commissioner when providing subsistence assistance to veterans and veterans dependents. The provisions of this rule part are reasonable because they provide efficient and effective processes for fulfilling the requirements of Minn. Stat. § 196.05, subd. 1, and Minn. Stat. §§ 197.03 to 197.07 in a manner that respects state soldiers' assistance funding and ensures public trust and program integrity.

Subpart 1. **Program purpose.** New subpart 1, item A establishes the commissioner's duty to provide short-term financial assistance to veterans and veteran's dependents under specific circumstances as provided in parts 9055.0350 to 9055.0445. This rule is reasonable in that it

specifies who may receive short-term financial assistance, the requirements that must be met to receive the assistance, and what rule parts apply to the subsistence program activity.

New item A, subitems (1) to (3) identify the specific circumstances under which the commissioner is obligated to provide short-term financial subsistence assistance to veterans and veteran's dependents upon application approval. This rule is reasonable in that it identifies who the intended recipients of the short-term financial subsistence assistance are while establishing the condition that an application and approval process must be followed.

The requirements of item A, subitems (1) and (2) that a veteran or a surviving spouse of a veteran must be experiencing a medical condition that prevents them from working for at least 30 days is reasonable because it ensures that the subsistence program activity is administered in a manner that aligns with Minn. Stat. § 197.05 (a) that states the commissioner must use state soldiers' assistance funding to provide relief to an individual suffering from a disability. The requirement that a veteran or a surviving spouse's medical conditions prevents them from working for at least 30 days is reasonable because the subsistence benefit is based on 30-day benefit periods.

The requirement that a veteran or a surviving spouse's medical conditions prevents working at their "current or most recent occupation" reflects a realistic objective approach to each individual's situation. To insist that a veteran or a surviving spouse be in such a dire medical condition that they absolutely cannot perform any work of any kind is unreasonable; the program might as well not even exist as the argument could always be made that there is some form of work an individual could perform.

Subitems (1) and (2) also establish work requirements that a veteran or surviving spouse must meet to be eligible for subsistence under this part. To meet these work requirements the veteran or surviving spouse must have or have had a current or recent occupation; thereby, making the requirements of that occupation the most logical context in which to evaluate the ability to work.

New subitem (3) requires that a surviving spouse must apply for assistance within 12 months following the veteran's death. This requirement aligns with Minn. Stat. § 197.05 (a) that an individual be suffering from a disability. To provide assistance only in cases where an individual is alive and suffering from a disability and not when the individual has died misses the point of Minn. Stat. § 197.05 (a). Death is the ultimate permanent and total disability and when a veteran passes away it is more likely than not that the veteran's dependents will be in need of emergency relief and maintenance.

New item B limits who can actually apply for short-term financial subsistence assistance to a veteran or the surviving spouse of a deceased veteran, and that the requirements of this part must be met. A veteran applies on behalf of the veteran and the veteran's dependents, and if the veteran is deceased, it is the surviving spouse that applies. This rule is reasonable in that it clarifies who can actually submit an application for assistance, and these individuals are the applicants most likely in need for financial subsistence assistance.

New item C states that the terms and conditions of parts 9055.0350 to 9055.0445 apply only to the subsistence program activity and is necessary given the differences between the state soldiers' assistance program activities. This rule is reasonable because the differences between state soldiers' assistance program activities are significant and there is no reason why the rules governing subsistence assistance would apply to any other program activity.

Subp. 2. Other assistance programs. New subpart 2 establishes that an applicant or recipient receiving cash benefits from the GA, EGA, DWP, or MFIP is not eligible for subsistence. This rule is reasonable given that if an applicant or recipient is receiving cash benefits from these other programs the individual is not in need of subsistence. If the circumstances of an applicant or recipient's situation make it so that it is more advantageous to receive subsistence, the individual has every right to terminate their GA, EGA, DWP, or MFIP benefits and apply for subsistence. An applicant or recipient receiving GA, EGA, DWP, or MFIP is subject to the rules of those programs, which may count any benefits from subsistence, when calculating the cash benefit amount the individual may receive. By providing subsistence to an applicant or recipient who is receiving GA, EGA, DWP, or MFIP the commissioner is putting the individual in a position to be overpaid by these programs.

Subp. 3. Benefits provided. New subpart 3, items A and B identify the benefits provided under the subsistence program activity and defines the term "benefit amount." New item A, subitems (1) to (3) establishes that the subsistence assistance is administered in three tiers and what the benefit provided is to be used for. This rule is needed to ensure the administration of financial assistance from the subsistence program activity is effective in meeting a recipient's most important basic needs by establishing three separate tiers of assistance – basic and personal needs, shelter costs and expenses, utilities and health insurance premiums. The amount of financial assistance a recipient receives from the subsistence program activity is offset by the recipient's monthly household income up to a certain point beyond which the individual is no longer eligible for assistance. The higher the recipient's monthly household income, the less financial assistance the individual may receive from the subsistence program activity. Providing financial assistance across three tiers is an effective way to ensure that even if a recipient has income, the individual will continue to receive some assistance with their most crucial basic needs provided the recipient remains under their maximum monthly household income limit.

New item B defines the term "benefit amount" as used in the subsistence program activity to mean the total amount provided by the first and second-tier benefits. This rule is reasonable because the combined first and second-tier assistance amounts a recipient is eligible to receive is used in calculations to determine a recipient's eligibility for subsistence and the amounts of assistance the individual may receive. Defining the term "benefit amount" is the most efficient way to refer to this combined amount.

Subp. 4. Benefit periods. New subpart 4 establishes a set number of days that comprise a benefit period, and the maximum number of authorized benefit periods unless the commissioner approves additional periods. Minn. Stat. § 197.05 (a) states "The commissioner shall limit

financial assistance to veterans and dependents to six months, unless recipients have been certified as ineligible for other benefit programs.” Most second and third-tier benefits are on a monthly/30-day billing cycle. Therefore, to align with state statute, it is reasonable to administer subsistence in 30-day benefit periods with the number of assistance periods a recipient may receive capped at six. It is also reasonable the commissioner have the needed flexibility to authorize additional periods if the circumstances of a recipient’s situation merits it.

New subpart 4 also requires that the commissioner must make an eligibility determination before each benefit period. This rule is needed to ensure that a recipient’s situation has not changed to the point where the recipient is no longer in need of assistance. Making a determination before each benefit period is reasonable because doing so ensures not only that an applicant for subsistence is eligible for the first benefit period, but that a recipient of subsistence is eligible for subsequent benefit periods.

Subp. 5. **Subsistence approval letter.** New subpart 5, items A and B establish the requirements for the issuance and content of a subsistence approval letter. This rule is reasonable because it ensures the subsistence program activity is consistent, transparent, and efficient in the subsistence approval process.

New item A requires the commissioner to issue an approval letter to a recipient for each approved benefit period. Issuing a subsistence approval letter for each benefit period a recipient is approved for is the most effective means to notify the recipient of approval for a subsistence benefit period, and to explain the amounts of assistance the recipient will receive for that benefit period and how the amounts of assistance were calculated. The subsistence approval letter is a reasonable mechanism to inform the applicant of approval for subsistence assistance.

New item B, subitems (1) to (5) list the information the approval letter must contain. The items identified in subitems (1) to (5) are the most vital pieces of information provided to recipients of subsistence and are necessary to ensure the consistent and efficient administration of the subsistence program activity. This rule is reasonable because it ensures the subsistence program activity is consistent and transparent by standardizing the information that must be provided in the subsistence approval letter and limits it to that which is most critical to the efficient operation of the subsistence program activity.

New item B, subitem (1) is reasonable because it ensures a recipient approved for a benefit period understands the subsistence program guidelines and administrative procedures.

New item B, subitem (2) is reasonable because it ensures a recipient approved for a benefit period is informed of what the first and final days of an assistance period are.

New item B, subitem (3) is reasonable because it ensures a recipient approved for a benefit period is informed of how much they will receive in cash assistance for the benefit period and the amount of shelter assistance for the period.

New item B, subitem (4) is reasonable because it ensures a recipient approved for a benefit period is informed of the assistance they will receive for utility, health insurance or COBRA payments for the period.

New item B, subitem (5) is reasonable because it ensures a recipient approved for a benefit period is informed there may be unique documents or actions that are necessary for that benefit period given the circumstances of their particular situation.

Subp. 6. Subsistence shelter authorization form. New subpart 6, items A to C establish the commissioner's duty to provide a shelter authorization form containing the information needed to take full advantage of the short-term financial subsistence assistance benefit. This rule is necessary because the shelter authorization form, which confirms a recipient's approval for the shelter benefit contains the information that is required to facilitate payment of an individual's shelter assistance, and becomes the only authorized billing document for payment of an individual's shelter cost. This rule is reasonable in that it ensures the subsistence program activity is consistent, transparent, and efficient in the subsistence assistance approval process.

New item A establishes that the commissioner must issue a subsistence shelter authorization form to a recipient who leases the primary residence. The subsistence shelter authorization form is a reasonable mechanism to inform a recipient of their approval for the shelter benefit and an efficient means of confirming a recipient's approval for shelter assistance.

New item B establishes the completed shelter authorization form as the only billing document accepted by the commissioner for payment of the recipients shelter benefit. This rule is needed in order to provide a uniform method of payment. It is reasonable to require a standard document that contains all of the necessary information required by the commissioner and MMB for prompt payment of the recipient's monthly shelter cost to the property owner or manager. The subsistence shelter authorization form is signed by both the recipient approved for subsistence shelter assistance and the property owner and manager. The form clearly states the benefit period and the amount that will be paid to the property owner or manager for the recipient's shelter cost.

New item C, subitems (1) to (5) identify the information the subsistence shelter authorization form must explain and confirm. It is reasonable that specific information be provided in the subsistence shelter authorization form, to limit the information to that which is the most critical to the efficient operation of the subsistence program activity, and to ensure the recipient of subsistence shelter assistance is informed of and understands what is expected of them.

New item C, subitem (1) is reasonable because a recipient of the shelter benefit and the recipient's property owner or manager must understand how to complete the form.

New item C, subitem (2) is reasonable because it ensures a recipient of the shelter benefit and the recipient's property owner or manager are aware of the benefit amount that will be paid for the recipient's shelter cost.

New item C, subitem (3) is reasonable because it ensures a recipient of the shelter benefit and the recipient's property owner or manager know the first and final days of the benefit period, and so they both know for which month the shelter benefit is applied.

New item C, subitem (4) is reasonable in order to confirm the name and address of the property owner or manager to be paid the shelter cost which facilitates efficient payment processing.

New item C, subitem (5) is reasonable because it ensures a recipient approved for the shelter benefit and the recipient's property owner or manager are aware of any unique documents or actions that are necessary given the circumstances of particular situation.

Subp. 7. Subsistence denial letter. New subpart 7, items A and B establish the commissioner's duty to provide a denial letter containing a full explanation of why an applicant or recipient was denied subsistence. This rule is reasonable in that it ensures the subsistence program activity is consistent, transparent, and efficient in the subsistence assistance denial process.

New item A requires the commissioner issue a subsistence denial letter. The subsistence denial letter is a reasonable means to inform an applicant or recipient that their subsistence is denied.

New item B establishes the information which must be provided in the subsistence denial letter. This rule is necessary in that it ensures an applicant or recipient understands the reasons for denial and that they have the right to appeal the denial. It is reasonable to provide an explanation of the reasons why the subsistence assistance is denied because without such an explanation the applicant or recipient's ability to effectively appeal the denial is impeded.

PART 9055.0360 SUBSISTENCE INCOME AND ASSET LIMITS.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is necessary to adopt a comprehensive rule part that establishes and makes clear an applicant or recipient's eligibility for subsistence depends on their level of household assets and monthly household income; and that it is the commissioner's duty to communicate maximum household asset limits and maximum monthly household income limits to applicant's for and recipients of subsistence. Part 9055.0360 makes clear all of the different components and corresponding amounts that make up an applicant or recipient's maximum household asset limit and maximum monthly household income limit; and that an applicant or recipient must be under their maximum asset and income limits to be eligible for assistance. Therefore, it is reasonable to establish the requirements that must be followed when calculating

an applicant or recipient's maximum household asset limit and maximum monthly household income limit.

Subpart. 1. **Maximum household asset limits.** New subpart 1 items, A to D establish that an applicant or recipient's household assets are a factor in determining their eligibility for subsistence assistance. This rule is reasonable given that subsistence assistance is based on an applicant or recipient's need for assistance with meeting their basic needs while also recognizing there are limits to state soldiers' assistance funding.

New item A establishes household assets as a factor of eligibility for subsistence. This is reasonable because it is consistent with the administrative rules for similar programs administered by the DHS, such as GA and the MFIP.

New item B establishes that the maximum household asset limits are provided in the schedule of maximum monthly allowances. This is reasonable because a schedule of allowances can be updated outside of the rulemaking process in response to changes in the needs individuals eligible for benefits from the subsistence program activity or in the event of a substantial increase or decrease in state soldiers' assistance funding.

New item C establishes when the commissioner is to calculate household assets, and that an applicant or recipient's household assets must be calculated using the procedures set forth in part 9055.0310. These procedures ensure that all applicants for or recipients of subsistence and their assets are treated the same. It is reasonable that household assets be calculated before the first benefit period and before every benefit period thereafter to insure an applicant or recipient is eligible for subsistence and remains eligible for subsistence.

New item D requires that an applicant or recipient's household assets must be under the maximum household asset limit to be eligible for the first and subsequent benefit periods. This rule part is reasonable because it establishes a standard that applies to all applicants and recipients; and it ensures administration of the subsistence program activity is efficient and transparent. This rule is consistent with the administrative rules for similar programs such as GA and the MFIP administered by the DHS.

Subp. 2. **Maximum monthly cash benefit amounts.** New subpart 2 establishes that the cash benefit amount (first-tier benefit) has maximum limits based on household size. Cash benefits provided to a household are for the well-being of all household members; therefore, it is reasonable that maximum cash benefit amounts have a direct relationship with household size. Establishing maximum cash benefit amounts is consistent with benefit programs administered by the DHS such as GA and the MFIP. Providing maximum cash benefit amounts on a schedule of allowances is reasonable because a schedule of allowances can be updated outside of the rulemaking process in response to changes in the needs of individuals eligible for benefits from the subsistence program activity or in the event of a substantial increase or decrease in state soldiers' assistance funding.

Subp. 3. Payment history and legal obligation to pay shelter costs. New subpart 3, items A and B establish rules governing situations when an applicant for or recipient of subsistence does not have current shelter costs or a history of paying shelter costs. This rule is necessary to ensure an applicant for or recipient of subsistence assistance is informed about how their shelter costs are factored into their eligibility for the shelter benefit.

New item A requires an applicant or recipient have a current legal obligation to pay shelter costs and expenses to be eligible for the shelter benefit. The shelter benefit is intended to help an applicant or recipient of subsistence to maintain their current shelter arrangement. If an applicant or recipient of subsistence does not have current shelter costs and expenses and are not homeless, then it is reasonable to assume the applicant or recipient does not need the shelter benefit to maintain that arrangement. The primary purpose of subsistence is not to facilitate the creation of shelter costs simply to receive the shelter benefit. In addition, new item A helps prevent an applicant who is eligible for subsistence from being put in an adverse financial position when their subsistence ends. The subsistence benefit is a short-term benefit. If an applicant or recipient of subsistence was not working when they became medically eligible for subsistence and they do not have current shelter costs and expenses or there is no indication they are homeless, allowing the applicant or recipient to incur shelter costs only to have the costs paid by the commissioner while they are receiving subsistence, raises the question of how will they continue to pay those costs when subsistence ends.

New item B establishes the conditions under which an applicant or recipient with no current legal obligation to pay shelter costs and expenses may incur such costs and expenses and receive assistance. Shelter is a basic need; therefore, it is reasonable within the provisions of this rule part to make accommodations when an applicant or recipient with no current legal obligation to pay shelter costs is verifiably homeless and in need of permanent housing.

Subp. 4. Maximum monthly shelter benefit amounts. New subpart 4, items A to D establish the requirements for determining an applicant's or recipients maximum shelter benefit amount (second-tier benefit). This rule is necessary to ensure an applicant for or recipient of subsistence assistance is informed about how their maximum shelter benefit amount is determined. The requirements of subpart 4 for determining an applicant's or recipients maximum shelter benefit amount have been established in such a way as to provide a shelter benefit amount that is as close as possible to the individual's actual shelter cost.

New item A establishes the requirement that if certain conditions are met an applicant or recipient's maximum monthly shelter benefit amount must be equal to the actual monthly shelter costs of the applicant or recipient's primary residence. This rule is reasonable because it helps ensure the subsistence program activity is consistent and transparent and that the shelter benefit provided is effective in meeting an applicant's or recipients shelter needs.

New item A, subitems (1) and (2) establish the conditions for when an applicant or recipient's actual monthly shelter costs exceed the maximum shelter benefit amount can be used as the individual's maximum shelter benefit amount. These conditions are necessary to ensure that the

shelter benefit provided by the commissioner actually goes to meeting the applicant's or recipients shelter needs and not for other purposes.

Subitem (1) is reasonable because it helps ensure that an applicant or recipient or their spouse is actually leasing the property and is therefore responsible for paying for the property; hence, the benefit amount provided is used to pay for leasing the property.

Subitem (2) is reasonable because it helps ensure that an applicant or recipient or their spouse actually owns the property and is therefore responsible for paying for the property; hence, the benefit amount provided is used to pay for purchasing, owning, or maintaining the property.

New item B establishes that if an applicant or recipient is living under the terms of a nontraditional housing agreement, meaning that they are essentially renting space in another individual's house, the commissioner will not pay any more than the shelter benefit amounts provided in the schedule of maximum monthly allowances for the subsistence program activity. This rule is needed as it prevents abuse of the shelter benefit and the unnecessary spending of state soldiers' assistance funding. When an individual rents a bedroom or basement space in another individual's home or is living with a family member the individual renting the space does not incur the same types of expenses as if renting stand-alone properties. For this reason it is reasonable to limit the maximum shelter benefit amount to the amount determined by the commissioner for the household size.

New item C, subitems (1) and (2) establish the conditions under which the shelter benefit amount must be prorated. Both conditions of subitems (1) and (2) must be present for the shelter benefit amount to be prorated. Requiring both ownership or lessee status, and joint liability if the primary residence is owned or leased with a person 18 or older who is not eligible for assistance, are reasonable in order to ensure that in most cases the full amount of an item or expense can be paid without the need to prorate.

New item D establishes that once a person not eligible for subsistence relinquishes ownership or ceases to lease property or is no longer obligated to pay for the property and its associated items and expenses, there is no longer a concern that the person will receive benefits from the state soldiers' assistance program. Under these conditions it is then reasonable to not prorate shelter benefit amounts.

Subp. 5. **Allowed shelter costs.** New subpart 5, items A and B establish the allowed shelter costs used to calculate an applicant's or recipient's monthly shelter costs and makes clear those costs that are not allowed. Items C to E establish the accepted documentation for proving ownership and lessee status; the conditions for completing a lease agreement retroactively; and what documents are accepted to prove a history of paying shelter costs. This rule is necessary to ensure an applicant for or recipient of subsistence assistance is informed about how their actual shelter costs are determined, and to make clear the conditions that apply when using an applicant's or recipients actual shelter costs as the individual's maximum shelter benefit amount. The requirements of subpart 5 for determining an applicant's or recipients maximum shelter

benefit amount have been established in such a way as to provide a shelter benefit amount that is as close as possible to the individual's actual shelter cost.

New item A, subitems (1) to (12) establish what shelter costs are considered when calculating an applicant or recipient's shelter benefit when using the individual's actual monthly shelter costs. Subitems (1) to (12) are reasonable because each item is an actual cost that when incurred protects and pays for an applicant or recipient's shelter in a wide variety of shelter situations and circumstances.

New item B, subitems (1) to (6) establish what shelter costs are not included when calculating an applicant or recipient's shelter benefit. The costs listed in subitems (1) to (6) are not direct costs for shelter. In most cases these costs are add-ons and are considered unnecessary spending of state soldiers' assistance funds.

Subitems (1), (2), (3), and (6) represent costs and expenses that are over and above contractually established shelter costs.

Subitem (4) prevents an applicant or recipient from taking out loans after the individual has been approved for subsistence only to have the loans paid for by the MDVA.

Subitem (5) is a revolving line of credit allowing the recipient to borrow from the lender any amount the commissioner pays to the lender.

New item C, subitems (1) to (6) identify the types of documents an applicant or recipient can provide to prove they are the lessee or owner of the primary residence, and that the property is homesteaded. This rule is reasonable because subitems (1) to (6) are the most common documents confirming ownership and homestead classification or a contract between a lessee or lessor. All are either provided by or approved by different government entities.

New item D establishes the conditions in which an applicant or recipient must retroactively complete a lease agreement to document their shelter costs for the purposes of determining the needed amount of shelter benefit assistance. It is reasonable that when an applicant or recipient can prove they are actually paying a certain amount for shelter costs that they be allowed to meet the documentation requirements in order to receive the shelter benefit.

New item E requires an applicant or recipient verify their history of paying the current shelter cost and expense amounts and establishes the types of documentation that are acceptable to confirm payment. This rule is needed because payment of shelter costs and expenses is used to determine the shelter benefit amount. The types of documents that are acceptable in confirming shelter cost payment history listed in item D, subitems (1) to (4) are common and an applicant or recipient having to produce these documents does not constitute an unreasonable burden. Standardizing the types of documentation that are accepted relieves any burden caused by ambiguity and inconsistency in program administration and helps to eliminate inconsistent and unpredictable decision making. It is reasonable to inform an applicant or recipient of what documentation is required of them to verify payment history.

Subp. 6. **Shelter subsidies.** New subpart 6 items, A and B establish the requirements for how shelter subsidies are considered in determining an applicant or recipient's shelter benefit amount. This rule is reasonable because shelter subsidies are a common occurrence in a wide variety of situations; therefore, it is necessary to have rules that standardize how shelter subsidies are treated.

New item A makes clear it is the commissioner's duty to reduce the shelter benefit amount by any recurring shelter subsidy amount the applicant or recipient is receiving. This rule is needed to identify how shelter benefit amounts are determined for an applicant or recipient who is receiving a recurring shelter subsidy. This rule is reasonable because if an applicant or recipient is or begins to receive a recurring shelter subsidy, the commissioner must reduce the applicant or recipient's shelter benefit by the amount of the subsidy to prevent duplicating the benefit amount paid by the subsidy over the duration of the individual's subsistence. This also prevents the unnecessary spending of state soldiers' assistance funding.

New item B establishes that the shelter benefit amount must not be reduced by the amount of a nonrecurring shelter subsidy. It is reasonable that subsistence does not provide assistance with every conceivable expense an individual may have. Not reducing an applicant or recipient's shelter benefit when the applicant or recipient receives a nonrecurring shelter subsidy results in a onetime duplication of benefits. However, because this is a onetime event it is the commissioner's opinion that this provides an acceptable advantage to the applicant or recipient in a difficult time and does not constitute unnecessary spending of state soldiers' assistance funding.

Subp. 7. **Changing residences.** New subpart 7 provides that a recipient of subsistence may change residences if certain conditions are met, and the monthly shelter costs and expenses at the new residence don't exceed the costs and expenses at the previous residence. This rule is needed so that a recipient needing to change residences can do so in an efficient manner and to ensure the applicant is informed of the conditions that apply once a residence change is requested and approved. Because state soldiers' assistance funding is limited, it is reasonable that the opportunity to change residences is not used for the purpose of a recipient upgrading their residence at the expense of the MDVA. Also, it is reasonable the commissioner be concerned that the recipient will be able to afford the new residence once subsistence has ended. Limiting the amounts of the monthly shelter costs at the new residence to the amounts of the previous residence is appropriate to ensure the recipient will be able to afford the cost of the new residence once subsistence has ended. Finally, if a recipient provides all of the necessary documentation as required by subpart 7, there is no reason why the commissioner would not use the actual cost of the new residence to calculate the shelter benefit amount.

Subp. 8. **Maximum monthly household income limits.** New subpart 8, items A to D establish how to calculate an applicant or recipient's maximum monthly household income limit and provides an example calculation; the frequency in which the monthly household income must be calculated; and the requirement that an applicant or recipient's monthly household income must

be below the maximum monthly household income limit. This rule is needed to ensure that the applicant or recipient receiving assistance is provided with the maximum shelter benefit amount of assistance that is available per the provisions of this part.

New item A establishes that an applicant or recipient's monthly household income is a determinant of eligibility for the subsistence program activity. This is consistent with GA and the MFIP administered by the DHS.

New item B establishes the procedure for calculating an applicant or recipient's monthly household income limit. Both the subsistence program activity and programs administered by the DHS establish an individual's maximum monthly income limit as a function of the monthly benefit amounts the individual is eligible for. Because of the limited nature of state soldiers' assistance funding, it is reasonable to link an applicant or recipient's maximum monthly income limit with the applicant or recipient's maximum monthly cash benefit and maximum monthly shelter benefit. Using an applicant or recipient's maximum monthly cash benefit amount added to the maximum monthly shelter benefit amount to establish the maximum monthly household income limit provides a realistic basis for determining the applicant or recipient's eligibility and the amount of assistance provided because in most cases the applicant or recipient's actual monthly shelter costs and expenses determine the maximum shelter benefit amount.

New item C establishes the frequency in which an applicant or recipient's monthly household income must be calculated to ensure they remain eligible for subsistence. Calculating monthly household income before each benefit assistance period is needed to ensure that an applicant or recipient is eligible or remains eligible for and is still in need of subsistence. It is reasonable that an applicant or recipient's monthly household income is calculated using a standard procedure because it ensures the calculation of all applicant or recipient's monthly household income is treated the same.

New item D establishes the eligibility requirement that an applicant or recipients monthly household income must be under the maximum monthly household income limit. Establishing monthly household income as a factor of eligibility for subsistence and requiring that the applicant or recipient's monthly household income be under the established limit is consistent with the administrative rules for similar programs administered by the DHS, such as GA and the MFIP.

PART 9055.0370 SUBSISTENCE ELIGIBILITY DETERMINATIONS.

This new part replaces Minn. R. 9055.0020, 9055.0025, and 9055.0030 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies,

procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a comprehensive rule part that establishes and makes clear the requirements for subsistence eligibility determinations for the first and all subsequent benefit periods; and to establish the requirements for when an applicant is over the maximum monthly household income limit or maximum household asset limit. Part 9055.0370 makes clear all the actions required for the commissioner to make a subsistence eligibility determination for the first and subsequent benefit periods, and identifies when an applicant or recipient is not eligible for assistance. Therefore, it is reasonable to establish the requirements that must be followed when calculating an applicant or recipient's household assets and monthly household income.

Subpart 1. Eligibility for the first benefit periods. New subpart 1 items A and B establish the actions the commissioner must take in order to determine an applicant's eligibility for the first benefit period. This rule is reasonable because the procedures used to determine an applicant's eligibility for the first benefit period are different from those used to determine eligibility for subsequent benefit periods.

New item A makes clear that it is the commissioner's responsibility to ensure an applicant for subsistence is eligible for the first benefit period. It is reasonable that an eligibility determination must be made as subsistence benefits are intended for those applicants that are eligible to receive them. New item A, subitems (1) to (3) identify the information the commissioner must confirm to determine an applicant's eligibility.

New item A, subitem (1) (a) requires an applicant to be experiencing a medical condition that prevents them from working for at least 30 days at the applicant's current or most recent occupation. The 30-day requirement aligns with the administration of subsistence in 30-day benefit periods. This rule is reasonable because it ensures an applicant meets the requirement of Minn. Stat. § 197.05 (a) that the individual be suffering from a disability.

New item A, subitem (1) (b) requires an applicant for subsistence in the aftermath of a veteran's death to apply within the 12 months after the veteran has passed away. The one year period to submit an application is necessary because in the immediate aftermath of a veteran's death there might be ample short-term resources and the needs for assistance may not be made clear until after several months after the veteran's death. This rule is reasonable because it ensures the applicant for subsistence meets the requirements of Minn. Stat. § 197.05 (a) by needing emergency relief and maintenance until the individual can recover financially from the veteran's death.

New item A, subitem (2) makes clear the commissioner's duty to calculate an applicant's household assets and monthly household income to determine eligibility. This rule is needed

because there is no point to having established maximum household asset and maximum monthly household income limits if there is no requirement in the benefit eligibility process to actually calculate an individual's assets and income. This rule is reasonable given that maximum household asset limits and maximum monthly household income limits have been established to manage limited state soldiers' assistance funding and to ensure an applicant for subsistence is in need of assistance as provided in Minn. Stat. §§ 197.03 and 197.05 (a).

New item A, subitem (3) makes clear the commissioner's duty to exclude from the monthly household income calculation, an applicant's income received before the first benefit period through the end of the first benefit period if the income ended under certain circumstances. Excluding income received under the stated conditions is necessary to allow for subsistence to begin earlier which helps ensure there is no interruption in meeting the applicant's basic and personal needs and the applicant's shelter costs and expenses. This rule is reasonable because the subsistence program activity must be effective in meeting an individual's basic and personal needs.

New item B makes clear the requirement that an applicant's household assets and monthly household income be under the maximum household asset limit and maximum monthly household income limit. This rule is reasonable because it establishes a standard requirement that applies to all applicants and is consistent with the rules of the DHS administering similar programs such as GA and the MFIP.

Subp. 2. Eligibility for subsequent benefit periods. New subpart 2, items A to E establish the requirements for when a recipient of subsistence wants to request benefits for subsequent benefit periods and how a recipient's eligibility for continuing subsistence beyond the first benefit period is determined and by whom. It is reasonable to identify the responsibilities of the commissioner, county veterans service officers, department field operations claims representatives, department tribal veterans service officers, and recipients of subsistence when requesting and determining eligibility for subsequent benefit periods.

New item A requires that a recipient of subsistence must request an additional benefit period through specific channels. County veteran's service officers, department field operations claim representatives, and department tribal veteran's service officers are key to effectively providing benefits and services; therefore, it is necessary to keep these persons informed of and involved in assisting a recipient of subsistence as these persons helped the recipient apply for subsistence benefits. This rule provides transparency in the subsequent benefit process and helps to ensure that requests for additional subsistence benefit periods are accurately tracked. It is reasonable that county veteran's service officers, department field operations claim representatives, and department tribal veterans service officers can assist a recipient of subsistence with their request for subsequent benefits because these are also the persons who can assist the applicant in applying for benefits.

New item B establishes what information a recipient of subsistence must provide in writing in order to be considered for an additional subsistence benefit period; subitems (1) to (7) list the

required information. To accurately determine a recipient's eligibility for an additional subsistence benefit period, the commissioner is in need of specific information that confirms the recipient's continued need for assistance and ensures the amount of assistance the recipient is eligible for can be accurately calculated. Listing the required information provides transparency in the benefit process.

New item B, subitem (1) is reasonable because the commissioner must be made aware of any changes affecting a recipient's need for assistance in order to prevent the unnecessary spending of state soldiers' assistance funding.

New item B, subitem (2) is reasonable because changes in a recipient's medical condition or employment status have an impact on the recipient's continued eligibility for subsistence.

New item B, subitem (3) is reasonable because changes in a recipient's household size will change the cash benefit amount and possibly the shelter benefit amount the recipient is eligible for. These in turn will affect the recipient's maximum monthly household income limit. Changes in a recipient's household size change the maximum household asset limit while changes in household composition might require that the shelter benefit amount be prorated.

New item B, subitem (4) is reasonable because changes in a recipient's shelter costs and expenses affect the recipient's shelter benefit amount.

New item B, subitems (5) and (6) are reasonable in that the assets and income are necessary to determine a recipient's continued need for assistance and eligibility for subsistence and to calculate the applicant's cash and shelter benefit amounts.

New item B, subitem (7) is reasonable because other benefits and assistance the recipient may be eligible for must be considered in order to determine a recipient's continued need for assistance and to ensure the recipient remains eligible for subsistence.

New item C requires that a county veterans service officer, department field operations claim representative, or department tribal veterans service officer with knowledge of a recipient's situation provide a written recommendation to the commissioner for a recipient's next benefit period. This rule is needed to ensure the subsistence program activity is consistent and transparent and eligibility determinations can be supported by recommendations from county veterans service officers, department field operations claim representatives, and department tribal veterans service officers. It is reasonable that these are the personnel who make a recommendation to the commissioner for the recipient's next benefit period because these are also the persons who can assist the applicant in applying for benefits.

New item D, subitems (1) to (3) identify the actions the commissioner must take to ensure a recipient requesting an additional subsistence benefit period is eligible for continued assistance and to ensure such determinations are made in a consistent and transparent manner. It is reasonable to identify the procedures the commissioner must follow and the requirements a recipient must meet to be considered eligible for an additional benefit period.

New item D, subitem (1) is needed because in most subsistence cases a recipient's eligibility is based on the applicant experiencing a documented medical condition that prevents the applicant from working at the applicant's current or most recent occupation. To ensure this is still the case it is reasonable that the commissioner must confirm any reported changes to the applicant's medical conditions or employment status.

New item D, subitem (2) is needed because the requirements to apply for short-term disability benefits and long-term maintenance benefits have been established to manage limited state soldiers' assistance funding and because subsistence lasts for only six benefit periods. To prevent the possibility of state soldiers' assistance funding being wasted, a recipient of subsistence must take steps to being able to meet the recipient's own needs once subsistence ends by either returning to work or securing other short-term disability benefits or securing long-term maintenance benefits. Therefore, it is reasonable that the commissioner ensure the individual has yet to receive an initial determination of eligibility for other short-term disability benefits or long-term maintenance benefits or there has not been a payment of benefits by the responsible agency or organization.

New item D, subitem (3) is needed because maximum household asset limits and maximum monthly household income limits have been established to manage limited state soldiers' assistance funding and to ensure an individual is in need of assistance as stated in Minn. Stat. §§ 197.03 and 197.05 (a) (see subpart 1 of this part). There is no point to having established maximum asset and income limits if there are not ongoing requirements in the eligibility processes to actually calculate an individual's assets and income prior to each additional subsistence benefit period. It is reasonable to requirement an applicant's assets and income be calculated as part of the eligibility process for each additional subsistence benefit period.

New item E requires that a recipient's household assets and monthly household income must continue to be under the maximum household asset limit and maximum monthly household income limit. This rule is reasonable because it establishes a standard requirement that applies to all recipient's and is consistent with the rules of the DHS administering similar programs such as GA and the MFIP.

Subp. 3. Applicants or recipients over the income or asset limits. New subpart 3, items A to E establish the requirements for when an applicant for or recipient of subsistence is deemed to be over their maximum household asset limit or maximum monthly household income limit, and the actions to be taken by the applicant or recipient and the commissioner. A required course of action is reasonable when an applicant or recipient is over their income or asset limit because being over the income or asset limit affects their eligibility for subsistence.

New item A establishes that an applicant or recipient's monthly household income and household assets must continue to be under the maximum monthly household income limit and maximum household asset limit to be eligible for subsistence. This rule is reasonable because it establishes a standard requirement that applies to all applicants and recipients and is consistent with the rules of the DHS administering similar programs such as GA and the MFIP.

New item B, subitems (1) and (2) makes clear the commissioner's responsibility to inform an applicant or recipient of how their maximum monthly household income limit and maximum household asset limit are established and how the applicant or recipient's monthly household income and household assets were calculated. This rule is reasonable because if an applicant or recipient is deemed ineligible for subsistence due to being over their maximum monthly household income limit or maximum household asset limit, the applicant or recipient has the right to appeal the determination. Therefore, it is necessary to explain to an applicant or recipient how these income and asset limits are established and calculated.

New item C establishes under what conditions an applicant or recipient who is over their income and asset limits for a current period is able to receive assistance in the next benefit period. If an applicant or recipient is deemed ineligible for assistance in a given benefit period due to being over their income or asset limit, it is reasonable that the applicant or recipient have an opportunity to reduce their monthly income and assets to be eligible for the next benefit period without the applicant or recipient's subsistence being closed.

New item D establishes when an applicant or recipient's subsistence must be closed for being over the applicant or recipient's income or asset limits. If an applicant or recipient is deemed ineligible for assistance for two consecutive benefit periods, it is reasonable for the commissioner to conclude that the applicant or recipient is no longer in need of subsistence and to close the subsistence.

New item E requires an applicant or recipient that claims a reduction in household assets in order to become eligible for subsistence must show the reduction is to meet household basic needs. It is necessary that the reason for the reduction be provided in order to determine eligibility. If an applicant or recipient is ineligible for assistance because the applicant or recipient is over the maximum household asset limit, it is appropriate to accept a reduction of the applicant or recipient's assets and grant eligibility if the reduction is to meet the individual's basic needs.

PART 9055.0380 SUBSISTENCE MAXIMUM BENEFIT AMOUNTS AND REDUCTIONS.

This new part replaces Minn. R. 9055.0020, 9055.0025, and 9055.0030 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a comprehensive rule part that establishes

and makes clear that there is a maximum subsistence benefit amount an applicant or recipient may receive and how an applicant or recipient's maximum benefit amount correlates to their maximum monthly household income limit. Part 9055.0380 makes clear the procedures for calculating an applicant or recipient's benefit amount for the benefit periods and makes clear that their maximum authorized benefit amount is inversely related to their monthly household income.

This rule is reasonable because not every applicant or recipient who meets the conditions of part 9055.0360, subpart 1, item A has the same need for financial assistance. An applicant or recipient may have sufficient household income and assets to meet their needs while others will not. Therefore, it is appropriate that these rules take into consideration an applicant or recipient's monthly household income when calculating their maximum authorized benefit amount and for calculating the applicant or recipient's authorized benefit amount for each benefit period.

Subpart 1. **Maximum authorized benefit amount.** New subpart 1 establishes that an applicant or recipient's maximum authorized benefit amount must be equal to the applicant or recipient's maximum monthly household income limit when the applicant or recipient has no income. The example provided in subpart 1 for calculating an applicant or recipient's maximum authorized benefit amount is consistent with procedures used by the DHS and the USDVA to calculate an individual's maximum authorized benefit amount. Both the subsistence program activity and programs administered by the DHS and the USDVA link an individual's maximum authorized benefit amount to the individual's maximum income limit based on \$0 monthly household income.

Subp. 2. **Determining benefit amounts for individual benefit periods.** New subpart 2 establishes procedures for determining an applicant or recipient's benefit amount for a given benefit period by reducing the maximum authorized benefit amount by the applicant's monthly household income. Because of the limited nature of state soldiers' assistance funding it is reasonable to link an applicant or recipient's authorized benefit amount for a given benefit period to the amount of household income received in a previous period. The example provided in subpart 2 for calculating an applicant or recipient's authorized benefit amount for a given benefit period is consistent with the procedures used by the DHS and the USDVA to calculate benefit amounts. Both the subsistence program activity and programs administered by the DHS and the USDVA offset an individual's maximum authorized benefit amount by the amount of monthly household income the individual received in a different period.

PART 9055.0390 SUBSISTENCE UTILITY, HEALTH INSURANCE AND COBRA BENEFITS.

This new part replaces Minn. R. 9055.0055 and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern

the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a comprehensive rule part that establishes and makes clear the requirements when assisting with a recipient's utilities, health insurance premiums, and COBRA (Consolidated Omnibus Budget Reconciliation Act) benefits. Utility service is a basic need and health insurance coverage is vital to the overall well-being of an individual. Utility services, health insurance, and COBRA benefits have each changed significantly. Coverage periods, billing practices, different taxes, fees and charges in addition to different programs, services and payment options all require standard procedures and processes for how these items are accounted for. To ensure a recipient receives the proper amount of assistance they need and are eligible for in a given benefit period, part 9055.0390 is needed to reconcile the different coverage periods, billing cycles, taxes, fees and charges and payment options with the 30-day benefit period of the subsistence program activity.

New item A establishes that as long as a recipient's benefit amount for a given benefit period is greater than \$0 by any amount, the commissioner must assist the recipient with the recipient's utility bills, health insurance premiums, and COBRA payments for that benefit period as identified in subitems (1) and (2). This rule is reasonable because a recipient's maximum authorized benefit amount being equal to the recipient's maximum monthly household income limit includes only the recipient's authorized cash benefit amount and the recipient's shelter costs and expenses. By no means are these two amounts combined sufficient to cover the costs of the recipient's utility bills, health insurance premiums, or COBRA payments; therefore, assistance with these items is reasonable.

New item B establishes that if the legal obligation to pay utility charges, health insurance premiums, or COBRA payments is shared with an individual who is not eligible for subsistence, the commissioner must prorate the assistance provided for utilities, health insurance premiums, and COBRA payments. This rule is reasonable because it prevents providing assistance to an individual who is not eligible to receive assistance from state soldiers' assistance funding.

New item C requires the commissioner to assign utility payments, health insurance premium payments, or COBRA payments to a specific benefit period and that the assistance must be limited to only the current charges, applicable taxes, and other fees and charges authorized by the commissioner. This rule is needed because a recipient is only authorized to receive a certain number of benefit periods. It is reasonable to align the amounts of a recipient's monthly bills with a specific benefit period.

New item D establishes that assistance will not be provided with past due amounts, late charges, or fees incurred before the first benefit period. This rule is reasonable as these amounts were incurred when the individual was not eligible for subsistence.

New item E identifies which amounts shown on a billing document will be paid through subsistence assistance. It is reasonable that if the amount due on a billing document is less than the current charges, applicable taxes, and other authorized fees and charges, there is no reason for the commissioner to pay any more than what is due.

New item F establishes the subsistence assistance amount that must be provided when a recipient is on a budget payment plan. If a recipient is on a budget payment plan, it is reasonable and appropriate that the commissioner honor the agreement the recipient has with the utility company to prevent any possible short falls in future amounts due.

New item G establishes that subsistence assistance payments must be provided if required to balance the account of a recipient on a budget payment plan. If making a payment to balance the account is part of the budget payment plan agreement, it is reasonable and appropriate that the commissioner make the payment to square the account and to prevent any possible short falls in the future.

New item H requires the commissioner to evenly distribute utility bills with extended billing cycles over the number of benefit periods covered. This is reasonable because it ensures that there is not an overpayment of assistance in any given benefit period.

New item I establishes how utility bills, health insurance premiums, or COBRA payments are assigned to a benefit period, as identified in subitems (1) to (3). This rule is reasonable given the wide variety of billing documents in existence, and to provide the needed flexibility to ensure a recipient receives the assistance the recipient needs and is eligible for in a given benefit period.

New item J provides for the commissioner to make multiple payments at once so long as each bill can be assigned to a benefit period. This rule recognizes that a recipient may not be able to submit billing statements as soon as the recipient receives the billing statements. It is reasonable to ensure a recipient receives the assistance the recipient needs and is eligible for.

New item K establishes that billing documents that have been altered or tampered with will not be accepted. This rule is needed to ensure program integrity. It is reasonable that the state soldiers' assistance funding is appropriately spent and that a recipient receives exactly the amount of assistance the recipient needs and is eligible for.

New item L establishes that duplicate payments will not be made for utility charges, or health insurance premiums or COBRA payments when other agencies have also provided assistance. If a recipient's need for assistance is satisfied by another agency or organization there is no reason why the commissioner should also provide assistance. This rule is reasonable because it prevents the unnecessary spending of state soldiers' assistance funding.

PART 9055.0395 SUBSISTENCE - NATURAL GAS, ELECTRICITY, AND TELEPHONE, INTERNET SERVICE.

This new part replaces Minn. R. 9055.0055 and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a specific rule part that establishes and makes clear the requirements when assisting with an eligible participants natural gas and electricity service, and telephone service needs. To ensure an eligible participant receives the proper amount of assistance they need and are eligible for, part 9055.0395 is needed to address how subsistence assistance for these services is provided.

Subpart 1. Natural gas and electricity service. New subpart 1 makes clear the commissioner's duty to assist eligible participants with certain additional fees and charges that are commonly part of an individual's natural gas and electric service. Subpart 1, new items A and B identify the types of fees and charges for natural gas and electricity service that subsistence assistance is provided for.

New item A establishes that charges for appliance maintenance or replacement plans that are part of the monthly natural gas or electric bill are to be covered by subsistence assistance if the plan was in place before the subsistence application. If the eligible participant is on an appliance maintenance or replacement plan it is appropriate and reasonable that the commissioner honor the agreement the individual has with the utility company to prevent any possible short falls in amounts due. It is in the best interest of the eligible participant to keep these types of plans in place as the benefits of these types of plans outweigh the plan's monthly cost. The amount paid for an appliance maintenance or replacement plan is spread out over each month the plan is in place and is a much easier cost to manage than the cost of having to unexpectedly repair or replace a major appliance.

New item B establishes that charges for voluntary programs funding clean energy initiatives, energy conservation programs, and programs for low income energy assistance are to be covered by subsistence assistance. The benefits of these programs outweigh the monthly costs. Contributing to programs funding clean energy initiatives, energy conservation programs, and programs for low income energy assistance are a social benefit and it is appropriate and reasonable that the commissioner honor the commitment the individual has made to these causes.

Subp. 2. **Telephone service.** New subpart 2 makes clear the commissioner's duty to assist eligible participants with basic telephone service and certain additional fees and charges that are commonly part of an individual's telephone service. Subpart 2, new items A and B identify the types of telephone service and related charges that subsistence assistance is provided for.

New item A establishes that subsistence assistance must be provided for either landline or cellular phone service. It is necessary for an individual to have a viable means of communication in the event of an emergency; however, due to the limited nature of state soldiers' assistance funding it is reasonable to limit assistance for telephone service to either a traditional landline or cellular service but not both.

New item B, subitems (1) and (2) identify the telephone service and charges that are commonly part of an individual's telephone service that subsistence assistance is limited to. Subitem (1) establishes that subsistence assistance is limited to monthly service and charges for telephone service that was in place before the application for assistance. Telephone service is considered a utility under the state soldiers' assistance program; however, due to the nature of telephone service as compared to natural gas and electrical service it is reasonable that the commissioner only assist with telephone service that was in place prior to the date of application and not pay for an eligible participant to obtain telephone service.

New subitem (2) establishes that subsistence assistance is limited to local, state, and federal taxes and surcharges for telephone service. This rule is needed to ensure that state soldiers' assistance funding is spent only to provide telephone service and no other services such as cable television and home security systems that may be bundled with telephone service. This rule is reasonable because these additional services are not considered to be basic needs.

Subp. 3. **Internet service.** New subpart 3 makes clear the commissioner's duty to assist eligible participants with internet service and certain additional fees and charges that are commonly part of an individual's internet service. Subpart 3, new items A and B identify the service and related charges that subsistence assistance is provided for.

New item A establishes that subsistence assistance must be provided for internet service. This rule does not establish any obligation to pay for other services such as entertainment packages or home security systems that may be bundled with the internet service package. Even before the COVID-19 pandemic it was clear that many people rely on internet service to meet their basic needs. Many people were already receiving medical care, working remotely, or attending school completely online.

New item B, subitems (1), (2), and (3) identify the monthly service charges and fees that are commonly part of an individual's internet service that subsistence assistance is limited to. Subitem (1) establishes that subsistence assistance is limited to monthly recurring service charges and fees for internet service that was in place before the application for assistance. Internet service is considered a utility under the state soldiers' assistance program; however, due to the nature of internet service as compared to natural gas and electrical service it is reasonable

that the commissioner only assist with internet service that was in place prior to the date of application and not pay for an eligible participant to obtain internet service.

New subitem (2) establishes that subsistence will assist with the necessary equipment rental charges that are part of the internet service. This is both necessary and reasonable as receiving internet service is dependent upon having the specific equipment needed.

New subitem (3) establishes that subsistence assistance is limited to local, state, and federal taxes and fees for internet service. This rule is needed to ensure that state soldiers' assistance funding is spent only to provide internet service and no other services such as cable television and home security systems that may be bundled with internet service. This rule is reasonable because these additional services are not considered to be basic needs.

PART 9055.0400 SUBSISTENCE - BULK FUEL SERVICE.

This new part replaces Minn. R. 9055.0055 and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a specific rule part that establishes and makes clear the requirements when assisting with an eligible participants bulk fuel needs. To ensure an eligible participant receives the proper amount of assistance they need and are eligible for, part 9055.0400 is needed to address how subsistence assistance for this service is provided.

New item A makes clear the commissioner's duty to provide subsistence assistance to eligible participants for bulk fuel service. Many individuals in Minnesota continue to cook and heat homes with bulk fuel; therefore, it is reasonable to provide assistance for bulk fuel costs.

New item B requires that bulk fuel deliveries must be authorized by the commissioner before delivery and establishes a procedure for calculating the quantity approved. Due to the differences between bulk fuel and regular natural gas and electrical service it is necessary that the commissioner first authorize the amount purchased before a delivery. Consumers do not pre-buy natural gas and electricity from utility companies, the consumer is charged for the amount used in a given period of time. Therefore, it is reasonable that the commissioner review the usage rates in the same months of the previous year to determine the amount of bulk fuel authorized for purchase.

New item C establishes a procedure for reconciling delivery quantities based on past usage and a vendors minimum delivery requirements. This rule is necessary because bulk fuel vendors have

minimum delivery quantities and that the amount calculated for a benefit period may not meet the minimum delivery amount. This rule provides a reasonable approach to solving this problem and ensuring an eligible participant receives the bulk fuel they need.

PART 9055.0405 SUBSISTENCE - WATER AND SEWER SERVICE.

This new part replaces Minn. R. 9055.0055 and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a specific rule part that establishes and makes clear the requirements when assisting with an eligible participants water and sewer service needs. To ensure an eligible participant receives the proper amount of assistance they need and are eligible for, part 9055.0405 is needed to address how subsistence assistance for these municipal services is provided.

New item A makes clear the commissioners duty to provide subsistence assistance to eligible participants for water and sewer service. This rule is reasonable because water and sewer services are considered to be a basic need.

New item B, subitems (1) to (5) identify the authorized fees and charges that are commonly part of an individual's municipal water and sewer service that subsistence assistance is provided for.

New subitem (1) fixed operational costs, and subitem (2) infrastructure maintenance and system improvements are an integral part of an individual's water and sewer bill. Not paying those fees and charges would result in an under payment of the amount due, which in turn would eventually result in a disconnection of service. Therefore, it is reasonable that the municipal service fees for these costs are included in subsistence assistance.

New subitem (3) establishes that charges and fees related to water softener systems are included in subsistence assistance if the system was installed before the application for subsistence. In some instances a water softener system is a necessity due to the hardness of the water in an area. Therefore, it is reasonable that the charges and fees for such systems are included in subsistence assistance.

New subitem (4) voluntary programs funding clean water initiatives and water conservation programs, and subitem (5) programs for low income assistance provide a social benefit. The benefits of these programs outweigh the monthly costs. Therefore, if an eligible participant is

contributing to these programs, it is appropriate and reasonable that the commissioner honor the commitment the individual has made to these causes.

PART 9055.0410 SUBSISTENCE - SANITATION SERVICE.

This new part replaces Minn. R. 9055.0055 and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a specific rule part that establishes and makes clear the requirements when assisting with an eligible participants sanitation service needs. To ensure an eligible participant receives the proper amount of assistance they need and are eligible for, part 9055.0415 is needed to address how subsistence assistance for sanitation services is provided.

New rule part 9055.0410 makes clear the commissioners duty to provide subsistence assistance to eligible participants for sanitation service, and identifies the additional charges for which assistance will be provided that are commonly part of an individual's sanitation service. This rule part is needed because on occasion a household has additional bags of trash, large items, or recycling. The additional nonrecurring charges become part of the current charges on a bill and not paying the charges would result in an under payment of the amount due, which in turn would eventually result in a discontinuance of service. Therefore, it is reasonable that the nonrecurring charges for these sanitation services are included in subsistence assistance.

PART 9055.0415 SUBSISTENCE - HEALTH INSURANCE AND COBRA BENEFITS.

This new part replaces Minn. R. 9055.0055 and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a specific rule part that establishes and makes clear the requirements when assisting with an applicant or recipient's health insurance and

COBRA benefits. To ensure an applicant or recipient receives the proper amount of assistance they need and are eligible for, part 9055.0415 is needed to address how assistance for health insurance and COBRA benefits is provided.

New rule part 9055.0415 makes clear the commissioner's duty to provide assistance with an applicant or recipient's health insurance premiums and COBRA benefit payments. The rule identifies the actions the commissioner must take when an applicant or recipient's health insurance or COBRA benefits have lapsed, and in cases when health insurance premiums are being automatically deducted from an applicant or recipient's earned or unearned income.

New item A makes clear the commissioner's duty provide assistance with an applicant's or recipients health insurance or COBRA benefits even though the benefits have lapsed. In most cases subsistence assistance is provided to an applicant or recipient who is experiencing a medical condition that prevents the applicant or recipient from working at their current or most recent occupation; and in most cases health insurance is through the individual's employer. Given that an applicant or recipient is most likely receiving subsistence assistance due to a medical condition, this rule is reasonable due to the tremendous importance of having health insurance coverage.

New item B makes clear that health insurance premiums that are being deducted from an applicant or recipient's earned or unearned income are not to be duplicated by the commissioner. Payroll deduction or deduction from unearned income benefit payments are common methods of paying health insurance premiums. It is not only reasonable, but imperative that the commissioner not unnecessarily spend state soldiers' assistance funding by duplicating payment of health insurance premiums that are paid this way.

PART 9055.0420 SUBSISTENCE - SHELTER, UTILITIES, AND COBRA PAYMENTS.

This new part replaces Minn. R. 9055.0050, 9055.0055, and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration limits to state soldiers' assistance funding, it is reasonable to adopt a specific rule part that establishes and makes clear the requirements when making shelter, utility, and COBRA benefit payments. Shelter costs, utility services, and COBRA benefits have each changed significantly. Coverage periods, billing practices, different taxes, fees and charges in addition to different programs, services and payment options all require standard procedures and processes for how these items

are accounted for. To ensure a recipient receives the proper amount of assistance the recipient is eligible for in a given benefit period, these rules are needed to ensure shelter and utility payments, and COBRA payments, can be processed accurately and efficiently. This rule is reasonable because it makes clear the parties responsible for submitting the documentation required to make these payments and what information must be provided in the documentation.

New item A establishes that the recipient of subsistence assistance is responsible for submitting the documents required for payment of shelter costs, utility charges, health insurance premiums, or COBRA benefits. This rule is reasonable because the documents would be in the possession of the recipient of subsistence.

New item B establishes that the documents required for submittal to the commissioner for payment of shelter costs, utility charges, health insurance premiums, or COBRA benefits must confirm the information identified in subitems (1) to (7). The information in subitems (1) to (7) is what is required by the MDVA and MMB to efficiently process payments, and to ensure the integrity of the state soldiers' assistance program and proper use of state soldiers' assistance funding. Therefore, this rule is reasonable.

New item B, subitem (1) is reasonable so the commissioner can confirm the address of the recipient's primary residence that is on the application for subsistence matches the address on the billing documents.

New item B, subitem (2) is reasonable because assistance with shelter costs and expenses and utilities is not authorized unless the applicant or applicant's spouse is an owner or lessee of the primary residence and is responsible for paying the shelter costs and expenses and the utilities.

New item B, subitems (3), (4), (5), and (6) are reasonable in order to assign a payment to a given benefit period, to ensure only the authorized items are paid, to efficiently process the payment, and to ensure the vendor receives the payment in a timely manner.

New item B, subitem (7) is reasonable to efficiently process the payment while meeting MMB requirements.

PART 9055.0430 SUBSISTENCE - OVERPAYMENT STATUS.

This new part replaces Minn. R. 9055.0050, 9055.0055, and 9055.0060 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner that takes into consideration the need for program

efficiency while maintaining public trust and program integrity, it is reasonable to adopt a specific rule part that establishes and makes clear the requirements regarding overpayment of benefits and the procedures for recouping the amount of state soldiers' assistance funding disbursed on behalf of individuals who were not authorized to receive the benefit amount provided.

New part 9055.0430, items A to D establish the requirements for how overpayment of subsistence assistance benefits are managed. New item A identifies that an individual receiving subsistence assistance benefits for more than the authorized amount is in overpayment status. If the overpayment of benefits is a possibility, then it is reasonable to clearly identify what is considered an overpayment.

New item B establishes that if the overpayment is from a preceding benefit period, the overpayment can be corrected by withholding or reducing the benefits of future benefit periods. If an individual receives more than they are authorized for a benefit period, it is most efficient and effective to correct the overpayment by recouping the unauthorized amount over any remaining benefit periods the individual is eligible for. Not only does this process allow the commissioner to recoup the overpaid amounts, it also allows the commissioner to still possibly provide a modicum of assistance over the remaining benefit periods. It is reasonable that overpaid benefit amounts be recouped because state soldiers' assistance funding is limited and must be managed effectively.

New item C establishes that a recipient in overpayment status will not receive future benefits from the state soldiers' assistance program until the overpayment is corrected. A recipient of subsistence benefits in amounts greater than what is authorized constitutes the unnecessary spending of state soldiers' assistance funding when state soldiers' assistance funding is limited, and it jeopardizes the integrity of the program. If there are no consequences or remedies for correcting overpayments, then there is no point of having income and asset limits or maximum benefit amounts. Therefore, it is reasonable that recipients in overpayment status are barred from receiving future assistance until the overpayment is corrected.

New item D establishes that denying or reducing benefits a person would be eligible for under future applications does not correct an overpayment. This rule is not the same as new item B where the reduction or withholding of benefits takes place within the circumstances of the application when the overpayment occurred. Denying benefits that a person would be eligible for under a future application is not a viable means of recouping state soldiers' assistance funding nor does it prevent the unnecessary spending of state soldiers' assistance funding. If all a person has to do to erase an overpayment is complete an application with the intention of having it denied, and then be permitted to turn around and have the application approved (because the overpayment is in theory erased under the denied application) then there are no consequences or remedies for correcting overpayments, and there is no point of having income and asset limits or maximum benefit amounts. This rule is reasonable because it makes clear that simply denying benefits under a completely different application does not constitute recouping overpaid funds.

**PART 9055.0435 STATE SOLDIERS' ASSISTANCE PROGRAM SUBSISTENCE -
BASED ON MEDICAL CONDITION.**

This new part replaces Minn. R. 9055.0020 which is proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

Minn. Stat. § 197.03 states that the state soldiers' assistance fund is created:

“to aid and assist any citizen of Minnesota or resident alien residing in Minnesota who served in the military or naval forces of the United States... and for the emergency relief, hospitalization, treatment and maintenance of all such individuals who were bona fide residents of the state at the time their need arose and their dependents as provided by sections 196.05 and 197.04 to 197.07.”

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner while recognizing the limited nature of state soldiers' assistance funding and the need for program integrity, it is reasonable to adopt a comprehensive rule part that establishes and makes clear the requirements when providing subsistence assistance to a veteran or the surviving spouse of a veteran who are experiencing a medical condition that prevents the veteran or surviving spouse from working at the veteran's or surviving spouse's current or most recent occupation. This rule part is reasonable because it provides efficient and effective processes for fulfilling the requirements of Minn. Stat. § 196.05, subd. 1, and Minn. Stat. §§ 197.03 to 197.07 in a manner that respects state soldiers' assistance funding and ensures public trust and program integrity.

Subpart 1. **Applicant requirements.** New subpart 1, items A to C establish the requirements an applicant for subsistence under this rule part must meet and the additional rule parts that also apply. Subpart 1 is reasonable because it makes clear who can apply for subsistence under this part, the rules that apply to this portion of the state soldiers' assistance program subsistence, and it clarifies that the identified rule parts apply only to subsistence based on an applicant's medical condition.

New item A, subitems (1) and (2) establish who can apply for subsistence under this rule part and under what circumstances. Subitem (1) requires that the veteran applying for subsistence under this part be experiencing a medical condition that prevents the veteran from working for at least 30 days. If the veteran is deceased, subitem (2) requires that the surviving spouse of the veteran applying for subsistence under this part be experiencing a medical condition that prevents the surviving spouse from working for at least 30 days. This requirement is reasonable because it aligns with Minn. Stat. § 197.05 (a) that an individual be suffering from a disability.

New item B establishes that in addition to the requirements of this part, the applicant for subsistence must meet the requirements in parts 9055.0350 to 9055.0430. This rule is reasonable because the requirements in parts 9055.0350 to 9055.0430 are general in nature and apply in all situations in which an individual is applying for subsistence.

New item C establishes that parts 9055.0350 to 9055.0435 apply only to subsistence based on an applicant's medical condition. It is reasonable that the conditions of this rule part and parts 9055.0350 to 9055.0435 apply only to the subsistence program activity because the differences between state soldiers' assistance program activities are significant. This rule ensures the subsistence program activity is consistent and transparent, and that these rules will not be applied to other program activities.

Subp. 2. Medical conditions. New subpart 2, items A to C establish procedures that must be followed when documenting and evaluating an applicant's medical condition. It is reasonable that an applicant's medical conditions is documented and evaluated in such a manner that allows the commissioner to determine if the applicant is eligible for subsistence under this rule part.

New item A establishes the requirement that to be eligible for subsistence under this part, the documentation of the applicant's medical condition must be from a licensed medical provider. Subitems (1) to (8) list the medical providers who are authorized to complete an applicant's medical documentation; each one of the providers listed requires licensure to practice in the State of Minnesota. The requirement that an applicant's medical condition be documented by a licensed medical provider is reasonable because a medical provider is the only individual with the qualifications to provide the in-depth evaluation of an applicant's medical condition that is needed to ensure an applicant for subsistence meets the requirements of this rule part.

New item B establishes that a medical provider must make certain determinations about an applicant's medical condition; specifically, if the current medical condition is acute or chronic and if the medical condition prevents the applicant from working for at least 30 days. To ensure an applicant for subsistence has a disability that falls under the intent of Minn. Stat. § 197.03 to 197.07 and meets the requirements of this part, it is reasonable that a licensed medical provider make the required determinations regarding an applicant's medical condition and the applicant's ability to work.

The requirement that an applicant's medical condition prevent the applicant from working at their "current or most recent occupation" reflects a realistic objective approach to each applicant's situation. To insist that an applicant be in such a horrible medical condition that they absolutely cannot perform any work of any kind is unreasonable; the program might as well not exist as the argument could always be made that there is some form of work an applicant could perform. The requirement that an applicant's medical condition prevent the applicant from working for at least 30 days is reasonable because the subsistence benefit is based on 30-day benefit periods.

Lastly, in subpart 9 of this part there are work requirements that an applicant must meet to be eligible for subsistence under this part. To meet these work requirements the applicant must have or have had a current or recent occupation; thereby, making the requirements of that occupation the most logical context in which to evaluate an applicant's ability to work.

New item C establishes how the commissioner must consider multiple documented medical conditions in the context of the number of benefit periods an applicant is eligible for and will have received by the end of subsistence eligibility. An example is given of how multiple medical conditions are considered. Unless a medical provider voluntarily itemizes each medical condition giving a specific duration to each condition, it is reasonable to apply the overall duration provided on the medical documentation to each condition. Asking a medical provider to itemize each medical condition is not necessary and would be burdensome given the limited amount of time a provider has to spend with patients. Not requiring a medical provider to assign individual durations to each medical condition an individual may be experiencing is key to efficiently and effectively administering the subsistence program activity.

Subp. 3. **Medical documentation.** New subpart 3, items A to C establish that it is an applicant's responsibility to submit the necessary medical documentation when applying for subsistence. It is reasonable to require information about an applicant's medical condition to ensure the applicant meets all of the subsistence eligibility requirements of this rule part. Establishing an exception to the documentation requirements when certain circumstances are present is reasonable because it ensures an applicant's basic needs continue to be met, provided the applicant meets the other program eligibility requirements.

New item A establishes that an applicant for subsistence is responsible for providing the necessary medical documentation to be completed by a licensed medical provider in order to determine the applicant's eligibility for subsistence. It is not the commissioner's responsibility to seek out documented medical information on behalf of an applicant; and due to privacy protections, the commissioner cannot request this information without the applicant's authorization. Because it is the applicant for subsistence who is in direct contact with the medical provider, it is reasonable that the applicant be responsible for providing the needed medical documentation.

New item B requires that the medical documentation must confirm each piece of information listed in new subitems (1) to (9).

New item B, subitem (1) is reasonable because eligibility for subsistence under this part is contingent upon an applicant's medical condition. The information contained in subitem (1) is needed to determine if the applicant meets the eligibility requirements.

New item B, subitem (2) is reasonable because whether or not a medical condition is chronic or acute is a factor in determining if an applicant is eligible for subsistence based on a previous condition.

New item B, subitem (3) is reasonable because this information is used to determine when an applicant's benefit period begins, and to determine if an applicant is eligible based on a condition that may have existed before the date of application.

New item B, subitem (4) is reasonable because this information is the key to subsistence eligibility as it relates to an applicant's medical condition. To be eligible for subsistence an applicant's medical condition must be of a duration of 30 days or more and prevent the applicant from working in their current or most recent occupation.

New item B, subitem (5) is reasonable because this information is key to determining how many benefit periods the applicant may be eligible for.

New item B, subitem (6) is reasonable because this information lets the commissioner know if an applicant for subsistence is following a prescribed treatment plan in order to return to a level of fitness necessary to work at the applicant's current or most recent occupation. This information is vital because subsistence is a short-term program.

New item B, subitem (7) is reasonable because this information is key to determining if adjustments are necessary to an applicant's cash benefit amount.

New item B, subitem (8) is reasonable because this information lets the commissioner know if the applicant should be applying for specific benefits from two key sources; insurance and worker's compensation. This information is vital due to the short-term nature of subsistence benefits.

New item B, subitem (9) is reasonable because it helps ensure the medical provider meets the requirements in subpart 2 of this part. The date the medical documentation is completed is used to determine when an applicant's benefit period begins.

New item C establishes under what conditions subsistence can be provided for the first benefit period in the absence of the required medical documentation. New subitems (1) and (2) list the minimum information that the medical documentation must confirm in order for an eligibility determination to be made without meeting the documentation requirements in item B of this subpart. This rule is needed because in certain situations the circumstances of an applicant's medical condition are such that the applicant is in need of immediate financial assistance to meet their basic needs before the necessary medical documentation can be obtained. Therefore, it is reasonable that an exception to providing all the required medical documentation has been made for the first benefit period.

New item C, subitems (1) and (2) list the two pieces of information that are most crucial to determining the applicant's eligibility for subsistence: 1) the applicant's medical condition, and 2) whether or not the medical condition prevents the applicant from working at their current or most recent occupation for at least 30-days.

Lastly, item C requires that the documentation required in item B of this subpart must be submitted to the commissioner before the second benefit period. It is an applicant's responsibility

to submit the necessary medical documentation when applying for subsistence. It is reasonable to require information about an applicant's medical condition to ensure the applicant meets all of the subsistence eligibility requirements of this rule part.

Subp. 4. **Benefit periods.** New subpart 4, items A to C establish the requirements for determining the number of benefit periods an applicant is eligible to receive based on the applicant's medical condition. With subsistence being administered based on an applicant's health, it is reasonable to adopt a rule part that specifies how the duration of an applicant's medical condition translates into the number of benefit periods the applicant is eligible for.

New item A establishes the requirement that an applicant's medical conditions must prevent the applicant from working for at least 30 days to be eligible for the first benefit period. Requiring that an applicant's medical condition be of a duration of at least 30 days to be eligible for the first benefit period is needed to ensure that an applicant actually needs assistance; thereby preventing the unnecessary spending of state soldiers' assistance funding. This rule is reasonable because subsistence is administered in 30-day benefit periods and because an individual's shelter costs, utilities, and health insurance are paid in 30-day increments. It is the commissioner's position that in a case where an applicant's medical condition is less than 30 days, even though the applicant's income will have temporarily been interrupted, the applicant will be fit to return to work in time to be able to still meet their financial obligations for the following month. If assistance was to be provided in such cases, it could very well result in a duplicate payment of an applicant's shelter costs, utilities, and health insurance.

New item B establishes the calculation for determining the number of assistance periods an applicant is eligible for based on the duration of the applicant's medical condition when the duration of the applicant's medical condition is not evenly divided into 30-day periods; an example calculation is provided. This rule is reasonable because it places an applicant in the best position to meet their financial needs once subsistence has stopped. The commissioner realizes that subsistence benefits do not cover all of an applicant's expenses and that even though the applicant returns to work there will be a delay in the restarting of the applicant's income. For this reason, if the duration of an applicant's medical condition extends into any portion of the next benefit period, the applicant is eligible for and will receive the full benefit amount for that period.

New item C establishes that subsistence is limited to six benefit periods unless the commissioner approves additional benefit periods; the conditions for approval are provided in subitems (1) and (2). This rule reflects Minn. Stat. § 197.05 (a) which states, "The commissioner shall limit financial assistance to veterans and dependents to six months, unless individuals have been certified as ineligible for other benefit programs."

New item C, subitem (1) establishes that if a recipient has applied for all of the short-term disability benefits and long-term maintenance benefits for which they meet the basic requirements, the recipient is still not "eligible" for those benefits until a decision has been made stating that they are eligible. Therefore, it is reasonable that the commissioner continue benefits

beyond the sixth benefit period at least until an initial determination of eligibility for the disability and maintenance benefits has been made. In addition, even if an applicant has been approved for a short-term disability benefit or a long-term maintenance benefit, it makes little sense to terminate subsistence benefits before the short-term disability benefit or a long-term maintenance benefit has been paid.

New item C, subitem (2) condition for approval is when a recipient is expected to be fit to work in their current occupation, but they require additional benefit periods before being cleared by a medical provider to work. This rule addresses the situation when a recipient is expected to return to work but needs a little extra time and is more likely than not, not eligible for other benefit programs because the recipient cannot demonstrate a need for such benefits. Therefore, it is reasonable to continue assistance until the recipient is able to return to work.

Subp. 5. **Start of subsistence.** New subpart 5 establishes a recipient's benefit period is to begin on one of the dates listed in items A to D. It is reasonable that the start date of subsistence should depend on a date related to when the recipient stopped working due to a documented medical condition or an application related date, and that the other eligibility requirements having been met, because these requirements align with the requirements of subparts 3 and 4 of this part.

New items A to D establish the different dates for when the commissioner can begin a recipient's benefit period. This rule is reasonable because it provides the commissioner the flexibility to begin the benefit period based on each applicant's situation. If a recipient has met all of the eligibility requirements for subsistence, the dates in items A to D give the commissioner the option to start subsistence on a date that may be more advantageous to the recipient without compromising other rule provisions.

Subp. 6. **Program limits.** New subpart 6, items A and B establish the limits to receiving subsistence for chronic medical conditions and limits to the number of benefit periods an applicant can receive for any one medical condition; an example is provided for each item. Because subsistence is not intended to be anything more than short-term assistance, it is reasonable to have rules that establish limits to program eligibility.

New item A reflects Minn. Stat. § 197.05 (a) which makes clear that financial assistance from the state soldiers' assistance program is short-term. Item A is needed to prevent an applicant from using the subsistence program as a source of ongoing assistance for multiple chronic medical conditions. Without the requirements of item A, there is a real possibility of program abuse. Allowing an applicant to submit multiple applications for subsistence based different chronic medical conditions that may have existed simultaneously is not the intent of the subsistence program activity. There are work requirements an applicant must meet to be eligible for subsistence; however, the work requirements are not overly burdensome to meet. This rule is reasonable because it prevents an applicant from sequentially applying for subsistence based on each of the applicant's chronic medical conditions for the purpose of receiving perpetual assistance.

New item B also reflects Minn. Stat. § 197.05 (a) which makes clear that financial assistance from the state soldiers' assistance program is short-term. Item B is needed to prevent an applicant from receiving subsistence over and over again for the same medical condition. Without the requirements of item B, there is a real possibility of program abuse. As stated above in item A, there are work requirements an applicant must meet to be eligible for subsistence; however, the work requirements are not overly burdensome to meet. The nature of many medical conditions is such that a medical provider has no choice but to rely on an individual's own account when determining whether or not the individual can work at the individual's current or most recent occupation. This rule is reasonable because it prevents an applicant from using a single medical condition as a means of regularly taking time off and receiving subsistence to meet the applicant's needs.

Subp. 7. Long-term disability benefits. New subpart 7 specifically states how the receipt of long-term disability benefits affects an applicant's eligibility for subsistence. Subsistence under part 9055.0435 provides short-term financial assistance to an applicant who is experiencing a medical condition that prevents working in the applicant's current or most recent occupation. Subsistence under this part is essentially a short-term disability benefit administered by the commissioner that replaces a portion of the applicant's lost income and is administered under two basic assumptions: 1) The applicant is experiencing a short-term disability that prevents working in the applicant's current or most recent occupation and subsistence is needed to replace lost income until the applicant recovers and returns to work; or 2) The applicant is experiencing a medical condition of such severity that the applicant will not return to work and subsistence is needed to replace lost income until a long-term income replacement can be secured.

An applicant receiving a long-term disability benefit as defined in part 9055.0160, subpart 27 is already receiving a long-term income replacement due to the applicant's inability to work. Essentially the applicant is already in the position that subsistence is intended to help the applicant get to. It is not the purpose of subsistence to then provide the applicant with an additional short-term disability benefit to supplement the individual's already in place long-term disability benefit. For this reason, it is reasonable that an applicant who is already receiving a long-term disability benefit not be eligible for subsistence.

In some cases an applicant who is receiving a long-term disability benefit is allowed to work and earn up to a certain amount in a different occupation. If an applicant in this situation then experiences a medical condition that prevents them from working at the occupation they are currently working in, the applicant can apply for subsistence provided the applicant's long-term disability benefits end. For these reasons, it is reasonable that an applicant who is receiving a long-term disability benefit is not eligible for subsistence under this part.

Subp. 8. Minnesota unemployment insurance. New subpart 8 specifically states how the receipt of Minnesota unemployment insurance affects an applicant's eligibility for subsistence. Unemployment insurance is primarily for applicant's who are able and willing to work. Subsistence is for applicant's who are unable to work. The purpose of each program differs. An

applicant collecting unemployment insurance is presumed to be able to work; therefore, the applicant is not eligible for subsistence regardless of the medical documentation the applicant provides. In some cases an applicant who is unable to work due to a medical condition is eligible to receive unemployment insurance. In these cases an individual can apply for subsistence if the individual terminates their unemployment insurance benefits. This rule prevents abuse of each program and helps prevent the unnecessary spending of public funds, whether it be state soldiers' assistance funding or unemployment insurance funding.

Subp. 9. Work and earnings requirements. New subpart 9, items A to F establish the work and earnings requirements that an applicant must meet to be eligible for subsistence. If an applicant has not worked within the past 12 months or the applicant has worked but only earned a miniscule amount, it is difficult to justify that the applicant is now in need of assistance. It is reasonable to assume that if the applicant did not in the past 12 months rely on income from employment or self-employment to meet their needs, then the applicant does not need assistance as a result of not being able to work.

New item A establishes that an applicant for subsistence must meet the work and earnings requirements in subitems (1) and (2) to be eligible for subsistence. An applicant's need for subsistence is based on the applicant not being able to earn an income via employment or self-employment sufficient for self-support. For this reason the subsistence program activity assists applicants who are or have recently been in the workforce or actively self-employed and are presently not able to earn an income (to work) due to a medical condition. Subsistence helps by replacing all or part of an applicant's income. Therefore, an applicant must show they were working or worked enough in the past to have earned a minimum amount of income for self-support. Basing the work and earnings requirements in item A on the Social Security Administration's method of determining whether an individual has worked enough to earn four Social Security credits is reasonable as it provides an objective criteria that can be applied to all individual's.

New item A, subitem (1) requires an applicant to provide proof of having worked in the 12 months before the date of application. This rule is reasonable because 12 months is a broad period of time that takes into consideration the demographics and work abilities of the applicants covered under the intent of Minn. Stat. §§ 197.03 to 197.07.

New item A, subitem (2) requires that an applicant show earnings of an amount sufficient to have earned four Social Security credits in the 12 months prior to having last worked; an example is provided. In the most extreme cases an applicant could have had up to 24 months to have earned four Social Security credits.

The time allowed to accumulate the required earnings is reasonable in the context of a 12 month/52-week period. In 2019 an individual had to earn \$5,440 in covered earnings to be awarded four Social Security credits. Based on a 40-hour work week and the state of Minnesota's two different required minimum wages, an applicant would have had to work either 14 or 17 weeks out of the previous 52-week period to meet the earnings requirement. Given that

an applicant can earn over minimum wage, the required amount of time necessary to meet the earnings requirement is even less.

New item B establishes that an exception can be made to the earnings requirements in item A; however, the conditions in subitems (1) and (2) must be met to be eligible for subsistence. The commissioner recognizes that there will be cases when an applicant meets the requirement of having worked in the 12 months before the date of application but does not meet the earnings requirement. In certain circumstances, exceptions to the earnings requirement can be made without compromising the intent of the subsistence program. The conditions in subitems (1) and (2) are reasonable because if it were not for the applicant's medical condition the applicant could currently be working and earning an income, and that it is solely because of the applicant's medical condition the applicant is not working and not earning an income. These conditions align with the intent of the subsistence program which is to provide benefits. The applicant is presently in the work force and will more likely than not be faced with a loss of income.

New item C establishes that an exception can be made to the work requirements in item A. The commissioner recognizes that there will be cases when an applicant does not meet the requirement of having worked in the 12 months before the date of application. In certain circumstances, exceptions to the work requirement can be made without compromising the intent of the subsistence program. The requirements of item C essentially mean that the end of an applicant's worker's compensation benefit is considered the applicant's last day worked. An applicant receiving worker's compensation was clearly employed and working at the time whatever event took place that qualified the applicant for worker's compensation. Again, it is assumed that if it were not for the applicant's medical condition the applicant would have been working and earning an income into the 12-month period before the date of application. These conditions align with the intent of the subsistence program which is to provide benefits.

New item D, subitems (1) and (2) establish that an exception can be made to meeting the work and earnings requirements and the conditions that apply when an applicant is experiencing concurrent acute medical conditions. An applicant's need for subsistence is based on the applicant not being able to earn an income via employment or self-employment sufficient for self-support. For this reason the subsistence program activity assists applicants who are or have recently been in the workforce or actively self-employed and are presently not able to earn an income (to work) due to a concurrent acute medical condition.

New item D, subitem (1) requires that simultaneous treatment of each medical condition is not feasible. The commissioner recognizes that there will be cases when an applicant is experiencing concurrent acute medical conditions for which simultaneous treatment is not possible, as demonstrated in the example provided in this item, and the applicant cannot meet the work and earnings requirements for the medical condition that is the last to be treated. These conditions align with the intent of the subsistence program to provide benefits through the latter medical condition.

New item D, subitem (2) requires that the time between treating each condition is less than 30 days between recovery periods. The 30 day timeframe is needed to maintain continuity of subsistence assistance. Anything more than 30 days would cause an applicant to lose a month of assistance and would put them behind on their rent, mortgage or utilities. Also, the 30-day timeframe helps to ensure that the integrity of the work requirements are not completely set aside. If the work requirements are going to be set aside as provided for in subpart 9, then an applicant needs to move forward with their treatment and not delay.

New item E establishes how an applicant's membership in the National Guard and Reserve, and attendance at unit training assemblies and annual training are considered when determining if an applicant meets the work and earnings requirements. Item E is needed to maintain continuity throughout part 9055.0435 in terms of how the commissioner treats service in the National Guard and Reserve in relation to subsistence based on a medical condition. If the commissioner were to treat attendance at monthly unit training assemblies and the required 15 days of annual training as meeting the work requirement when this is the only type of work an applicant has done in the previous 12 months, the commissioner would be obligated to also count attendance at unit training assemblies and annual training as being able to work and having returned to work; therefore, making a recipient of subsistence no longer eligible for benefits if they attend these training events.

Most members of the National Guard and Reserve have another occupation that the member works at on a more regular basis and it is the loss of income due to not being able to work in this occupation that makes subsistence vital. If an applicant in such a situation was to lose subsistence because attendance at unit training assemblies or annual training is considered working or being able to work, the effects would be overly burdensome on these members.

New item F establishes how an applicant's membership in the National Guard and Reserve, and how serving on active duty or active duty for training over and above attendance at unit training assemblies and annual tour are considered when determining if an applicant meets the work and earnings requirements. The commissioner understands that the role of the Reserve components of the U.S. armed forces has evolved and that many members of the National Guard and Reserve are expected to contribute much more than the minimum obligation of weekend unit training assemblies and 15 days of annual training. Therefore it is reasonable to allow such service to meet the requirement of having worked in the 12 months before the date of application provided an applicant's earnings were enough to earn four Social Security credits.

Subp. 10. Long-term maintenance benefits. New subpart 10, items A to G establish the requirements for how long-term maintenance benefits are treated in the administration of the subsistence program. An applicant who meets the requirements for or is receiving a long-term maintenance benefit as defined in part 9055.0160, subpart 28 is in a unique situation. In many cases long-term maintenance benefits are a potential long-term income replacement which is of tremendous benefit given the applicant's recent inability to work. In other cases income that was

already being received from a long-term maintenance benefit is merely a source of income in addition to the income the individual was earning through regular work or self-employment.

New item A makes clear the expectation and conditions under which a recipient must apply for long-term maintenance benefits. Subsistence is limited to six benefit periods; therefore, if an applicant's medical condition is expected to last 180 days or longer, it is vital the recipient expeditiously pursue other more permanent sources of income. Item A is reasonable in that any additional income a recipient of subsistence may garner ultimately reduces the amount of state soldiers' assistance funding that is expended and aids the recipient with self-support.

New item B requires a recipient to submit proof of application for a long-term maintenance benefit before the second benefit period. This rule is reasonable given limited state soldiers' assistance funding, the recipient's need to secure more permanent sources of income, and the time it will take for an application for long-term maintenance benefits to be processed.

New item C specifies what happens when the recipient has not applied for long-term maintenance benefits as required under items A and B. If a recipient does not apply for a long-term maintenance benefit as required in item B, it is appropriate that the recipient's subsistence be suspended before it is closed giving the individual an opportunity to comply with the requirement. If a full 30 days has passed after the first benefit period has ended and a recipient of subsistence still has not applied for a long-term maintenance benefit, it is reasonable that the commissioner close the recipient's subsistence and deny the assistance.

New item D establishes that an applicant or recipient can continue to receive subsistence while waiting on a determination of eligibility and payment of a long-term maintenance benefit. The commissioner recognizes that applications for long-term maintenance benefits may take time to process and adjudicate. There may also be a lag between the approval of a long-term maintenance benefit and actual payment of the benefit. Therefore, it is reasonable to allow an applicant or recipient to receive or continue to receive subsistence while waiting on an initial determination of eligibility or receipt of payment of a long-term maintenance benefit from the agency or organization administering the benefit.

New item E establishes that an applicant already receiving a long-term maintenance benefit, with the exception of a long-term disability benefit, can receive subsistence if they meet the work requirements of subpart 9 of this part and are under the maximum monthly household income and asset limits. An applicant receiving a long-term maintenance benefit is presumed to be fit and able and allowed to work under the terms of the benefit, and if the applicant is working and earning income it is appropriate to assume the applicant relies on that income to meet their needs. Therefore, it is reasonable that income from a long-term maintenance benefit is simply treated as unearned income and is not a bar to receiving subsistence. If an applicant is receiving a long-term maintenance benefit in the form of a retirement benefit, the applicant still may be of an age that they need to and are expected to work in what may be a full-time capacity. In all likelihood an applicant's long-term maintenance benefit might be a supplement to the applicant's regular income that has now ended due to the applicant's medical condition. It would be

unreasonable to deny subsistence to a 40-year-old applicant who is receiving a military retirement benefit when this individual is nowhere near the end of their work career. Given that all income from a long-term maintenance benefit will be calculated and included when determining the benefit amounts an applicant may receive and will ultimately result in a reduction in the amount of state soldiers' assistance funding that is expended, this rule is reasonable.

New item F establishes that even if a recipient is approved for and begins receiving a long-term maintenance benefit, the recipient is still eligible to receive subsistence provided the recipient remains under their maximum monthly household income and asset limits. This rule reflects the commissioner's position that long-term maintenance benefits, with the exception of long-term disability benefits, are simply unearned income and are not a bar to receiving subsistence.

The same justification for new item E of this subpart applies to new item F. Even if the long-term maintenance benefit a recipient begins to receive is in the form of a retirement benefit, it does not change the fact that the recipient may still be of an age that they need to and are expected to continue to work in what may be a full-time capacity once they recover from their medical condition. In all likelihood the long-term maintenance benefit a recipient begins receiving might be a mere supplement to their regular income that ended due to their medical condition. It would be unreasonable that a recipient who starts to draw from a retirement account at the age of 60 is not eligible for subsistence because they are receiving a long-term benefit when in reality this recipient may work several more years until they are eligible for full retirement. Given that all income from a long-term maintenance benefit will be calculated and included when determining the benefit amounts an applicant may receive and will ultimately result in a reduction in the amount of state soldiers' assistance funding that is expended, this rule is reasonable.

New item G establishes the requirement that a recipient of subsistence must apply for an increased Veterans Affairs disability rating, or a temporary 100 percent disability rating, if the medical condition qualifying the recipient for subsistence is service connected and prevents them from working for 180 days or longer. Given that any increase in the disability rating of a condition whether it be a permanent or a temporary increase will raise income available to a recipient which in turn will reduce the amount of state soldiers' assistance funding that is expended, this rule is reasonable.

Subp. 11. **Short-term disability benefits.** New subpart 11, items A to F establish the requirements for how short-term disability benefits are treated in the administration of the subsistence program. State soldiers' assistance funding is limited; therefore, it is reasonable that a recipient enrolled in a short-term disability program whether it be employer provided or private disability insurance apply for those short-term benefits and not rely solely on subsistence assistance. However, because short-term disability benefits are just that, "short-term" it is appropriate that the benefits only be counted as income and not be a disqualifying factor for subsistence.

New item A requires a recipient of subsistence must apply for all short-term disability benefits they are currently enrolled in, regardless of the expected duration of the recipient's medical condition. This rule is reasonable because any additional income a recipient of subsistence may garner ultimately reduces the amount of state soldiers' assistance funding that is expended.

New item B requires a recipient to submit proof of application for short-term disability benefits before the second benefit period. This requirement is reasonable given limited state soldiers' assistance funding and the time it will take for an application for short-term disability benefits to be processed.

New item C specifies what happens when the recipient has not applied for short-term disability benefits as required under items A and B. If a recipient does not apply for the short-term disability benefits the recipient is enrolled in as required in item B, it is appropriate that the recipient's subsistence be suspended before it is closed giving the individual an opportunity to comply with the requirement. If a full 30 days has passed after the first benefit period has ended and a recipient of subsistence still has not applied for the short-term disability benefits they are currently enrolled in, it is reasonable that the commissioner close the recipient's subsistence and deny the assistance.

New item D establishes that an applicant or recipient can continue to receive subsistence while waiting on a determination of eligibility and payment of short-term disability benefits. The commissioner recognizes that applications for short-term disability benefits may take time to process and adjudicate. There may also be a lag between the approval of a short-term disability benefit and actual payment of the benefit. Therefore, it is reasonable to allow an applicant or recipient to receive or continue to receive subsistence while waiting on an initial determination of eligibility or receipt of payment of a short-term disability benefit from the agency or organization administering the benefit.

New item E establishes that an applicant already receiving short-term disability benefits can receive subsistence if they meet the work requirements of subpart 9 of this part and are under the maximum monthly household income and asset limits. Given that all income from a short-term disability benefit will be calculated and included when determining the benefit amounts an applicant may receive and will ultimately result in a reduction in the amount of state soldiers' assistance funding that is expended, this rule is reasonable.

New item F establishes that even if a recipient is approved for and begins receiving short-term disability benefits, the recipient is still eligible to receive subsistence provided the recipient remains under their maximum monthly household income and asset limits. This rule reflects the commissioner's position that short-term disability benefits are simply unearned income and are not a bar to receiving subsistence. Given that all income from a short-term disability benefit will be calculated and included when determining the benefit amounts an applicant may receive and will ultimately result in a reduction in the amount of state soldiers' assistance funding that is expended, this rule is reasonable.

Subp. 12. **Use of available income and other payroll.** New subpart 12, items A to C establish the conditions under which applicants with potential income through the applicant's employer in the form of paid-time-off, vacation time, and sick time must use that time.

New item A requires an applicant for or recipient of subsistence to use paid-time-off, vacation time, and sick time regardless of the duration of the applicant or recipient's medical condition. The purpose of paid-time-off, sick time, and as a last resort vacation time is to replace an applicant's income in such a case as the applicant is experiencing a medical condition that prevents them from working. For this reason if an applicant has banked paid-time-off, sick time, and vacation time that can be used, the applicant should use these benefits in addition to subsistence assistance. State soldiers' assistance funding is limited; therefore, it is reasonable that an applicant access the remaining sources of income available from the applicant's current or most recent employer.

New item B requires an applicant to submit documentation from their employer that the applicant is using their paid-time-off, sick time, and vacation time. There is no point in having a requirement that an applicant use the remaining sources of income available from their current or most recent employer if there is not a requirement that the applicant submit proof the applicant is doing so. Requiring that an applicant provide documentation from their current or most recent employer is the only way the commissioner can confirm the use of paid-time-off, sick time, and vacation time, and is not an unreasonable burden for the individual or employer to provide such documentation.

New item C makes clear that a recipient may use their available paid time off, vacation time, or sick time in conjunction with subsistence provided they remain under their maximum monthly household income limit. If a recipient's use of available paid-time-off, sick time, and vacation time does not result in them being over their income limit, the commissioner will reduce the recipient's subsistence benefit amount by the income received from their paid-time-off, sick time, or vacation time.

Subp. 13. **Compensated work therapy.** New subpart 13 specifically addresses compensated work therapy and whether or not an applicant completing inpatient treatment and beginning compensated work therapy constitutes having returned to work. Compensated work therapy is a program offered veterans who are in treatment at a USDVA Medical Center. Compensated work therapy is part of a patient's treatment program and given the nature and gravity of such circumstances, it is in the best interest of the patient and the commissioner to not consider compensated work therapy a return to work or resumption of employment.

Subp. 14. **Light duty, limited hours, or work with restrictions.** New subpart 14 specifically addresses the circumstances of an applicant or recipient who is able to work in a light duty capacity, limited hours, or with restrictions. Due to the limited nature of state soldiers' assistance funding and the purpose of the subsistence program to replace lost income because an applicant cannot work at their current or most recent occupation due to a medical condition, it is reasonable that if the applicant is able to work at their current or most recent occupation even in

a light duty capacity, or with reduced hours or with restrictions the applicant must do so and not receive subsistence. The commissioner recognizes that not all employers will accommodate light duty requirements, reduced hours, or other work restrictions; therefore, it is also reasonable that the applicant's subsistence continue when this happens. Requiring an applicant or recipient to provide documentation from their employer is the only way the commissioner can confirm the applicant or recipient's employer will not accept the light duty requirements, reduced hours or return to work with restrictions, and it is not an unreasonable burden for the individual or employer to provide such documentation.

Subp. 15. Return to work, resumption of employment or self-employment. New subpart 15, items A and B establish the conditions under which an applicant is considered to have returned to work and therefore not eligible for subsistence. This rule is reasonable because returning to work is a primary reason for subsistence ending.

New item A establishes that if a recipient returns to work in any occupation and capacity employed, the recipient is not eligible for subsistence beyond the current benefit period. If a recipient of subsistence voluntarily returns to work in any occupation or capacity it is reasonable that the commissioner conclude the recipient is no longer in need of subsistence.

New item B is necessary to maintain continuity throughout this rule part by establishing how the commissioner treats service in the National Guard and Reserve. If the commissioner were to treat attendance at monthly unit training assemblies and the 15 days of required annual training as meeting the work requirement (to be eligible for subsistence) when this is the only type of work a recipient has done in the previous 12 months, the commissioner would be obligated to also count attendance at unit training assemblies and annual training as being able to work and having returned to work; therefore, making a recipient of subsistence no longer eligible for subsistence if they attend these training events. Attendance at unit training assemblies and annual training is mandatory and it is highly possible that a National Guard or Reserve unit will require a member to attend these events even though the member is experiencing a medical condition that prevents the member from working at the member's current or most recent civilian occupation. Therefore, it is reasonable that the commissioner allow attendance at these events without considering the member as having returned to work. The commissioner understands that the role of the Reserve components of the U.S. armed forces has evolved and that many members of the National Guard and Reserve are expected to contribute much more than the minimum obligation of weekend unit training assemblies and 15 days of annual training. If the commissioner is going to consider active duty and active duty for training in excess of the minimum requirements as meeting the work requirement to be eligible for subsistence, then it is reasonable that the commissioner consider such service as having returned to work.

Subp. 16. Termination of benefits. New subpart 16, items A to E establish the conditions in which subsistence must close under this part. Subsistence is a short-term program but the assistance it provides is vital. Therefore, it is necessary to make known the conditions which will result in the termination of subsistence.

New item A requires subsistence must be closed if the medical provider confirms the recipient is not following the prescribed treatment plan. The goal of the subsistence program activity to assist a recipient until the recipient is fit to return to work. If a recipient has been given a treatment plan but is not following it, there is no reason for the commissioner to provide assistance. It is reasonable to expect a recipient of subsistence to make every effort to become fit enough to return to work in their current or most recent occupation.

New item B requires subsistence must be closed if the recipient has received the number of benefit periods authorized by the medical documentation and additional periods approved by the commissioner. It is reasonable that if the recipient has received all of the benefit periods the recipient is authorized per the medical documentation and the commissioner, then there is no need to continue subsistence.

New item C requires subsistence must be closed if the recipient returns to work in any occupation or capacity. It is reasonable that if a recipient returns to work in any occupation or capacity, then the applicant is presumed fit to work and the new occupation becomes the applicant's current occupation. The applicant no longer meets the eligibility requirements of subsistence.

New item D requires subsistence must be closed if the recipient begins receiving a long-term disability benefit. This rule is reasonable because if a recipient begins receiving a long-term disability benefit, the recipient is now at the point subsistence intends for the individual to be (i.e. receiving a long-term source of income due to the recipient's inability to work due to their medical condition); therefore, the recipient is no longer eligible for subsistence.

New item E requires subsistence must be closed if the recipient is over the maximum monthly household income or maximum household asset limit. It is reasonable that if a recipient is over their maximum household income limit or asset limit the individual is clearly not eligible for subsistence.

PART 9055.0440 STATE SOLDIERS' ASSISTANCE PROGRAM SUBSISTENCE - DUE TO DEATH OF A VETERAN.

This new part replaces Minn. R. 9055.0020, 9055.0025, and 9055.0030 which are proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

Minn. Stat. § 197.03 states that the state soldiers' assistance fund is created:

“to aid and assist any citizen of Minnesota or resident alien residing in Minnesota who served in the military or naval forces of the United States... and for the emergency relief, hospitalization, treatment and maintenance of all such individuals who were bona fide residents of the state at the time their need arose and their dependents as provided by sections 196.05 and 197.04 to 197.07.”

To provide the assistance called for in Minn. Stat. § 196.05, subd. 1 and Minn. Stat. §§ 197.03 to 197.07 in a consistent and transparent manner while recognizing the limited nature of state soldiers’ assistance funding and the need for program integrity, it is reasonable to adopt a comprehensive rule part that establishes and makes clear the requirements when providing subsistence assistance to the dependents of a deceased veteran who passed away in the previous 12 months. This rule part is reasonable because it provides efficient and effective processes for fulfilling the requirements of Minn. Stat. § 196.05, subd. 1, and Minn. Stat. §§ 197.03 to 197.07 in a manner that respects state soldiers’ assistance funding ensures public trust and program integrity.

Subpart 1. **Applicant requirements.** New subpart 1, items A to D establish the applicant requirements for subsistence benefits under this rule part and the additional rule parts that also apply. Subpart 1 is reasonable because it makes clear who can apply for subsistence under this part, the rules that apply to this portion of the state soldiers’ assistance program, and that the identified rule parts apply only to subsistence benefits based on a veteran’s death.

New item A establishes that a surviving spouse of a deceased veteran is eligible to apply for subsistence benefits under this part. Subsistence under this part is based on the death of a veteran; therefore, it is reasonable that a surviving spouse be eligible to apply for subsistence.

New item B establishes that a surviving spouse must apply for subsistence benefits within 12 months after the veteran’s death. The 12-month period after a veteran’s death is a reasonable period of time to allow a surviving spouse to apply for subsistence given the complications that may arise after the veteran’s death and the time it may take to address and wrap up different aspects of the deceased individual’s affairs.

New item C establishes that in addition to the requirements of this part the requirements in parts 9055.0350 to 9055.0430 must also be met. This rule is reasonable because it ensures the subsistence program activity is consistent and transparent. The requirements in parts 9055.0350 to 9055.0430 are general in nature and apply in all situations in which an individual is applying for subsistence.

New item D establishes that parts 9055.0350 to 9055.0430 apply only to the subsistence benefits based on a veteran’s death. It is reasonable that the conditions of this rule part and parts 9055.0350 to 9055.0430 apply only to the subsistence program activity because the differences between state soldiers’ assistance program activities are significant. This rule ensures the subsistence program activity is consistent and transparent, and that these rules will not be applied to other program activities.

Subp. 2. **Residency requirement.** New subpart 2 establishes that a deceased veteran must have met the residency requirements of Minn. Stat. § 197.05 (b) for the veteran's dependents to be eligible for subsistence benefits. It is necessary to require that a deceased veteran must meet the residency requirement of state statute because Minn. Stat. §§ 197.03 and 197.05 (a) clearly refer to former members of the armed forces who were residents or resident aliens of the state of Minnesota. Subsistence under this part is the only state soldiers' assistance program activity specifically created to respond to a veteran's death; therefore, it is appropriate to at least require the deceased veteran to have met the residency requirements of Minn. Stat. § 197.05 (b). A surviving spouse relocating to the state of Minnesota, a state that the veteran obviously had no connection to from a residency standpoint, and collecting benefits is not the intent of Minn. Stat. §§ 197.03 to 197.07. Requiring that the deceased veteran must have met the residency requirements is reasonable to prevent abuse of the state soldiers' assistance program.

Subp. 3. **Benefit periods.** New subpart 3 establishes the number of subsistence benefit periods under this part and the conditions for receiving additional benefit periods. This rule ensures the subsistence program activity is consistent and transparent as it reflects Minn. Stat. § 197.05 (a) which states, "The commissioner shall limit financial assistance to veterans and dependents to six months, unless individuals have been certified as ineligible for other benefit programs." If a surviving spouse has applied for all of the long-term maintenance benefits for which the surviving spouse meets the requirements for, the surviving spouse is still not "eligible" for those benefits until a decision has been made stating that the surviving spouse is eligible. For this reason it is reasonable that benefits continue beyond the sixth benefit period at least until an initial determination of eligibility for the benefits has been made. In addition, even if a surviving spouse has been approved for a long-term maintenance benefit, it makes little sense to terminate subsistence benefits before the long-term maintenance benefit has been paid.

Subp. 4. **Start of Subsistence.** New subpart 4 makes clear the surviving spouse's benefit period is to begin on one of the dates listed in items A to C. It is reasonable that the start date of subsistence depends on the date the veteran passed away, the application date, and the other eligibility requirements having been met.

New items A to C establish the different dates for when the commissioner can begin a surviving spouse's benefit period. This rule is reasonable because it provides the commissioner the flexibility to begin the benefit period based on each applicant's situation. If a surviving spouse has met all of the eligibility requirements for subsistence, the dates in items A to C give the commissioner the option to start subsistence on a date that may be more advantageous to the surviving spouse without compromising other rule provisions.

Subp. 5. **Long-term maintenance benefits.** New subpart 5, items A to E establish the requirements for applying for long-term maintenance benefits and the conditions for receiving long-term maintenance benefits. This rule is reasonable because it ensures consistency and transparency in how long-term maintenance benefits for a surviving spouse are addressed.

New item A, subitems (1) and (2) establish the requirements that a surviving spouse must apply for an increase in any long-term maintenance benefit they are currently receiving, and apply for all long-term maintenance benefits the surviving spouse is eligible for. This rule is needed to identify the conditions under which a surviving spouse must apply for long-term maintenance benefits. Any additional income a surviving spouse receiving subsistence may garner increases the financial self-sufficiency of the surviving spouse and ultimately reduces the amount of state soldiers' assistance funding that is expended. Because subsistence is limited to six benefit periods, it is reasonable that the surviving spouse must expeditiously pursue other more permanent sources of income.

New item B establishes the requirement that a surviving spouse submit proof of application for long-term maintenance benefits before receiving the second benefit period. Submittal of the application before receiving the second benefit period is reasonable given the urgent need to secure more permanent sources of income and the time it will take for an application for long-term maintenance benefits to be processed.

New item C specifies what happens when the surviving spouse has not applied for long-term maintenance benefits as required under items A and B. If a surviving spouse does not apply for a long-term maintenance benefit as required, it is appropriate that the surviving spouse's subsistence benefit be suspended before it is closed giving the surviving spouse an opportunity to comply with the requirement. If a full 30 days has passed after the first benefit period has ended and the surviving spouse still has not applied for the long-term maintenance benefits, it is reasonable that the commissioner close the surviving spouse's subsistence benefit and deny the assistance.

New item D establishes that a surviving spouse can continue to receive subsistence while waiting on an increase in a long-term maintenance benefit the surviving spouse is already receiving or a determination of eligibility and payment of a long-term maintenance benefit. The commissioner recognizes that applications for long-term maintenance benefits may take time to process and adjudicate. There may also be a lag between the approval of a long-term maintenance benefit and actual payment of the benefit. Therefore, it is reasonable to allow a surviving spouse to receive or continue to receive subsistence while waiting on an increase or an initial determination of eligibility or receipt of payment of a long-term maintenance benefit from the agency or organization administering the benefit.

New item E establishes that a surviving spouse already receiving a long-term maintenance benefit that is not affiliated with the deceased veteran is still eligible to receive subsistence benefits provided the surviving spouse is under the maximum monthly household income and asset limits. Long-term maintenance benefits under these circumstances are considered unearned income and are not a bar to receiving subsistence. It defeats the purpose of the subsistence program under this part if a surviving spouse is deemed ineligible because of income the surviving spouse was already receiving in a given amount before the veteran passed away. Therefore, it is reasonable to consider that a long-term maintenance benefit the surviving spouse

is already receiving and that is not affiliated with the deceased veteran, such as the surviving spouse's own Social Security or other retirement benefits, is unearned income and is not a bar to receiving subsistence.

Subp. 6. **Termination of benefits.** New subpart 6, items A to D establish the conditions under which subsistence assistance is closed. Subsistence is a short-term program but the assistance it provides is vital. Therefore, it is necessary to make known the conditions which will result in the termination of subsistence.

New item A establishes that subsistence must be closed if the surviving spouse has received all six benefit periods and any additional periods approved by the commissioner. This rule is reasonable as it reflects Minn. Stat. § 197.05 (a) which states, "The commissioner shall limit financial assistance to veterans and dependents to six months, unless individuals have been certified as ineligible for other benefit programs."

New item B establishes that subsistence must be closed if the surviving spouse begins receiving a long-term maintenance benefit they were not receiving at the time of the veteran's death. If the surviving spouse begins receiving a long-term maintenance benefit the surviving spouse was not receiving at the time of the veteran's death, the surviving spouse is now at the point subsistence intends for the surviving spouse to be (i.e. receiving a long-term source of income); therefore, the surviving spouse is no longer eligible for subsistence.

New item C establishes that subsistence must be closed if the surviving spouse receives an increase in a long-term maintenance benefit they were already receiving. If the surviving spouse receives an increase in a long-term maintenance benefit the surviving spouse was already receiving and the increase is due to the veteran's death, the surviving spouse is now at the point subsistence intends for the surviving spouse to be (i.e. receiving a long-term source of income); therefore, the surviving spouse is no longer eligible for subsistence.

New item D requires subsistence must be closed if a surviving spouse is over the maximum monthly household income and maximum household asset limit. It is reasonable that if a surviving spouse is over their maximum household income and asset limits, the spouse is clearly not eligible for subsistence.

PART 9055.0445 STATE SOLDIERS' ASSISTANCE PROGRAM VETERANS' EDUCATION BENEFITS.

This new part replaces Minn. R. 9055.0105 which is proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 197.75 in a consistent and transparent manner it is reasonable to adopt a comprehensive rule part that establishes and makes clear the requirements for the administration of the veterans education benefit. The rule part makes clear the purpose of the veterans education benefit, defines the terms used throughout the rule part and references where the definitions of the terms can be found, and establishes policies and procedures for determining eligibility, payment or reimbursement as required by Minn. Stat. § 197.75.

Subpart 1. **Definitions.** New subpart 1, items A and B define the terms used throughout part 9055.0445. Standard definitions of terms used in the rules governing the veteran's education benefit ensure education benefits are administered in a consistent and transparent manner and eligibility determinations are made in accordance with the applicable statutes. In all cases an applicant must meet the statutory requirements of these definitions as well as the requirements of this rule part.

New item A defines the term "eligible veteran" to mean a veteran as defined by Minn. Stat. § 197.447, who meets the requirements of Minn. Stat. § 197.75 as specifically referenced in item A, and who has not earned a bachelor's degree or equivalent. This definition is needed because status as an "eligible veteran" is the primary requirement for a person to be eligible for assistance from the state soldiers' assistance program veterans' education benefits under part 9055.0445. It is reasonable to reference the statutory definition of "veteran" because the State definition of a veteran is different from the federal definition of a veteran.

New item B defines the term "eligible institution" to mean a postsecondary educational institution located in the state of Minnesota and either operated, licensed by or registered with the entities identified in item B. This definition is needed to make clear the type of educational institution an eligible veteran must be attending to be eligible for educational assistance under this part. The statutory reference for the term "eligible institution" is found in Minn. Stat. § 197.75, subd. 1, item (e).

Subp. 2. **Program purpose.** New subpart 2, items A to D establish the purpose of the program, who qualifies, and the restrictions on the benefit. This subpart is reasonable because it helps ensure the veterans' education benefit is administered in a consistent and transparent manner.

New item A requires that once the application is approved, the commissioner must provide educational assistance to an eligible veteran attending an eligible institution. It is reasonable that education assistance is not provided until an eligible veterans' application is approved because the application is necessary to ensure the applicant has met the requirements of this part.

New item B establishes what is needed to qualify for education benefits under this part. An applicant must meet the requirements of this part and be an eligible veteran. It is reasonable that the requirements of this rule part as a whole must be met and that the applicant must be an eligible veteran because the intent of the program is to provide education benefits to eligible veterans.

New item C establishes that a veteran who already has a bachelor's or equivalent degree is not eligible for education benefits. This rule is needed to align with Minn. Stat. § 197.75, subd. 2, item (a) which states that having a bachelor's degree disqualifies an individual for the veteran education benefit. This rule is reasonable given the limited nature of state soldiers' assistance funding.

New item D makes clear that this part applies only to the veteran education program activity. This rule is reasonable because of the differences between state soldiers' assistance program activities.

Subp. 3. **Benefits provided.** New subpart 3 establishes that the education benefit for veterans is a onetime payment of \$750 dollars as provided in Minn. Stat. § 197.75. Because an eligible veteran is authorized to receive only a single payment, it is appropriate that the benefit be limited to tuition only because tuition is the largest educational expense. For the sake of program efficiency and to align with Minn. Stat. § 197.75, it is reasonable that payment be made to the eligible institution or reimbursed to an eligible veteran.

Subp. 4. **Application for education benefits.** New subpart 4, items A and B establish when a completed application for the education benefit must be submitted to the commissioner and the conditions for authorization of payment of the benefit. New subpart 4 is reasonable because it helps ensure consistency and transparency in administering the veterans' education benefit and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires that a completed application and supporting documentation be submitted to the commissioner before the final day of the term or semester for which benefits are being requested. This rule is reasonable because an eligible veteran needs to know when they must submit an application for the education benefit in order to receive the benefit.

New item B establishes that payment or reimbursement will be withheld for a term or semester ending before a completed application has been received until the commissioner has approved the application. This rule is reasonable because an eligible veteran needs to know how a late application may affect payment.

Subp. 5. **Veteran education authorization letter.** New subpart 5, items A to C establish the requirements for an education benefit authorization letter, the content of the letter, and what the letter is valid for. New subpart 5 is reasonable because it helps ensure consistency and transparency in administering the veterans' education benefit and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires the commissioner to issue an education benefit authorization letter to each eligible veteran approved for the education benefit and that the commissioner must issue only one education authorization letter to an eligible veteran. Issuing a veterans' education benefit authorization letter is an effective means to document and prove a veteran's eligibility for the education benefit. The veterans' education benefit is a single payment in a set amount. Therefore, even if a veteran attended more than one educational institution, for the purposes of

efficiency in administering the program and to prevent disputes between educational institutions, it is reasonable that the commissioner will not issue more than one education authorization letter.

New item B identifies the information that must be provided in the education benefit authorization letter. The education authorization letter confirms the eligible veteran is approved for education benefits and explains how the benefit is disbursed. Efficient administration of the education benefit requires that both payment to an eligible institution or reimbursement to a veteran be allowed. This rule is reasonable because it provides the information that is most critical for the efficient administration and the informed participation in the veteran education program activity.

New item C limits the validity of the education authorization letter to the education institution identified on the letter. This rule is reasonable because it ensures that the onetime payment for tuition cannot be used for any institution other than the institution the veteran requested benefits for and is approved for.

Subp. 6. **Veteran education denial letter.** New subpart 6, items A and B establish the requirements for an education benefit denial letter and the content of the letter. New subpart 6 is reasonable because it helps ensure consistency and transparency in administering the veterans' education benefit and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires the commissioner to issue a denial letter to a veteran who is denied education benefits. Issuing a veterans' education benefit denial letter is an effective means to document that a veteran has been denied education benefits under this part. The education benefit denial letter is a reasonable means of informing the veteran that their application for education benefits has been denied.

New item B identifies the information that must be provided in the education benefit denial letter. The letter must provide the veteran with a full explanation of why they were denied and that the veteran has the right to file an appeal. It is reasonable that a veteran who is denied the education benefit be provided with an explanation of the reasons for denial and informed of their right to appeal the denial. Not knowing the reasons why the education benefit was denied impedes the veteran's ability to effectively appeal the denial.

Subd. 7. **Veteran education payments.** New subpart 7, items A to C establish the requirements for how eligible institutions and eligible veterans are to submit documentation when seeking payment or reimbursement of tuition. It is reasonable to identify who is responsible for submitting the necessary documentation for payment or reimbursement and what information must be provided in the documentation.

New item A requires an eligible institution to submit documentation with its request for payment. If an eligible institution is seeking payment from the commissioner for a veteran's tuition, it is reasonable that it is the institution's responsibility to submit the appropriate

documentation for payment rather than provide the documentation to the veteran and rely on the veteran to submit the documentation.

New item B requires an eligible veteran to submit documentation with their request for reimbursement. If an eligible veteran is seeking reimbursement from the commissioner for tuition, it is reasonable that it is the veteran's responsibility for submitting the appropriate documentation for reimbursement rather than relying on the institution to do so on the eligible veteran's behalf.

New item C requires that the documentation submitted for payment or reimbursement contain certain information. Subitems (1) to (7) list what information must be included on documentation submitted to the commissioner for payment or reimbursement of an eligible veteran's tuition. This information is needed to ensure compliance with program requirements and to correctly identify the total the amount requested for payment or reimbursement. It is reasonable that specific information be provided to confirm adherence to program requirements and to facilitate accurate and efficient payment processing.

New item C, subitem (1) is reasonable because it identifies the eligible veteran that is attending the education institution.

New item C, subitem (2) is reasonable because it identifies the amount requested for payment or reimbursement, so the commissioner knows what amount needs to be paid or reimbursed.

New item C, subitem (3) is reasonable because it requires the name and payment address for the education institution the eligible veteran is attending so the commissioner knows where the payment is to be sent.

New item C, subitem (4) is reasonable because it identifies the start and end date of the term or semester, which confirms that the application for assistance was submitted on time.

New item C, subitem (5) is reasonable because it is necessary to make sure the eligible veteran attended the education institution during the term or semester for which tuition is being requested.

New item C, subitem (6) is reasonable because it is necessary to make sure the veteran attended and paid tuition to the education institution for the term or semester if reimbursement is being requested.

New item C, subitem (7) is reasonable because all payment documentation must meet MMB requirements in order to be processed.

PART 9055.0450 STATE SOLDIERS' ASSISTANCE PROGRAM SURVIVING CHILDREN AND SPOUSES EDUCATION BENEFITS.

This part replaces Minn. R. 9055.0110 which is proposed for repeal.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern

the administration of the state soldiers' assistance program. This rule part is needed to replace rules adopted in 1991 that are outdated and obsolete and no longer provide workable policies, procedures, and processes that can be used to efficiently administer the subsistence program activity.

To provide the assistance called for in Minn. Stat. § 197.75 in a consistent and transparent manner it is reasonable to adopt a comprehensive rule part that establishes and makes clear the requirements for the administration of the surviving children and spouses education benefit. The rule part makes clear the purpose of the surviving children and spouses education benefit, defines the terms used throughout the rule part and references where the definitions of the terms can be found, and establish policies and procedures for determining eligibility, payment or reimbursement as required by Minn. Stat. § 197.75.

Subpart 1. **Definitions.** New subpart 1, items A to D define the terms used throughout part 9055.0450. Standard definitions of terms used in the rules governing the surviving children and spouse's education benefit ensure the education benefits are administered in a consistent and transparent manner and eligibility determinations are made in accordance with the applicable statutes. In all cases an applicant must meet the statutory requirements of these definitions as well as the requirements of this rule part.

New item A defines the term "deceased veteran" to mean a veteran as defined by Minn. Stat. § 197.447, who meets the requirements of Minn. Stat. § 197.75 as specifically referenced in item A. This definition is needed because status as a "deceased veteran" is the primary requirement for surviving children and spouses to be eligible for assistance from the state soldiers' assistance program veterans' education benefits under part 9055.0450. It is reasonable to reference the statutory definition of "veteran" because the State definition of a veteran is different from the federal definition of a veteran.

New item B defines the term "eligible child" to mean a person as defined by Minn. Stat. § 197.75 as specifically referenced in item B. This definition is needed because status as an "eligible child" is a primary requirement for surviving children to be eligible for assistance from the state soldiers' assistance program education benefits under part 9055.0450. It is reasonable to reference the statutory definition of "eligible child" to align with the requirements of Minnesota statutes.

New item C defines the term "eligible institution" to mean an education institution that meets the requirements of Minn. Stat. § 197.75 as specifically referenced in item C. This definition is needed to make clear the type of educational institution a surviving child or spouse must be attending to be eligible for educational assistance under this part. The statutory reference for the term "eligible institution" is found in Minn. Stat. § 197.75, subd. 1, item (e).

New item D defines the term "eligible spouse" to mean a person as defined by Minn. Stat. § 197.75 as specifically referenced in item B, who was legally married to a deceased veteran at the time of the deceased veteran's death and who has not remarried. This definition is needed

because status as an “eligible spouse” is a primary requirement for a surviving spouse to be eligible for assistance from the state soldiers’ assistance program education benefits under part 9055.0450. It is reasonable to reference the statutory definition of “eligible child” to align with the requirements of Minnesota statutes.

Subp. 2. Program purpose. New subpart 2, items A to D establish the purpose of the program, who qualifies, and the restrictions on the benefit. This subpart is reasonable because it helps ensure the surviving children and spouses’ education benefit is administered in a consistent and transparent manner.

New item A requires that once the application is approved, the commissioner must provide educational assistance to eligible surviving children and spouses attending eligible institutions. It is reasonable that education assistance is not provided until an eligible child or eligible spouses’ application is approved because the application is necessary to ensure the applicant has met the requirements of this part.

New item B establishes what is needed to qualify for education benefits under this part. An applicant must meet the requirements of this part and be an eligible child or eligible spouse. It is reasonable that the requirements of this rule part as a whole must be met and that the applicant must be an eligible child or eligible spouse because the intent of the program is to provide education benefits to eligible surviving children and spouses.

New item C establishes that an eligible child or eligible spouse who already has a bachelor’s or equivalent degree is not eligible for education benefits. This rule is needed to align with Minn. Stat. § 197.75, subd. 2, item (a) which states that having a bachelor’s degree disqualifies an individual for the surviving children and spouses education benefit. This rule is reasonable given the limited nature of state soldiers’ assistance funding and that surviving children and spouses receive a 100% tuition waiver under this program.

New item D makes clear that this part applies only to the surviving children and spouses education benefit. This rule is reasonable because of the differences between state soldiers’ assistance program activities.

Subp. 3. Eligible children and spouses. New subpart 3, items A to C establish the conditions that apply to surviving children and spouses, including spouses who have remarried and children that were adopted and stepchildren, in order to be eligible for education benefits under this part. This subpart is reasonable because it helps ensure the surviving children and spouses’ education benefit is administered in a consistent and transparent manner.

New item A establishes that a spouse of a deceased veteran who has remarried is not eligible for education benefits. This rule is consistent with part 9055.0160, subpart 45 that defines “surviving spouse.” Due to the limited nature of state soldiers’ assistance funding, the condition that a surviving spouse who has remarried is no longer eligible for the surviving children and spouses education benefit is reasonable. The education benefit provided in Minn. Stat. § 197.75, subd. 2,

item (b) provides a tuition free education until the attainment of a bachelor's degree, plus a \$750 annual stipend to a surviving spouse.

New item B requires that an eligible child that is a stepchild must have the status of a stepchild before the age of 18 and been a member of the veteran's household at the time of the veteran's death to be eligible for education benefits. This rule part is consistent with part 9055.0160, subpart 11 that defines "child." Due to the limited nature of state soldiers' assistance funding, the condition that a surviving stepchild and meet the requirements of item B is reasonable. The education benefit provided in Minn. Stat. § 197.75, subd. 2, item (b) provides a tuition free education until the attainment of a bachelor's degree, plus a \$750 annual stipend to a surviving child.

New item C requires that an eligible child who is adopted must have been legally adopted before the age of 18 to be eligible for education benefits. The conditions of this rule part are consistent with the provisions of part 9055.0160, subpart 11 that define a "child." Due to the limited nature of state soldiers' assistance funding, the condition that a surviving child who is adopted be required to meet the requirements of item C is reasonable. The education benefit provided in Minn. Stat. § 197.75, subd. 2, item (b) provides a tuition free education until the attainment of a bachelor's degree, plus a \$750 annual stipend to a surviving child.

New item D establishes that an eligible child of a deceased veteran may be married and still be eligible for the surviving children education benefit. When a veteran passes away, the circumstances of a surviving child are different than those of a surviving spouse. For this reason, it is reasonable that a surviving child remains eligible for the education benefit even if the surviving child is married.

New item E establishes that an eligible or child or spouse who already has a bachelor's or equivalent degree is not eligible for education benefits. This rule is needed to align with Minn. Stat. § 197.75, subd. 2, item (a) which states that having a bachelor's degree disqualifies an individual for the surviving children and spouses education benefit. This rule is reasonable given the limited nature of state soldiers' assistance funding and that surviving children and spouses receive a 100% tuition waiver under this program.

Subp. 4. Frequency and application for surviving children and spouses education benefits.

New subpart 4, items A to C establish when the education benefits must be dispersed, when a completed application for the education benefit must be submitted, and the conditions for authorization of payment of the benefit. New subpart 4 is reasonable because it helps ensure consistency and transparency in administering the veterans' education benefit and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires that the education benefit must be issued to the eligible child or eligible spouse once each fiscal year (the state's fiscal year is July 1 - June 30). It is reasonable to base issuance of the surviving children and spouses education benefit on the fiscal year because the July 1 start of the fiscal year is when the annual allotment of state soldiers' assistance funding

becomes available for use. The \$750 stipend is an annual benefit and issuing the benefit on a once-per-fiscal year benefit roughly coincides with the academic year. Generally, most students begin the academic year with the fall semester that begins in August or September and end with a spring semester that ends in May or June.

New item B requires that a completed application and supporting documentation be submitted to the commissioner during the fiscal year for which education benefits are being requested. Item B also establishes that there are time requirements for submitting a completed application and that a late application may affect payment or reimbursement of the education benefit. This rule is needed to ensure that only those eligible to receive the surviving children and spouses education benefit do so. Additionally, it is necessary that an eligible child or eligible spouse complete an application each year so that the commissioner will know that the eligible child or eligible spouse continue to be in need of education benefits. This rule is reasonable because an eligible child or eligible spouse needs to know that they must submit an application for the education benefit in order to receive the benefit.

New item C establishes that payment or reimbursement is not authorized for a term or semester beginning and ending in a given fiscal year for which a completed application was not submitted. An eligible child or eligible spouse must submit a completed application each year to continue to receive education benefits. This rule is needed to ensure payment is only made for those eligible to receive the surviving children and spouses education benefit. This rule is reasonable because an eligible child or eligible spouse needs to know that not submitting an application on time will affect payment.

Subp. 5. **Benefits provided.** New subpart 5, items A and B establish the limitations on the benefits provided under this part. The surviving children and spouses education benefit consists of two parts: the \$750 stipend and the waiver of tuition until the individual attains a bachelor's degree or equivalent. Subpart 5 also establishes the conditions that apply when the eligible child or eligible spouse is not attending a public institution.

New item A, subitem (1) establishes up to a \$750 stipend per fiscal year and what items the stipend can be used to pay for (i.e. tuition, fees room and board, books, supplies). The education benefit provided in Minn. Stat. § 197.75, subd. 2, item (b) provides a tuition free education until the attainment of a bachelor's degree, plus a \$750 annual stipend. Aside from tuition, the items that the stipend can be used to pay for are the most common expenses a student will incur. Paying either the educational institution or reimbursing an eligible child or eligible spouse is reasonable because this requirement aligns with Minn. Stat. § 197.75, subd. 2, item (c) which states, "Payments of benefits authorized under this section shall be made directly to the participating eligible institutions or to eligible individuals, as determined by the commissioner."

New item A, subitem (2) establishes that tuition is only provided until an eligible child or eligible spouse attains a bachelor's or equivalent degree as provided in Minn. Stat. § 197.75, subd. 2, item (b).

New item B establishes the conditions that apply when an eligible child or eligible spouse is not attending a public institution. Eligible institutions that are not a Minnesota public institution are not obligated per Minn. Stat. § 197.75, subd. 5 to waive an eligible child's or eligible spouse's tuition. Therefore, it is necessary to clarify that an eligible child or eligible spouse who is not attending a Minnesota public institution is not eligible for a waiver of tuition but are still eligible to receive the \$750 annual stipend.

Subp. 6. **Surviving children and spouses education authorization letter.** New subpart 6, items A to E establish the requirements for an education benefit authorization letter, the content of the letter, what the letter is valid for, when the letter can be issued, and for what amount. New subpart 6 is reasonable because it helps ensure consistency and transparency in administering the veterans' education benefit and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires the commissioner to issue an education authorization letter to each eligible child and eligible spouse receiving education benefits. Issuing an education authorization letter is an effective means to document and prove a surviving child's or spouse's eligibility for the education benefit.

New item B identifies the information that must be provided in the education authorization letter. The education authorization letter must confirm the eligible child or eligible spouse is approved for benefits, is eligible for the waiver of tuition if attending a Minnesota public eligible institution, and the timeframe the authorization letter covers. It is necessary to identify the final day of the fiscal year because that is the eligibility end date under that particular authorization letter and the eligible child or eligible spouse needs to know the education benefit has an end date. This rule is reasonable because it provides the information that is most critical for the efficient administration and the informed participation in the surviving children and spouses education program activity.

New item C limits the validity of the education authorization letter to the education institution identified on the letter. This rule is reasonable because it ensures that the tuition payment cannot be used for any institution other than the institution the eligible child or eligible spouse requested benefits for and is approved for.

New item D establishes that only one education authorization letter per fiscal year will be issued unless documentation is provided that confirms the eligible child or eligible spouse is attending multiple eligible institutions. It is conceivable that an eligible child or eligible spouse would need to attend multiple institutions to pursue a specific degree program. Therefore, it is reasonable that more than one education authorization letter can be issued to multiple institutions provided the required documentation is submitted.

New item E establishes that even though an eligible child or eligible spouse is allowed to attend more than one eligible institution in pursuit of a bachelor's or equivalent degree, only one \$750

stipend per fiscal year is allowed. This rule is reasonable because it aligns with Minn. Stat. § 197.75, subd. 2, item (a) which limits the annual stipend to once per year.

Subp. 7. Surviving children and spouses education denial letter. New subpart 7, items A and B establish the requirements for an education benefit denial letter and the content of the letter. New subpart 7 is reasonable because it helps ensure consistency and transparency in administering the veterans' education benefit and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires the commissioner to issue a denial letter to a surviving child or surviving spouse who is denied education benefits. Issuing a surviving children and spouses education benefit denial letter is an effective means to document that the surviving child or surviving spouse has been denied education benefits under this part. The education benefit denial letter is a reasonable means of informing the surviving child or surviving spouse that their application for education benefits has been denied.

New item B identifies the information that must be in the education benefit denial letter. The letter must provide the surviving child or surviving spouse with a full explanation of why they were denied, and that the surviving child or surviving spouse has the right to file an appeal. It is reasonable that a surviving child or surviving spouse who is denied the education benefit be provided with an explanation of the reasons for denial and informed of their right to appeal the denial. Not knowing the reasons why the education benefit was denied impedes the surviving child or surviving spouses' ability to effectively appeal the denial.

Subd. 8. Surviving children and spouses education payments. New subpart 8, items A to C establish the requirements for how eligible institutions and eligible children and eligible spouses are to submit documentation when seeking payment or reimbursement of tuition. It is reasonable to identify who is responsible for submitting the necessary documentation for payment or reimbursement and what information must be provided in the documentation.

New item A requires an eligible institution to submit documentation with its request for payment of tuition, fees, and charges for room and board, books, and supplies. If an eligible institution is seeking payment from the commissioner for an eligible child or eligible spouses' tuition and other charges, it is reasonable that it is the institution's responsibility to submit the appropriate documentation for payment rather than provide the documentation to the eligible child or eligible spouse and rely on the child or spouse to submit the documentation.

New item B requires an eligible child or eligible spouse to submit documentation with their request for reimbursement of tuition, fees, and charges for room and board, books, and supplies. If an eligible child or eligible spouse is seeking reimbursement from the commissioner for tuition and other charges, it is reasonable that it is the eligible child's or eligible spouse's responsibility for submitting the appropriate documentation for reimbursement rather than relying on the institution to do so on their behalf.

New item C requires that the documentation submitted for payment or reimbursement contain certain information including an itemized breakdown of fees and charges for tuition, room and board, books, and supplies. Subitems (1) to (7) list what information must be included on documentation submitted to the commissioner for payment or reimbursement of an eligible child's or eligible spouse's tuition and other charges. This information is needed to ensure compliance with program requirements and to correctly identify the total the amount requested for payment or reimbursement. It is reasonable that specific information be provided to confirm adherence to program requirements and to facilitate accurate and efficient payment processing.

New item C, subitem (1) is reasonable because it identifies the eligible child or eligible spouse that is attending the education institution.

New item C, subitem (2) is reasonable because it identifies the amount requested for payment or reimbursement of fees and charges for tuition, room and board, books and supplies.

New item C, subitem (3) is reasonable because it requires the name and payment address for the education institution the eligible child or eligible spouse is attending so the commissioner knows where the payment is to be sent.

New item C, subitem (4) is reasonable because it identifies the start and end date of the terms or semesters, which confirms that the application for assistance was submitted on time.

New item C, subitem (5) is reasonable because it is necessary to confirm the term or semester began or ended within the fiscal year making tuition and other charges incurred eligible for payment or reimbursement.

New item C, subitem (6) is reasonable because it is necessary to make sure the eligible child or eligible spouse attended the education institution during the fiscal year for which tuition and other charges are being requested.

New item C, subitem (7) is reasonable because it is necessary to make sure the eligible child or eligible spouse actually attended the eligible institution and paid tuition and other charges for which they are requesting reimbursement.

PART 9055.0455 STATE SOLDIERS' ASSISTANCE PROGRAM VETERANS RELIEF GRANT PROGRAM ACTIVITY.

This new part creates the Veterans Relief Grant Program activity and establishes the rules for its administration.

Minn. Stat. §§ 196.04 and 14.06 mandate the MDVA adopt rules that govern and regulate the operation of the MDVA, and rules that set forth policies, procedures, and processes that govern the administration of the state soldiers' assistance program.

Minn. Stat. §§ 196.05, subd. 1, item (8) and 197.06, item (4) require the commissioner to supplement the benefits provided by federal agencies when the conditions of an individual case make it necessary.

To provide the assistance called for in Minn. Stat. §§ 196.05, subd. 1, item (8) and 197.06, item (4) in a consistent and transparent manner while recognizing the limited nature of state soldiers' assistance funding and the need for program integrity, it is reasonable to adopt a comprehensive rule part that establishes the veterans relief grant program activity and makes clear the requirements for the MDVA to, "cooperate with United States governmental agencies providing compensation, pensions, insurance, or other benefits provided by federal law, by supplementing the benefits prescribed therein, when conditions in an individual case make it necessary." The veterans relief grant program activity supplements the benefits provided through programs administered by various federal agencies such as the USDVA, the Social Security Administration, Medicare and Medicaid, the United States Department of Housing and Urban Development, the United States Department of the Treasury, the United States Department of Health and Human Services, the United States Department of Labor, the Federal Emergency Management Agency, the Small Business Administration, the United States Department of Agriculture.

The proposed rule ensures the veteran's relief grant program activity is consistent and transparent and that the MDVA efficiently and effectively administers the veterans relief grant program activity to provide needed financial assistance while also recognizing the limited nature of state soldiers' assistance funding and the need for program integrity. The MDVA believes the proposed rule part is neither arbitrary nor unpredictable, and any requirements placed on applicants for or recipients of the veterans relief grant benefit do not constitute a burden. The proposed rule part provides standard procedures and processes and eligibility criteria that are applied to the circumstances and situations of each applicant for or recipient of the veteran's relief grant benefit. This eliminates to the greatest degree possible the magnitude in which decisions vary based solely on who is making the decisions.

Subpart. 1. **Program purpose.** New subpart 1, items A to C establish the purpose of the program, who qualifies for financial assistance and under what circumstances, and that the rules of this part apply only to the veteran's relief grant program activity. New subpart 1 is reasonable because it helps ensure the veterans' relief grant program is administered in a consistent and transparent manner.

New item A requires that once the application is approved, the commissioner must provide financial assistance to a veteran, a veteran's dependents, and member of the armed forces called from reserve status to extended federal active duty. This rule is needed to identify to whom the financial assistance is to be provided and that they must be experiencing financial difficulty to be eligible for assistance. It is reasonable that financial assistance is not provided until the application is approved because the application is necessary to ensure the applicant has met the requirements of this part.

New item B establishes that an applicant for veteran's relief grant must meet the requirements of this part. Subitems (1) to (3) identify who can apply for a veterans relief grant. It is reasonable that the requirements of this rule part as a whole must be met and that the applicant must meet

the eligibility requirements because the intent of the veteran's relief grant program is to provide financial assistance to eligible veterans, veterans dependents, and army reserve personnel as identified in subitem (3).

New item C makes clear that this part applies only to the veteran's relief grant program activity. This rule is reasonable because of the differences between state soldiers' assistance program activities.

Subp. 2. Frequency of veterans relief grant. New subpart 2, items A to F establish the frequency of the veterans relief grant as it applies to the circumstances of the different types of applicants for the relief grant as identified in subpart 1, item B, subitems (1) to (3), and what constitutes having received a relief grant. New subpart 2 is reasonable because it helps ensure consistency and transparency in administering the veterans' relief grant program and ensures program efficiency and management of state soldiers' assistance funding.

New items A establishes that the veteran's relief grant is a once-per-lifetime benefit. This rule is needed because state soldiers' assistance funding is limited. Applicants for a veterans relief grant each face a unique set of circumstances; therefore, there are no established limits to the amount an applicant may request nor are there established limits to the amounts the commissioner may approve. For these reasons it is reasonable to limit the veteran's relief grant to a once-per-lifetime benefit.

New item B establishes that when an applicant's veteran's relief grant is approved in full or part, and payment has been made, the applicant is no longer eligible for a relief grant. This rule is reasonable because any degree of approval and payment for any item or expense that is part of the applicant's relief grant request constitutes having received the grant.

New item C establishes that a veteran is authorized one veterans relief grant. This rule is needed because state soldiers' assistance funding is limited. As explained above in subpart 2, item A, applicants for a veterans relief grant each face a unique set of circumstances; therefore, there are no established limits to the amount an applicant may request nor are there established limits to the amounts the commissioner may approve. Therefore, the veteran's relief grant is limited to a once-per-lifetime benefit, and because it is a once-per-lifetime benefit, it is reasonable that a veteran can receive only one veteran's relief grant.

New item D prevents a surviving spouse from receiving a veteran's relief grant if the veteran received a relief grant when living. This rule is needed because state soldiers' assistance funding is limited. Because the veteran's relief grant is a once-per-lifetime benefit, it is reasonable that if a veteran received the relief grant while living, then the surviving spouse cannot also receive the relief grant.

New item E prevents a member of the armed forces called from reserve status to active duty who receives a veteran relief grant from receiving another grant when the member is discharged from the armed forces. This rule is needed because state soldiers' assistance funding is limited. Because the veteran's relief grant is a once-per-lifetime benefit, it is reasonable that if a member

of the armed forces received a relief grant while on active duty, then they are not eligible to receive a second relief grant.

New item F prevents a veteran married to another veteran from receiving a second veteran relief grant as the surviving spouse of a deceased veteran; an example is provided. Under new items C and D above, a veteran is authorized one veterans relief grant and if a veteran did not receive a grant when living the grant authorization passes to the surviving spouse of the veteran. This establishes the condition of one veterans relief grant per household. This is appropriate because veteran relief grants can vary in amount, and the state soldiers' assistance funding is limited and funding levels can change. In addition, a household consisting of a veteran married to a veteran is already at an advantage because the household is authorized two veterans relief grants, one for each veteran. Allowing a household to receive up to three veteran's relief grants, because each veteran is authorized to receive one grant and one veteran can receive a grant as a surviving spouse, creates an unacceptable level of inequity between one veteran households and two veteran households and is therefore prohibited. This rule is reasonable because it maintains a degree of equity between one veteran households and two veteran households.

Subp. 3. **Benefits provided.** New subpart 3, items A and B establish the limitations on the financial assistance provided under this part. It is appropriate that the applicant for a veterans relief grant is informed of what the financial assistance provided through a veterans relief grant can be used for. New subpart 3 is reasonable because it helps ensure consistency and transparency in administering the veteran's relief grant and ensures program efficiency and management of state soldiers' assistance funding.

New item A establishes that financial assistance can be used for items and expenses for work and services provided by vendors and contractors directly related to meeting an applicant's "basic needs" as defined in part 9055.0160, subpart 9. The commissioner acknowledges that the amounts necessary to meet basic needs will vary from individual to individual; however, by applying the definition of basic needs, the commissioner can reduce ambiguity and the degree to which grant approval and denial decisions vary between those making such decisions. This rule is reasonable because items and expenses critical to meeting an individual's basic needs are often provided by vendors and contractors.

New item B establishes that financial assistance can be used for items and expenses that further an applicant's financial self-sufficiency and ability to meet basic needs. Financial self-sufficiency is key to an individual not needing assistance in the future. Therefore, it is reasonable that a veteran's relief grant be used for the purposes of meeting or preventing the loss of an individual's basic needs and furthering an individual's financial self-sufficiency or prospect of the individual becoming financially self-sufficient.

Subp. 4. **Verification of need for assistance.** New subpart 4, items A to D establish what documentation is necessary to verify an applicant's need for assistance and the actions the commissioner must take to determine and verify a need for assistance. New subpart 4 is reasonable because it helps ensure consistency and transparency in administering the veteran's

relief grant and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires an applicant submit a written statement and supporting documentation explaining their circumstance and need for assistance, and a plan for attaining financial self-sufficiency. This rule affords an applicant the opportunity to explain the circumstances of their situation and need for assistance in their own words with the necessary supporting documentation. Because the veteran's relief grant is a once-per-lifetime benefit and to ensure that state soldiers' assistance funding is not expended in cases where a veteran's relief grant will not remedy an individual's situation, it is reasonable to require an applicant to provide a plan for attaining financial self-sufficiency.

New item B establishes that an applicant's monthly household income and household assets are used to determine their need for assistance. It is reasonable for the commissioner to calculate an applicant's monthly household income and household assets in order to determine if the applicant has the financial resources to address their needs on their own with assistance from the MDVA.

New item C establishes the commissioner must confirm the requested assistance will be used to pay for items or expenses authorized in this part and are essential to meet basic needs. This rule is needed to ensure efficient administration of the veteran's relief grant program activity and to prevent program abuse. It is reasonable to confirm the items and expenses requested by an applicant are authorized under this rule and are essential to meeting the applicant's basic needs, preventing a loss of a basic need, or to further an applicant's financial self-sufficiency and ability to meet their basic needs. Financial self-sufficiency is key to an applicant not needing assistance in the future.

New item D requires that the commissioner must confirm the applicant has a legal obligation to pay for the items and expenses for which assistance is requested. There is no reason to expend state soldiers' assistance funding for items and expenses that the applicant has no obligation to pay for in the first place. If an applicant does not have a legal obligation to pay for an item or expense, there is then no need for assistance pertaining to that item or expense.

Subp. 5. **Financial self-sufficiency.** New subpart 5 requires that to be approved for a veterans relief grant an applicant must be financially self-sufficient or on a path to financial self-sufficiency if needed assistance is provided. Items A to H establish the conditions for determining if an applicant is financially self-sufficient or a path to financial self-sufficiency. New subpart 5 is reasonable because it helps ensure consistency and transparency in administering the veteran's relief grant and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires an applicant be financially self-sufficient or on a path to financial self-sufficiency if assistance is provided. It is not an effective use of state resources if an applicant cannot pick up and carry on financially after a receiving a veterans relief grant. Because the

veteran's relief grant is a once-per-lifetime benefit, and to ensure that state soldiers' assistance funding is not expended in cases where a veteran's relief grant will not remedy an individual's situation, it is reasonable to require an applicant be financially self-sufficient or on their way to being financially self-sufficient.

New item B establishes that an applicant who is not financially self-sufficient and not on a path to financial self-sufficiency if assistance is provided may receive a veteran's relief grant if the applicant meets the condition in subitem (1) – assistance is needed to prevent the applicant from becoming homeless, or subitem (2) – there is a direct threat to the health or safety of the applicant. Subitems (1) and (2) reflect the direst of situations; therefore, it is reasonable to make exceptions to the requirement of financial self-sufficiency under these circumstances.

New items C to E establish the necessary actions the commissioner must take to determine an applicant's financial self-sufficiency or path to financial self-sufficiency.

New item C establishes that an applicant's monthly household income and household assets are used to determine an applicant's financial self-sufficiency or path to financial self-sufficiency beyond the needed assistance. An applicant's current monthly household income and household assets are decisive factors in an applicant's financial self-sufficiency; therefore, it is reasonable for the commissioner to calculate an applicant's monthly household income and household assets in order to determine if the applicant has the financial resources to address their needs on their own with assistance from the MDVA.

New item D establishes that only the monthly household income and household assets of an applicant or members of the applicant's household can be considered to determine financial self-sufficiency. It is reasonable that the commissioner can only assume an applicant has their own income and assets, and those of the applicant's household to rely on.

New item E establishes that only the portion of an item or expense (if it is shared) can be considered. It is reasonable that the commissioner can only assume the applicant is responsible for an identifiable portion of an item or expense (if it is shared); therefore, it is appropriate to consider only the applicant's monthly household income and household assets and only the portion of an item or expense the applicant is responsible for.

New items F and G establish the specific actions an applicant must take to achieve financial self-sufficiency.

New item F requires an applicant attend financial counseling to attain financial self-sufficiency. This rule is reasonable because financial counseling is proven to be effective in helping individuals manage limited resources.

New item G requires an applicant apply for any long-term maintenance benefit they meet the requirements for and apply for assistance from other entities, and submit proof of application to the commissioner. Long-term maintenance benefits provide additional sources of income and

assistance from other agencies focus on meeting an individual's basic needs; therefore, it is reasonable to require an applicant to access and apply for these resources.

New item H establishes the factors the commissioner must consider when determining if an applicant is financially self-sufficient or on a path to financial self-sufficiency. Subitems (1) to (3) identify the factors – monthly household income, current employment status, and long-term maintenance benefits. This rule is reasonable because these are logical factors to consider when determining an applicant's financial self-sufficiency or the applicant's prospect of becoming financially self-sufficient in the future.

New item H, subitem (1) is reasonable because it is a comparison of an applicant's current resources (monthly household income) compared to the costs of the household's basic needs.

New item H, subitem (2) is reasonable because an applicant's or a household member's employment status and outlook is an indication of the potential for adding additional sources of income.

New item H, subitem (3) is reasonable because long-term maintenance benefits and assistance from other agencies are an indication of the potential for adding additional sources of income and assistance.

Subp. 6. **Maximum grant amounts.** New subpart 6 establishes how an applicant's maximum veteran's relief grant amount is determined. Items A to C identify the circumstances to be considered for determining an applicant's maximum grant amount. New subpart 6 is reasonable because it helps ensure consistency and transparency in administering the veteran's relief grant and ensures program efficiency and management of state soldiers' assistance funding.

New item A is reasonable because it takes into consideration the circumstances of an applicant's situation, the applicant's need for financial assistance, and the amount of assistance that is required to meet the applicant's basic needs. The circumstances and needs of each applicant are different; therefore, it is reasonable to not have an established maximum veteran's relief grant limit that applies to all applicants.

New item B aligns with the requirements of subpart 5, item A of this part which requires an applicant be financially self-sufficient or on a path to financial self-sufficiency if assistance is provided. It is not an effective use of state resources if an applicant cannot pick up and carry on financially after a receiving a veterans relief grant. Because the veteran's relief grant is a once-per-lifetime benefit, and to ensure that state soldiers' assistance funding is not expended in cases where a veteran's relief grant will not remedy an individual's situation, it is reasonable to base an applicant's maximum grant amount on whether or not the applicant will be financially self-sufficient or on their way to being financially self-sufficient if assistance is provided.

New item C is reasonable because the limited nature of state soldiers' assistance funding makes it necessary to not only consider the amount of assistance an applicant requires given the

circumstances of the applicant's situation, but also to consider the budgetary constraints of state soldiers' assistance funding.

Subp. 7. Partial approval of a veterans relief grant. New subpart 7 establishes the right of an applicant to decline a veteran's relief grant that is only partially approved as long as the commissioner has not made a payment on any of the items or expenses that are part of the relief grant request. The veteran's relief grant is a once-per-lifetime benefit and in some cases an applicant's circumstances will change in the time between applying for the grant and a decision being made. For this reason it is appropriate to give an applicant the right to decline a relief grant that is partially approved if no payment has been made.

Subp. 8. Veterans relief grant approval letter. New subpart 8, items A and B establish the requirements for a veteran's relief grant approval letter and the contents of the letter. New subpart 8 is reasonable because it helps ensure consistency and transparency in administering the veteran's relief grant program activity and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires the commissioner to issue a veterans relief grant approval letter to an applicant whose veterans relief grant is approved or partially approved. Issuing a veteran's relief grant approval letter is a reasonable mechanism to inform an applicant of the approval or partial approval of the applicant's veteran's relief grant.

New item B identifies the information that must be provided in the veteran's relief grant approval letter. The relief grant approval letter confirms the applicant is approved or partially approved for financial assistance and explains how the assistance amount is disbursed. Item B, subitems (1) to (7) are the most vital pieces of information provided to applicants, contractors, and vendors. This rule is reasonable because it provides the information that is most critical for the efficient administration of the veteran's relief grant program activity.

New item B, subitem (1) is reasonable because it is vital to the efficient administration of the veteran's relief grant program that all parties understand the veteran's relief grant program guidelines and administrative procedure.

New item B, subitem (2) is reasonable because it provides documentation of the total amount of financial assistance requested.

New item B, subitem (3) is reasonable because it provides further documentation of the total amount of financial assistance requested and an itemized breakdown of the amounts requested for each item or expense.

New item B, subitem (4) is reasonable because it provides documentation of the total amount of financial assistance approved by the commissioner.

New item B, subitem (5) is reasonable because it provides further documentation of the total amount of financial assistance approved by the commissioner and an itemized breakdown of the amounts approved for each item or expense.

New item B, subitem (6) is necessary to ensure a recipient or a vendor or contractor are informed of any additional documentation that is required. This rule is reasonable because it helps ensure financial assistance is provided only to whom and for what it is intended, and that state soldiers' assistance funding is used only as intended.

New item B, subitem (7) is reasonable in that it provides documentation of the reasons for the commissioner's decision and explains any additional actions required of a recipient or a vendor or contractor.

Subp. 9. **Veterans relief grant denial letter.** New subpart 9, items A and B establish the requirements for a veteran's relief grant denial letter and the content of the letter. New subpart 9 is reasonable because it ensures consistency and transparency in administering the veteran's relief grant program and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires the commissioner to issue a veterans relief grant denial letter to an applicant whose relief grant request is denied or partially approved. Issuing an applicant a relief grant denial letter is an effective means to document that the recipient's relief grant request was either denied or only partially approved. The relief grant denial letter is a reasonable means of informing the applicant that their request for a relief grant has been denied or partially approved.

New item B identifies the information that must be provided in the veteran's relief grant denial letter. The letter must state each item or expense that was denied or partially approved, explain the reasons for denial or partial approval, and that the applicant has the right to appeal. This rule is needed to ensure an applicant understands the reasons for denial or partial approval and their right to appeal. It is reasonable to provide an explanation of the reasons why each item or expense was either denied or only partially approved because without such an explanation the applicant's ability to effectively appeal the denial or partial approval of their relief grant request is impeded.

Subp. 10. **Addenda.** New subpart 10, items A to E establish the recipient's right to submit an addendum to an item or expense approved or partially approved in the recipient's original veteran relief grant request; an example is provided. Items A to E establish the conditions for submitting an addendum to an item or expense that has been approved or partially approved. It is reasonable to provide for an addendum because circumstances can change, and additional assistance is needed.

New item A establishes that an addendum must be for an item or expense that was approved or partially approved in a recipient's original request. It is necessary to limit the addendum to the original request in order to administer the veteran's relief grant program efficiently and to prevent abuse of the grant process. At the beginning of the veteran's relief grant process an applicant has the right to request assistance with any item or expense the applicant deems to be a need; therefore, it is reasonable to prohibit adding to the list of items or expenses once a grant decision is made by the commissioner.

New item B establishes who a recipient must submit an addendum to. An applicant for a veterans relief grant must apply through a county veterans service officer, a department field operations claim representative, or a department tribal veterans service officer. These are the personnel who are familiar with the recipient's original relief grant request and in the best position to assist the applicant with an addendum. Therefore, it is reasonable to require that an addendum be submitted through the same channels to maintain consistency in the administration of the veteran relief grant program.

New item C requires that a recipient submit an addendum for an item or expense as soon as the need for additional assistance is evident. Assuming the recipient is in dire need of additional assistance and to ensure efficient administration of the program activity, it is reasonable that an addendum be submitted as soon as possible to help avoid any delay in approval of and payment for the item or expense.

New item D requires that a recipient submit a written statement explaining the need for additional assistance, an updated estimate or bill for the service, and an explanation why they cannot pay the additional amount. It is necessary that a recipient provide the written statement and updated documentation (i.e. estimates or billing statements), and explain why they cannot pay for the additional work or services required so that the commissioner can make a determination on payment for the item or expense. It is reasonable to require that the recipient provide this information to maintain the integrity of the veterans relief grant program activity.

New item E requires a recipient to submit the addendum before receiving additional services or work that incurs charges above the initial amount approved. This rule is needed to give the commissioner time to evaluate the reasons for the additional assistance and to know why the additional work or services are necessary before additional charges are incurred. Item E protects a recipient from incurring charges with no means of paying the charges and it protects vendors and contractors from providing services or performing work and not being paid for the services or work. This rule is reasonable given that there is no guarantee the commissioner will approve the additional work or services that are being requested.

Subp. 11. Items and expenses covered under a veterans relief grant. New subpart 11, items A to D establish what items and expenses are covered under a veterans relief grant and the conditions that apply to be eligible for financial assistance. New subpart 11 is reasonable because it ensures consistency and transparency in administering the veteran's relief grant program and ensures program efficiency and management of state soldiers' assistance funding.

New item A establishes that certain items and expenses are eligible for financial assistance under this part; subitems (1) to (25) list the items and expenses. The items and expenses covered under the veterans relief grant are reasonable because the items are either actual items and expenses constituting an applicant's most critical basic needs; in particular adequate shelter, utilities, and transportation, or the items are critical to the applicant's health and safety, or the items are contributors to the applicant's ability to meet their basic needs and attain financial self-sufficiency.

New item B establishes that an applicant may request assistance for an item or expense not listed in subpart 12, that the commissioner must consider the request, and that the commissioner cannot provide an exception for items not covered under the veteran's relief grant. Not every potential item or expense that relates to an applicant's basic needs, health and safety, and financial sustainability can be forecasted and included in the rules. Therefore, it is reasonable that the commissioner at least consider a request for assistance for items or expenses that are not included in item A.

New item C establishes that assistance is not authorized for work or services that have already been completed or provided or for items the applicant has already purchased and paid for or incurred an obligation to pay; except if the situation posed a direct threat to the health, safety or financial stability of the applicant. This rule is needed to ensure consistency and transparency in the administration of the of the veterans relief grant program activity and to help prevent program abuse. It is reasonable to not cover work or services or an item or expense that an applicant has already purchased and paid for or has incurred an obligation to pay for as it raises the question of whether the applicant actually planned to pay for the work or services or the item or expense on the individual's own in the first place. It is also reasonable to account for situations in which an applicant has no choice but to incur charges or an obligation to pay prior to approval as is the case in the example provided.

New item D establishes that work or services under a veteran relief grant must be completed within 90 days of when the grant is approved and if there is any delay in completing the work, the recipient, vendor or contractor must submit a written explanation to the commissioner with the new projected completion date. Assuming the recipient is in dire need of financial assistance, it is reasonable to expect that work and services approved under a veterans relief grant be provided and completed as soon as possible and that any delays be brought to the attention of the commissioner with an explanation of the reasons for the delays. This rule ensures consistency and transparency and efficient administration of the veteran's relief grant program activity and all projected state soldiers' assistance funding expenditures.

Subp. 12. Items and expenses not covered under a veterans relief grant. New subpart 12 establishes the items or expenses that financial assistance is not authorized for under a veteran's relief grant; items A to N list the items or expenses. The items and expenses not covered under the veteran's relief grant program activity reflect the limited nature of state soldiers' assistance funding. The purpose of the relief grant is to only pay for items and expenses essential to meeting an applicant's basic needs or to prevent the loss of a basic need and to only pay for items and expenses that further an applicant's financial self-sufficiency and ability to meet the applicant's basic needs on their own. For the most part, items A to N do not contribute to an applicant's most critical basic needs. Of the items that are related to an applicant's basic needs, such as nursing home costs and health-related and supportive services, there are other agencies such as the DHS with greater resources that are in a better position than the MDVA to assist.

Subp. 13. **Items and expenses related to real or personal property.** New subpart 13, items A to C establish the conditions for providing assistance with items and expenses resulting from the ownership or leasing of personal and real property. Because an applicant may own or lease personal or real property, and items and expenses related to the ownership or leasing of property are expected, it is reasonable to identify under what conditions assistance is authorized for such items and expenses.

New item A establishes the conditions for when assistance is authorized for an item or expense resulting from owning or leasing personal property; subitems (1) and (2) identify the conditions. It is out of owning or leasing personal property that a legal obligation to pay for the property or to pay for an item or expense associated with the property originates; therefore, it is reasonable that out of owning or leasing personal property that a need for financial assistance arises.

New A, subitem (1) requires that the recipient or recipient's spouse is an owner or lessee of the property. Financial assistance under the veteran's relief grant is intended to assist the applicant meet basic needs including shelter. Therefore, it is reasonable to require an applicant or applicant's spouse be an owner or lessee of the property that is resulting in the items or expenses for which assistance is requested.

New item A, subitem (2) requires that the recipient or recipient's spouse have a legal obligation to pay for the property or pay for the item or expense associated with owning or leasing the property. In some cases an applicant or applicant's spouse may own or lease property; however, the applicant or applicant's spouse have no legal obligation to pay for the property or to pay for any costs or expenses associated with the property. It is considered a waste and unnecessary expenditure of state soldier's assistance funding if the applicant requesting assistance or the applicant's spouse is not an owner or lessee of the property, or the applicant or applicant's spouse are an owner or lessee but are not responsible for paying for the property or items or expenses associated with owning or leasing the property.

New item B establishes the conditions for when assistance is authorized for an item or expense resulting from owning or leasing real property; subitems (1) to (4) identify the conditions. It is out of owning or leasing real property that a legal obligation to pay for the property or to pay for an item or expense associated with the property originates; therefore, it is reasonable that out of owning or leasing real property that a need for financial assistance arises.

New item B, subitem (1) requires that the recipient or recipient's spouse is an owner or lessee of the property. Financial assistance under the veteran's relief grant is intended to assist the applicant meet basic needs including shelter. Therefore, it is reasonable to require an applicant or applicant's spouse be an owner or lessee of the property that is resulting in the items or expense for which assistance is requested.

New item B, subitem (2) requires that the property is the primary residence of the recipient. State soldiers' assistance funding is limited, and the purpose of the veterans relief grant is to assist an

applicant meet basic needs. Therefore, it is reasonable to require that real property for which assistance is requested must be the applicant's primary residence.

New item B, subitem (3) requires that the property is homesteaded if owned by the recipient or the recipient's spouse. State soldiers' assistance funding is limited, and the purpose of the veterans relief grant is to assist an individual with the individual's basic needs. Therefore, it is reasonable to require that real property for which assistance is requested be homesteaded if owned by the recipient or recipient's spouse.

New item B, subitem (4) requires that the recipient or recipient's spouse have a legal obligation to pay for owning or leasing the property or pay for the item or expense associated with owning or leasing the property. In some cases an applicant or applicant's spouse may own or lease property; however, the applicant or applicant's spouse have no legal obligation to pay for the property or to pay for any costs or expenses associated with the property. It is considered a waste and unnecessary expenditure of state soldier's assistance funding if the applicant requesting assistance or the applicant's spouse is not an owner or lessee of the property, or the applicant or applicant's spouse are an owner or lessee but are not responsible for paying for the property or items or expenses associated with owning or leasing the property.

New item C establishes the documents the commissioner must accept to confirm the recipient or recipient's spouse is an owner or lessee of real or personal property; subitems (1) to (6) list the types of documents. Item C is reasonable because each document listed in subitems (1) to (6) is an official document and having to provide one of the documents does not create an unreasonable burden on the recipient or recipient's spouse.

Subp. 14. Prorating veterans relief grant benefits. New subpart 14, items A to C establish the requirements when assistance is provided for items and expenses resulting from sharing items or expenses or owning or leasing personal or real or property with someone who is not authorized to receive assistance from a veterans relief grant.

New item A establishes grant amounts for shared items or expenses must be prorated if a recipient or recipient's spouse shares joint liability for the item or expense with someone not authorized to receive a veteran's relief grant; part 9055.0280, subparts 4 and 5 reference the requirements for prorating. Item A is needed to ensure benefits and services are provided only to whom they are intended, and that state soldiers' assistance funding is used as intended. It is reasonable to prorate relief grant amounts in cases of joint liability because prorating the grant amount ensures assistance will only be provided for that portion of the cost of the shared item or shared expense that the recipient or recipient's spouse is responsible for. Conversely, assistance will not be provided for the full amount of a cost of an item or an expense that is shared with an individual who is not eligible to receive benefits from the state soldiers' assistance program. Providing assistance for any amount greater than what a recipient is responsible for constitutes providing assistance to individuals who are not eligible for assistance; resulting in the waste and unnecessary spending of state soldiers' assistance funding.

New item B establishes that grant amounts for shared items and expenses that are the result of owning or leasing real or personal property must be prorated under certain conditions; subitems (1) and (2) identify the conditions. It is necessary that both conditions must be present before the requirement to prorate a grant amount is established. Requiring both the recipient or recipient's spouse ownership or lessee status with a person age 18 or older and not eligible for a relief grant, and joint liability for the property, item or expense is shared with the person are reasonable to ensure that in most cases the full amount of an item or expense can be paid without the need to prorate.

New item C establishes that once a person not eligible for a relief grant relinquishes ownership or ceases to lease property or is no longer obligated to pay for the property and its associated items and expenses, there is no longer a concern that the person will receive benefits from the state soldiers' assistance program. Under these conditions it is then reasonable to not prorate relief grant amounts.

Subp. 15. **Assistance with shelter costs.** New subpart 15, items A to F establish the requirements for confirming an applicant's eligibility for assistance with their shelter costs to include a legal obligation to pay shelter costs and the applicant's payment history, documentation requirements, and the disposition of past due shelter costs at a previous residence. New subpart 15 is reasonable because it ensures consistency and transparency in administering the veteran's relief grant program and ensures program efficiency and management of state soldiers' assistance funding.

New item A establishes that an applicant must have a current obligation and history of paying shelter costs to be eligible for assistance with shelter costs. If an applicant has no current obligation to pay shelter costs and no history of paying such costs it is reasonable to assume that the applicant's shelter needs are being met and there is no need for assistance.

New item B establishes the conditions under which an applicant with no current legal obligation to pay shelter costs and expenses may incur such costs and expenses and receive assistance if the applicant is confirmed homeless or on the homeless veteran registry. Shelter is a basic need; therefore, it is reasonable within the provisions of subpart 15 to make accommodations when an applicant with no current legal obligation to pay shelter costs is verifiably homeless and in need of permanent housing.

New item C establishes the conditions in which an applicant may retroactively complete a lease agreement to establish shelter assistance amounts for the purpose of receiving the full amount of assistance for shelter costs and expenses. It is reasonable that when an applicant can prove they are actually paying a certain amount for shelter costs and expenses that the applicant be allowed to confirm payment history in order to receive the full amount of needed assistance.

New item D establishes the documents that may be used to confirm a history of payment for shelter costs and expenses; subitems (1) to (4) list the types of documents. Item D is reasonable because each of the document listed in subitems (1) to (4) is a credible form of verification of

payment, and having to provide any one of the documents does not place an unreasonable burden on an applicant.

New item E establishes the condition that past due shelter costs and expenses an applicant owes at a previous residence are authorized if payment of the past due amounts is a prerequisite for the applicant to attain permanent housing. Shelter is a basic need; therefore, it is reasonable to pay past due shelter costs and expenses at a previous residence if doing so assists the applicant in attaining permanent housing.

New items F establishes that if an applicant is living under the terms of a nontraditional housing agreement, meaning that they are essentially renting space in another individual's house, the commissioner will not pay any more than the shelter benefit amounts provided in the schedule of maximum monthly allowances for the subsistence program activity. This rule is needed as it prevents abuse of the shelter assistance provided and the unnecessary spending of state soldiers' assistance funding. When an individual rents a bedroom or basement space in another individual's home or is living with a family member the individual renting the space does not incur the same types of expenses as if renting stand-alone properties. For this reason it is reasonable to limit the shelter assistance amount to the amount on the schedule of allowances for subsistence.

Subp. 16. **Veterans relief grant shelter authorization form.** New subpart 16, items A to C establish the requirements for the veterans relief grant shelter authorization form, what the form is to be used for, the content of the form, and limits on assistance for shelter costs and expenses for nontraditional housing. New subpart 16 is reasonable because it helps ensure consistency and transparency in administering the veterans' relief grant for shelter authorization and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires the commissioner to issue a veterans relief grant shelter authorization form to a recipient approved for shelter assistance and pays rent for a primary residence. Issuing a veterans relief grant shelter authorization form is an effective means to document the recipient's approval for shelter assistance.

New item B establishes that the shelter authorization form is the only billing document accepted for the shelter cost payment. This rule is needed in order to provide a uniform method of payment. It is reasonable to require a standard document that contains all of the necessary information required by the commissioner for payment of the recipient's shelter cost. The information provided on the shelter authorization form along with the required signatures contains the essential information to make the completed shelter authorization form the only billing document accepted for payment of the recipient's rent.

New item C identifies the information that must be provided in the shelter authorization form. Item C, subitems (1) to (5) are the most vital pieces of information provided to the recipient, property owners and managers; and the information necessary to use the completed shelter authorization form as the payment document for the recipient's shelter assistance. This rule is

reasonable because it provides the information that is most critical for the efficient administration of the veteran's relief grant program.

New item C, subitem (1) is reasonable because the recipient of shelter assistance and the recipient's property owner or manager must know how to complete the form in order to facilitate prompt payment.

New item C, subitem (2) is reasonable because if the shelter authorization form is the official billing document for payment of a recipient's shelter cost, then there must be a stated amount of approved shelter assistance on the document.

New item C, subitem (3) is reasonable because it allows the property owner or manager to accurately apply the shelter assistance amount to the recipient's shelter obligations for the correct period of time.

New items C, subitem (4) is reasonable in order to confirm the name and address of the property owner or manager of the recipient's residence to be paid the shelter cost which facilitates efficient payment processing.

New item C, subitem (5) is reasonable because a recipient or the property owner or manager are to be informed of any additional documentation or action required of them in order to ensure prompt accurate payment of a recipient's shelter costs. This rule is reasonable because it helps ensure financial assistance is provided only to whom and for what it is intended, and that state soldiers' assistance funding is used only as intended.

Subp. 17. **Vendor and contractor participation.** New subpart 17, items A to E establish the requirements for vendor and contractor participation in the veteran's relief grant program activity. Given the circumstances that an applicant would need to apply for a veteran's relief grant and the vulnerability of an applicant to fraudulent vendors and contractors, it is necessary that vendors and contractors meet the requirements of this subpart in order to participate in the veteran's relief grant program activity.

New item A requires a vendor or contractor comply with the provisions of this part and follow all guidelines and procedures for the veteran's relief grant program. This rule is reasonable as nothing short of full compliance with the provisions of part 9055.0455 and the guidelines and administrative procedures established by the commissioner will be accepted by the MDVA.

New item B requires a vendor or contractor be properly licensed for the work or services contracted for. This rule is reasonable because the appropriate licensure of vendors and contractors protects the interests of both the recipient of assistance and the MDVA.

New item C requires that a vendor or contractor bill only for the work completed or services provided. Billing only for the work completed or services provided protects the integrity of the veteran's relief grant program activity and prevents unnecessary spending of state soldiers' assistance funding.

New item D requires a vendor or contractor to comply with all MDVA and MMB for billing and receiving payment. Compliance with billing and payment requirements of the MDVA and MMB is necessary for efficient operation and administration of the veteran's relief grant program activity.

New item E requires a vendor or contractor to report any conflicts of interest as a result of work or services contracted for with the recipient of a veteran's relief grant. This rule is reasonable because reporting conflicts of interest protects the integrity of the veteran's relief grant program activity and helps to ensure public trust in the vendors and contractors participating in the veteran's relief grant program activity and the MDVA.

Subp. 18. Estimates and proposals for covered items or expenses. New subpart 18, items A to D establish the requirements for submitting estimates and proposals to MDVA for financial assistance with work or services for covered items and expenses. New subpart 18 is reasonable because it ensures consistency and transparency in administering the veteran's relief grant program and ensures program efficiency and management of state soldiers' assistance funding.

New item A requires that an applicant for assistance with an item or expense that requires work of services from a vendor or contractor submit an estimate from the vendor or contractor who will do the work. The requirement of estimates and proposals for work and services and is reasonable as multiple estimates and proposals are the most logical method for evaluating and documenting a request for assistance, and will ensure all parties involved are clear on the scope and cost of the work or services that will be performed.

New item B establishes that an estimate or proposal be submitted in writing and confirm the information listed in subitems (1) to (7). Makes clear the information that must be included in an estimate or proposal and is reasonable in that ensures consistency and transparency and is necessary for the commissioner to make an informed decision on the merits and costs of the work to be performed or of the services to be provided.

New item B, subitem (1) requires contact information for the vendor or contractor. It is reasonable to know the name, address, and contact information of the contractor or vendor to be paid which facilitates efficient payment processing.

New item B, subitems (2) and (3) require that a vendor or contractor is authorized to do business in Minnesota and that the vendor or contractor have liability insurance. These subitems are reasonable because they protect the interests of both the recipient of assistance and the MDVA.

New item B, subitem (4) requires that the applicant must be the intended recipient of the work or services and the party responsible for payment. This rule is reasonable because it ensures that state soldiers' assistance funding is spent as intended and for whom it is intended, and it confirms the applicant is in need of assistance.

New item B, subitem (5) requires that an estimate or proposal include the terms and conditions of payment. This rule is reasonable because the commissioner must agree to the terms and conditions of payment and confirming this information facilitates efficient payment processing.

New item B, subitem (6) requires that the estimate or proposal confirm the address where work or services will be performed. It is reasonable to ensure the property where the work or service will be performed is that of the recipient of assistance.

New item B, subitem (7) requires an itemized breakdown of all work and services provided, material and labor costs, and other charges. This rule is reasonable because the information provided allows the commissioner to make informed decisions regarding the scope and cost of the work to be performed or the services to be provided.

New item C establishes the requirement for at least two estimates or proposals for the work or services; but provides exceptions to the requirement when circumstances warrant. This rule promotes a degree of competition between vendors and contractors. Multiple estimates and proposals give the applicant and commissioner options and helps ensure efficient use of state soldiers' assistance funding. It is reasonable to make exceptions to the requirement for two estimates or proposals in certain areas of the state such as in small communities where there might be a dearth of vendors and contractors. Also, in many cases an applicant is facing an emergency situation that requires immediate attention and there is not time to obtain two estimates or proposals.

New item D establishes that the commissioner cannot accept an estimate or proposal that requires a down payment before work or services start; however, the commissioner can directly pay a wholesaler or retailer if necessary. The exception that the commissioner can make a direct payment to a retailer or wholesaler for supplies and materials if necessary, to start work is reasonable because it helps ensure that small vendors and contractors with less cash on hand to buy materials and supplies up front can compete against larger contractors and vendors. In many cases smaller contractors and vendors are ultimately less expensive; therefore, this rule helps to prevent the unnecessary spending of state soldiers' assistance funding.

Subp. 19. **Changing vendors or contractors.** New subpart 19, items A to D establish the requirements for changing vendors or contractors. The commissioner acknowledges that circumstances may change where there is a need to change a vendor or contractor. It is necessary that a recipient meet the requirements of this subpart in order to request a change in vendor or contractor.

New item A establishes an applicant's right to request to change a vendor or contractor. Conflicts may arise or circumstances may change either for the recipient of the veteran's relief grant or the vendor or contractor performing work or providing services. To ensure the necessary work is completed or the needed services are provided it is reasonable to allow a change in vendor or contractor if the situation warrants. Allowing for a change in a vendor or contractor helps prevent

the waste of state soldiers' assistance funding by ensuring the work or services that have begun are actually completed.

New item B requires that a request to change a vendor or contractor go through a county veteran's service officer, department field operations claims representative, or department tribal veteran's service officer. These are the personnel who are familiar with the recipient's original relief grant request and in the best position to assist the applicant with their request. Therefore, it is reasonable to require that a request be submitted through the same channels to maintain consistency in the administration of the veteran relief grant program.

New item C requires the recipient submit a written request explaining the reasons for changing the vendor or contractor, and include a new estimate or proposal for the work or services to be completed. The written statement becomes part of the recipient's application for the veteran's relief grant. It is necessary that a recipient provide the written statement and explain why they want to change vendors or contractors and a new estimate or proposal so that the commissioner can make a determination on payment for the work or services to be completed. The requirement to provide this information helps to maintain the integrity of the veteran's relief grant program activity.

New item D establishes that work or services provided by the new vendor or contractor prior to approval by the commissioner is not authorized. This rule is needed to ensure the integrity of the veterans relief grant program and is vital to ensuring any new vendor or contractor meets all program requirements and understands the responsibilities of participants in the program. This rule is reasonable because it protects the interests of both the recipient and the new vendor or contractor. The commissioner is not obligated to approve the new vendor's or contractor's estimate or proposal which could result in the vendor or contractor not being paid for work the vendor or contractor perform or services the vendor or contractor provide.

Subp. 20. **Disputes between a vendor or contractor and a recipient.** New subpart 20, items A and B establish how disputes between a recipient and a vendor or contractor are addressed. It is necessary that all parties understand the commissioner's role in such disputes and when the commissioner must withhold payment to a vendor or contractor.

New item A establishes that the commissioner is not a party to disputes between a recipient and a vendor or contractor. The MDVA does not have the resources to mediate disputes between a recipient and a vendor or contractor performing work or providing services when the disputes center around the quality of work performed or services provided.

New item B establishes when the commissioner must withhold payment to a vendor or contractor. This rule is needed to prevent the unnecessary spending and waste of state soldiers' assistance funding and to ensure program integrity. It is reasonable that the commissioner withhold payment until the circumstances of a situation can be verified if the recipient of the veteran's relief grant is claiming that the vendor or contractor has failed to perform or provide any work or services.

Subp. 21. **Veterans relief grant payments.** New subpart 21, items A to E establish the requirements and documentation needed for processing veterans relief grant payments. New subpart 21 is reasonable because it ensures consistency and transparency in administering the veteran's relief grant program and ensures program efficiency and management of state soldiers' assistance funding.

New item A establishes that duplicate payments for items and expenses another agency has provided assistance are not authorized. Making a payment for an item or expense that has already been provided for by another agency or organization is a clear misuse of state soldiers' assistance funding.

New item B requires a recipient to submit proof of the cost of items and expenses that were approved by the commissioner in order to receive payment. This requirement ensures that the items and expenses a recipient is requesting payment for are the items and expenses approved by the commissioner so that the correct payment amount is provided to meet the recipient's needs without unnecessarily spending state soldiers' assistance funding.

New item C establishes the information that must be provided on receipts, invoices and billing statements submitted by a recipient for payment; subitems (1) and (2) list the required information.

New item C, subitem (1) requires contact information for the vendor providing items or services to the recipient. This information is necessary to make a payment to a vendor or contractor. It is reasonable to know the name, location, and payment address of the vendor to be paid which facilitates efficient payment processing.

New item C, subitem (2) requires proof the recipient or recipient's spouse is responsible for payment of items or expenses received. This rule is reasonable because it is key to ensuring that only those applicant's eligible for assistance are the ones who receive it and that the recipient of assistance actually needs it because they are responsible for paying.

New item D establishes that it is a vendor or contractor's responsibility to submit documentation for payment for the work or services the vendor or contractor performed or provided. The documentation is key to ensuring those vendors and contractors who perform work or provide services are promptly paid. This rule is reasonable because payments are made directly to vendors and contractors and not to the recipient of the veterans relief grant.

New item E establishes the documents and information that must be submitted to the commissioner when requesting payment for work or services the vendor or contractor performed or provided; subitems (1) to (6) list the documents and information to be confirmed. Item E is reasonable because the documents and information listed in subitems (1) to (6) are credible forms of verification of the work or services performed or provided, and having to provide any one of the documents does not place an unreasonable burden on an applicant.

New item E, subitem (1) requires a copy of the veteran's relief grant authorization letter. This rule is reasonable because the veteran's relief grant authorization letter identifies the recipient approved for assistance, what the assistance is for, and the amount of assistance that was approved.

New item E, subitem (2) requires contact information for the vendor or contractor providing items or services to the recipient. This information is necessary to make a payment to a vendor or contractor. It is reasonable to know the name and payment address of the vendor or contractor to be paid which facilitates efficient payment processing.

New item E, subitem (3) requires the documentation confirm that the recipient is the person responsible for payment of work, services, or items provided. This rule is reasonable because it is key to ensuring that only those applicant's eligible for assistance are the ones who receive it and that the recipient of assistance actually needs it because they are responsible for paying.

New item E, subitem (4) requires an itemized breakdown of the costs and expenses of the work performed or service provided. This rule is reasonable because it allows for comparison with the original estimate or proposal and helps ensure the work or services approved were actually performed or provided by the vendor or contractor.

New item E, subitem (5) requires the address where the work was performed, or services provided. This rule is reasonable to ensure the recipient of assistance owns or leases the property where the work was performed, or services provided.

New item E, subitem (6) establishes that other information may be needed to meet the commissioner's and MMB requirements. This rule is reasonable because it accounts for possible circumstances that require specific information in order to process a payment request.

6. Statutorily required regulatory analysis and additional analysis

A. Minn. Stat. § 14.131, SONAR requirements

Minn. Stat. § 14.131 requires this SONAR to include the following information, to the extent the Department can, through reasonable effort, ascertain this information.

- i. Description of the classes of individuals who probably will be affected by the proposed rule, including classes that will bear the costs of the proposed rule and classes that will benefit from the proposed rule.**

Who is affected by this rule?

The classes of individuals most likely affected by the proposed rule are numerous and can be grouped into three general categories. The first category consists of individuals seeking representation from MDVA in claims against the federal government for veteran's benefits and individuals seeking financial assistance from the state soldiers' assistance program.

The second category consists of individuals employed by MDVA who represent individuals filing claims for federal veteran's benefits as well as individuals employed by MDVA who administer the state soldiers' assistance program and provide financial assistance using state soldiers' assistance funding. Also included in this category are individuals employed by other government entities and other agencies such as the county veterans services offices who assist individuals with filing claims for veterans benefits and applying for financial assistance from the state soldiers' assistance program.

The third category consists of individuals from any third-party entity, public or private, that performs work for, or provides a benefit or service to, or is a creditor of an individual who is eligible for financial assistance from the state soldiers' assistance program.

Who bears the cost of this rule?

The primary bearer of the costs of the proposed rule is MDVA and to a lesser degree the other government entities and other agencies that assist individuals with filing claims for veterans benefits and applying for financial assistance from the state soldiers' assistance program.

Under no circumstances will MDVA or any other government entity such as a county veterans service office charge an individual for representation with a claim for federal veteran's benefits or charge an individual for help in applying for assistance from the state soldiers' assistance program. Minor ancillary costs such as the cost of public transportation or the cost of driving to and from an MDVA or county veterans service office may be borne by individuals filing claims for veterans benefits or by individuals applying for financial assistance from the state soldiers' assistance program; however, MDVA has taken necessary measures to eliminate to the greatest extent possible such costs. Third-party entities that perform work for, or provide a benefit or service to, or are a creditor of an individual who is eligible for financial assistance from the state soldiers' assistance program will bear the cost of providing documentation such as statements of circumstances, estimates, invoices, billing statements etc. However, the financial benefit to these third-party entities of providing this documentation can greatly exceed the cost.

Who benefits?

Individuals needing representation

Individuals needing representation before the USDVA in the adjudication of claims for federal veteran's benefits will benefit from the proposed rule. The proposed rule makes clear to those individuals with claims for federal veterans benefits and who are seeking representation by MDVA the terms and conditions under which representation is provided; the duties and responsibilities of both MDVA and the individual throughout the claim adjudication process; and the Codes of Federal Regulations that MDVA must abide by in the representation of an individual and the presentation of the individual's claim.

Individuals needing financial assistance

Individuals in need of financial assistance from the state soldiers' assistance program will also benefit from the proposed rule. The proposed rule:

- Ensures administration of the state soldiers' assistance program and disbursement of state soldiers' assistance funding is consistent and transparent and efficient.
- Establishes clear and objective eligibility and evidentiary requirements for receiving assistance from the state soldiers' assistance program.
- Establishes and makes clear the duties of the commissioner in the administration of the different state soldiers' assistance program activities and in the disbursement of state soldiers' assistance funding.
- Establishes and makes clear the responsibilities of individuals applying for and receiving assistance from the state soldiers' assistance program.
- Establishes and makes clear the policies, procedures, and processes that the commissioner and MDVA staff must follow to determine an individual's eligibility for assistance from the state soldiers' assistance program and to determine and calculate the types and amounts of financial assistance an individual is authorized to receive.

The cumulative benefit of the proposed rule to individuals in need of financial assistance from the state soldiers' assistance program is that the entire process from applying for assistance to being determined eligible or not eligible, and any disbursement of state soldiers' assistance funding, is more objective, clear and efficient, and uniformly applies to all individuals which results in shorter adjudication times and more consistent outcomes.

Public and private third-party entities

Public and private third-party entities that perform work for, or provide a benefit or service to, or who are creditors of individuals who are eligible for financial assistance from the state soldiers' assistance program will also benefit from the proposed rule. The proposed rule ensures administration of the state soldiers' assistance program and disbursement of state soldiers' assistance funding is consistent and transparent and efficient by establishing and making clear the responsibilities of public and private third-party entities that perform work for, or provide a benefit or service to, or who are creditors of individuals who are eligible for financial assistance from the state soldiers' assistance program.

The cumulative benefit of the proposed rule to public and private third-party entities that perform work for, or provide a benefit or service to, or who are creditors of individuals who are eligible for financial assistance from the state soldiers' assistance program is that the requirements for participation in the state soldiers' assistance program and the process for submitting the necessary documentation for payment from MDVA is more objective, clear and efficient, and uniformly applies to all public and private third-party entities and creditors.

State of Minnesota

The State of Minnesota will also benefit greatly from the proposed rule. Federal veterans benefits such as Veterans Disability Compensation, Dependent Indemnity Compensation, Veterans

Pension, and Survivors Pension are monthly cash payments paid directly to the recipients; hence, the rule's governance of MDVA's representation of individuals with claims for these benefits ensures millions of federal dollars will continue to enter the state, most of which will be spent in the state on goods and services that are taxed by state and local governments. The increase in state and local tax revenues as well as the fiscal multiplier effect produced by the influx and spending of federal veteran's benefits are a boost the economic output of the state.

The proposed rule benefits the state by ensuring that administration of the state soldiers' assistance program and disbursement of state soldiers' assistance funding is consistent, efficient, and transparent, each of which will save the state money.

The expenditure of state soldiers' assistance funding by way of the state soldiers' assistance program produces its own positive economic impact within the state. As state soldiers' assistance funding is disbursed directly to individuals in need of financial assistance or is paid to third-party entities that perform work for, or provide a benefit or service to, or are a creditor of an individual in need of assistance, the fiscal multiplier effect takes hold; thereby, increasing economic activity within the state. In addition, the initial outlay of state soldiers' assistance funding will to a degree be offset by its disbursement; when state soldiers' assistance funding is disbursed and spent which in turn will generate tax revenue.

ii. The probable costs to the Department and to any other agency of the implementation and enforcement of the proposed rules and any anticipated effect on state revenues.

What are the costs to MDVA of implementation and enforcement?

The proposed rule governs the conduct of MDVA staff as the staff represent individuals with claims against the federal government for veteran's benefits. In addition, the proposed rule establishes and makes clear new policies, procedures, and processes that MDVA staff must follow in administering the state soldiers' assistance program and disbursing state soldiers' assistance funding to eligible individuals.

The costs incurred by MDVA to represent individuals with claims against the federal government for veterans benefits and to administer the state soldiers' assistance program and state soldiers' assistance funding under the current rule consist primarily of staff salaries and modest programmatic expenditures.

The MDVA expects that the costs to continue to represent individuals with claims against the federal government for veteran's benefits and to administer the state soldiers' assistance program and state soldiers' assistance funding under the proposed rule will be no more than under the current rule. The MDVA already employs qualified individuals who will continue to represent individuals and administer the state soldiers' assistance program and state soldiers' assistance funding and there will be little or no increase in programmatic expenditures under the proposed rule. Once staff are trained in the requirements of the proposed rule, the implementation and enforcement of the rule will increase the transparency and consistency in which the state

soldiers' assistance program is administered; thereby, increasing the efficiency and effectiveness of the administration of state soldiers' assistance funding.

What are the costs to other government entities and agencies of implementation and enforcement?

As with MDVA, the proposed rule will result in little or no increase in costs to any other government entity or agency that must implement and enforce the proposed rule. These entities and agencies already have staff that implement and enforce the current rule and as stated above there will be little or no increase in programmatic expenditures under the proposed rule.

There will be an element of staff training that is required once the proposed rule is adopted; however, MDVA already conducts regular training events that are well suited to provide the necessary training on the proposed rule. The benefits of increased transparency and consistency in the administration of the state soldiers' assistance program and the increased efficiency and effectiveness in administering state soldiers' assistance funding will also materialize at this level.

What is the anticipated effect on State revenue and economic output?

The anticipated effect of the proposed rule on state revenues and state economic output is positive. Continued representation of individuals with claims against the federal government under the proposed rule will undoubtedly result in millions of dollars in federal veteran's benefits coming into the state with a substantial portion of those federal dollars being spent in the state on goods and services. With this influx of federal money into the state and the ensuing consumption of goods and services not only will there be an increase in economic output of the state due to the fiscal multiplier effect there will be a corresponding increase in tax revenue collected by the state.

The expenditure of state soldiers' assistance funding via the state soldiers' assistance program will also have a positive effect on the economic output of the state. As state soldiers' assistance funding is disbursed the fiscal multiplier effect will take hold on a local and state level; thereby, increasing the economic output of the state. In addition, the initial outlay of state soldiers' assistance funding will to a degree be offset by its disbursement. As state soldiers' assistance is disbursed it will be spent which in turn will generate tax revenue.

iii. A determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule.

Minn. Stat. § 196.04, subd. 1. states:

"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. Such rules shall become effective when approved by the attorney general and then be filed in the Office of the Secretary of State."

If the intent of item iii is to determine if there are less costly or intrusive methods, other than the adoption of administrative 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*, MDVA believes there is not. Furthermore it is MDVA's position that this is an irrelevant point given that Minn. Stat. § 196.04, subd. 1 leaves no other alternative but to adopt administrative rules.

If the intent of paragraph iii is to determine if there are less costly or less intrusive eligibility and evidentiary requirements to establish an individual's right to benefits provided by law; or if the intent is to determine if there are less costly or less intrusive policies, procedures and processes to be adopted for representing individuals with claims for federal veterans benefits and for administering the state soldiers' assistance program and administering state soldiers' assistance funding, it is the opinion of MDVA that the proposed rule is appropriate on all fronts.

One of the goals is to update and clarify the rule for administering the state soldiers' assistance program rules. To the extent this rule makes it easier to understand and comply with the requirements for administering the state soldiers' assistance program, and to administer state soldiers' assistance funding, this rule may reduce costs.

As stated in the paragraphs above, it is the position of MDVA that there are no alternatives to adopting administrative rules and it is MDVA's position that once staff are familiar with the new rule the cost of implementing and enforcing it will be nominal compared to the current rule.

In terms of the scope and detail of the proposed rule, it could be argued that the proposed rule is more intrusive than the current rule. MDVA agrees that the depth and breadth of the proposed rule is much greater than the current rule. However, the current rule is outdated for determining individuals' eligibility for benefits; and the policies, procedures, and processes for administering the state soldiers' assistance program and state soldiers' assistance funding are obsolete.

At a minimum the policies, procedures, and processes in the proposed rule are what is necessary to ensure only those individuals eligible receive the benefits provided by law, and to achieve a level of consistency and transparency in the administration of the state soldiers' assistance program that ensures state soldiers' assistance funding is administered in the most efficient and effective ways possible.

iv. A description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the Department and the reasons why they were rejected in favor of the proposed rule.

The MDVA has limited alternatives for achieving the purpose of the proposed rule. Any alternative method for achieving the purpose of the proposed rule would involve establishing eligibility and evidentiary requirements as well as policies, procedures, and processes for administering the state soldiers' assistance program and state soldiers' assistance funding outside of administrative rule process.

As stated in paragraph iii, MDVA believes this is not an option and that no alternative methods for achieving the purpose of the proposed rule are authorized due to Minn. Stat. § 196.04 specifically stating that administrative rules must be adopted.

v. The probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

For the MDVA, other government and nongovernmental entities the costs of complying with the proposed rule are synonymous with the costs of implementing and enforcing the proposed rule. The costs of complying with the proposed rule are not more than the programmatic costs associated with meeting the rule requirements. The costs of complying with the proposed rule will be no more than the costs of meeting the requirements of the current rule.

The costs of complying with the proposed rule borne by the individuals seeking representation with claims for federal veterans benefits and the costs borne by individuals applying for financial assistance from the state soldiers' assistance program as well as the costs borne by third-party entities that perform work for, or provide a benefit or service to, or are a creditor of an individual who is eligible for financial assistance are again minor ancillary costs associated with the mechanics of seeking representation or applying for assistance and providing the necessary evidence to prove eligibility and to facilitate disbursement of financial assistance. These costs are the exact same costs borne under the current rule and will be no more than meeting the requirements of the current rule.

With that said, each piece of evidence and any associated documentation required from another organization or agency comes at no cost to individuals seeking representation with claims for federal benefits or to individuals seeking financial assistance through the state soldiers' programs. Medical records, financial statements, invoices, billing statements, estimates, payroll records, and countless other pieces of documentation of a similar nature all are made available to an individual at no cost. And, if by chance there is a cost in obtaining a certain piece of evidence or documentation, MDVA will always take measures to attain the needed information through another means.

vi. The probable costs or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of government units, businesses, or individuals.

The consequences as opposed to the costs of not adopting the proposed rules are far greater and more profound for all categories of affected parties and classes of affected individuals.

One consequence of not adopting the proposed rule borne by all categories of affected parties and classes of affected individuals means that the state soldiers' assistance program and the disbursement of state soldiers' assistance funding will continue to be governed by an obsolete rule and that certain state soldiers' assistance program activities created since the current rule was adopted will continue to have no governing administrative rule.

Program activities with no governing administrative rule will continue to operate and continue to be administered under the commissioner's broad statutory duties and a collection of internal policies and procedures.

Individuals applying for financial assistance from the state soldiers' assistance program will continue to experience inconsistency and opacity in how different state soldiers' assistance program activities are administered, what the different evidentiary requirements are for the different program activities are, and how eligibility determinations and assistance are arrived at.

The MDVA staff and the staff of other governmental entities and private agencies assisting individuals applying for financial assistance from the state soldiers' assistance program will continue to experience administrative inefficiencies due to the lack of a relevant body of administrative rules that have a purpose and provide governance in how state soldiers' assistance program activities must be administered and how financial assistance is disbursed.

As noted in item ii above, the probable costs of adopting the proposed rule will be no more than the costs of continued operation under the current rule; the same point applies here regarding the costs of not adopting the proposed rule.

If the proposed rule is not adopted the costs borne by MDVA, other government entities, and other nongovernmental agencies of continuing to represent individuals with claims for federal veterans benefits and the costs of continuing to administer and help individuals apply for assistance from the state soldiers' assistance program and state soldiers' assistance funding under the current rule will remain unchanged year-over-year aside from minor increases in programmatic costs.

If the proposed rule is not adopted the costs borne by the individuals seeking representation with claims for federal veterans benefits and the costs borne by individuals applying for financial assistance from the state soldiers' assistance program as well as the costs borne by third-party entities that perform work for, or provide a benefit or service to, or are a creditor of an individual who is eligible for financial assistance will under the current rule will remain unchanged.

vii. An assessment of any differences between the proposed rule and existing federal regulations and a specific analysis of the need for and reasonableness of each difference.

There are no federal regulations that govern rulemaking procedures for Minnesota state agencies that are adopting, amending, or repealing its rules through Minn. Stat. ch. 14. The purpose of this rulemaking is to complete the repeal and replacement of the administrative rules governing the operation of the MDVA Programs and Services Division and the administration of the state soldiers' assistance program and state soldiers' assistance funding.

The MDVA believes that the proposed rule does not differ greatly in purpose and intent from the rules governing federal programs that provide similar types of assistance, but that there are subtle differences in how eligibility for assistance is determined as well as how amounts of assistance are determined.

Regulations for other federal programs that offer assistance similar to the assistance provided by the state soldiers' assistance program, institute income and asset limits as determinants of eligibility and certain federal programs offset the amount of assistance an individual may receive with the amount of income an individual has from other sources, so too does the state soldiers' assistance program.

While federal programs base income and assets limits on household size and percentages of the poverty line, the state soldiers' assistance program bases the income and asset limits of certain state soldiers' assistance program activities on household size and the income provided by the USDVA pension benefit and the State of Minnesota GA benefit. In all cases the income limit and in most cases the asset limit for state soldiers' assistance program activities are greater than the income provided by the USDVA Pension and GA. The reasons for these differences are to ensure individuals whose only income is from these two income sources are eligible for assistance from the state soldiers' assistance program.

In regard to an individual's income, the proposed rule most likely includes income from a greater number of sources than do federal regulations and the proposed rule calculates an individual's income differently than do federal regulations.

The differences in the number of sources of income that are included in the proposed rule and the methodology used in the proposed rule for calculating income are reasonable given the resources available to federal programs are far greater than the level of state soldiers' assistance funding but are also due to MDVA's intent to base an individual's eligibility for assistance and the amounts of assistance the individual may receive on the most realistic assessment of the income an individual actually receives each month.

In regard to an individual's assets, the proposed rule is both similar and different from other federal regulations in that the proposed rule will never consider the value of an individual's house or vehicles as an asset, but the proposed rule does consider the value of an individual's retirement accounts as an asset. These two provisions are not always the case in federal regulations.

The differences between the proposed rule and other federal regulations are appropriate once again due to the limits to state soldiers' assistance funding compared to federal resources, but also due to MDVA's intent to base an individual's eligibility for assistance and the amounts of assistance an individual may receive on the most realistic assessment of the financial resources available to the individual.

viii. An assessment of the cumulative effect of the rule with other federal and state regulations related to the specific purpose of the rule.

Minn. Stat. § 14.131 defines "cumulative effect" as

"the impact that results from incremental impact of the proposed rule in addition to the other rules, regardless of what state or federal agency has adopted the other

rules. Cumulative effects can result from individually minor but collectively significant rules adopted over a period of time.”

Repealing the current rule and adopting the proposed rule produces no “cumulative effect” as defined in Minn. Stat. § 14.131. The proposed rule and its governance of MDVA’s representation of individuals with claims for federal veterans benefits and the rule’s regulation of the state soldiers’ assistance program and disbursement of state soldiers’ assistance funding have no incremental impact on rules determining an individual’s eligibility for benefits or services provided by other state or federal agencies; therefore, there is no cumulative effect of the proposed rule from this stand point.

With that said, the financial assistance provided by the state soldiers’ assistance program and state soldiers’ assistance funding in some respects compliments the assistance provided by other state or federal agencies; however, the rules and regulations governing of the programs administered by other state or federal agencies are of no consequence to an individual’s eligibility for assistance from the state soldiers’ assistance program and state soldiers’ assistance funding; hence, there is no cumulative effect from this stand point either.

- ix. The statement must also describe how the Department, in developing the rules, considered and implemented the legislative policy supporting performance-based regulatory systems set forth in Minn. Stat. § 14.002, which requires state agencies, whenever feasible, to develop rules and regulatory programs that emphasize superior achievement in meeting the Department’s regulatory objectives and maximum flexibility for the regulated party and the Department in meeting those goals.**

The purpose of MDVA, whether it be to assist individuals with claims for federal veterans benefits or to provide financial assistance through the state soldiers’ assistance program, is not regulatory in nature. The MDVA does not exist to regulate the behavior of anything or anyone. For this reason a performance-based regulatory system is not appropriate for establishing the evidentiary and eligibility requirements for assistance from MDVA and the state soldiers’ assistance program, nor is a performance-based system appropriate for governing how the state soldiers’ assistance program and state soldiers’ assistance funding are administered.

- x. The SONAR must also describe the Departments efforts to provide additional notification under section 14.14, subdivision 1a, to individuals or classes of individuals who may be affected by the proposed rule or must explain why these efforts were not made.**

A description of the MDVA’s efforts to provide this additional notification is provided below in Section 7.

- xi. The Department must consult with the commissioner of management and budget to help evaluate the fiscal impact and fiscal benefits of the proposed rule on units of local government.**

Given the nature of what MDVA does when representing individuals with claims for federal veterans benefits and when administering the state soldiers' assistance program and state soldiers' assistance funding, there is likely to be no fiscal impact on the units of local government. The MDVA will consult with MMB as required under Minn. Stat. § 14.131. The MDVA will send MMB copies of the documents sent to the Office of the Governor for review and approval on, or near, the same day MDVA sends the documents to the Governor's Office. MDVA will do this before publishing the Notice of Intent to Adopt Rules in the in the *State Register*. The documents will include the Governor's Office Proposed Rule and SONAR Form, the proposed rule, and the SONAR. The MDVA will include a copy of the cover correspondence and any response received from MMB in the rulemaking record MDVA submits to the Office of Administrative Hearings (OAH) for the required review by the Administrative Law Judge.

xii. The Department must send a copy of the SONAR to the Legislative Reference Library when the notice of hearing is mailed under section 14.14, subdivision 1a.

As identified below in Section 7, the MDVA will satisfy this requirement and provide appropriate documentation in its submittal of the rulemaking record to the OAH.

B. Minn. Stat. 14.127, subs. 1 and 2, cost of complying for small business or city

Minn. Stat. § 14.127, subs. 1 and 2, require an agency to:

“determine if the cost of complying with a proposed rule in the first year after the rule takes effect will exceed \$25,000 for any one business that has less than 50 full-time employees, or any one statutory or home rule charter city that has less than ten full-time employees.”

The MDVA finds that the proposed rule will not cause any small business or small city to incur an expense of more than \$25,000 in the first year after the rules take effect and has considered the following factors in making this determination:

A portion of the proposed rule governs MDVA's conduct when representing individual's with claims for federal veteran's benefits. There are no circumstances or situations in which a small business or city would ever be involved in the claims representation process carried out by MDVA under the provisions of the proposed rule. For this reason MDVA concludes there is no compliance cost to small business or small cities.

The bulk of the proposed rule governs MDVA's administration of the state soldiers' assistance program and state soldiers' assistance funding. The participation of a small business or small city in the administration of the state soldiers' assistance program and administration of state soldiers' assistance funding will always be as a public or private third-party entity who receives payment from MDVA on behalf of individuals eligible for financial assistance from the state soldiers' assistance program.

Small businesses and small cities often perform work or provide benefits or services to individuals who are eligible for financial assistance from the state soldiers' assistance program. If an individual is approved for financial assistance in many instances these small businesses and small cities are paid directly by MDVA using state soldiers' assistance funding. In many cases small businesses are creditors of individuals who are eligible for financial assistance from the state soldiers' assistance program, and the small businesses will also receive direct payment from MDVA on behalf of individuals in need of financial assistance.

In all cases the costs to a small business or small city to participate in the state soldiers' assistance program are what it takes to produce the documentation necessary to receive payment from MDVA, such as the cost of compiling an estimate or submitting an invoice or billing statement. Overall the benefit to small businesses and small cities receiving payment from MDVA far outweigh any costs incurred.

Also, participation in the state soldiers' assistance program on the part of any small business is strictly voluntary. For example, a small business, such as a dentist office or optical shop, is not obligated to participate in the state soldiers' assistance program dental or optical program activities.

C. Minn. Stat. § 14.128, subd. 1, impact on local government ordinances and rules

Minn. Stat. § 14.128, subd. 1, requires an agency to:

“determine if a local government will be required to adopt or amend an ordinance or other regulation to comply with a proposed agency rule.”

As stated in item B above, there is no relationship between representing individuals with claims for federal veteran's benefits and local governments. In addition, the administration of the state soldiers' assistance program and state soldiers' assistance funding often results in a local government being paid for the services it provided to an individual receiving financial assistance; however, there is no comprehensive reason as to why a change in any local ordinances or regulations would be needed. For these reasons MDVA finds that the proposed rule will not require any local government to adopt or amend any ordinances or other regulations in order to comply with the proposed rule.

7. Notice plan

The Minnesota Administrative Procedures Act (Minn. Stat. ch. 14) and the OAH rules (Minn. R. ch. 1400) govern how state agencies must adopt administrative rules. This includes providing required notifications to the general public and affected stakeholders, various state agencies and departments, the legislature, and Office of the Governor. Minn. Stat. § 14.131 also requires that the SONAR describe how the MDVA provided additional notification of the rulemaking to potentially affected parties, if applicable.

Specifically, Minn. Stat. § 14.131 states that the SONAR:

“describe the agency's efforts to provide additional notification under section 14.14, subd. 1a, to individuals or classes of individuals who may be affected by the proposed rule or must explain why these efforts were not made.”

This section addresses how the MDVA will provide the required notifications and additional notification. It also identifies how the MDVA will comply with providing notice as required by Minn. Stat. ch. § 115.44, subd. 7.

A. Required notice

Request for Comments

For this rulemaking, the first notice, required by Minn. Stat. § 14.101, is the Request for Comments. The MDVA published the Request for Comments on Possible Amendments to Rules Governing the Operation and Administration of the Department, Minnesota Rules, Chapter 9055, in the *State Register* on September 26, 2016 (41SR400). To inform the public, the MDVA notified interested parties, including the Minnesota Association of County Veterans Service Officers, of the Request for Comments after it was published. Notice was delivered to approximately 85 recipients via electronic mail.

As discussed above in Section 2, the County Veterans Service Officers are the number one source of information to the Department on the needs of veterans, veteran's dependents, and eligible members of the armed forces; and the primary source of information to the public regarding the services and benefits provided by the MDVA. For these reasons, all notifications above and beyond publication of the Request for Comments in the *State Register* and all efforts to solicit input and comments for the proposed rule parts will mainly focus on the County Veterans Service Officers.

Remaining Required Notifications

The remaining required notifications are listed below with a description of how the MDVA will comply with each.

1. Minn. Stat. § 14.14, subd. 1a. On the day the proposed rules are published in the *State Register*, the MDVA will email a copy of the Notice of Intent to Adopt Rules (Notice), the proposed rule amendments, and the SONAR to each County Veterans Service Officer with the instructions for submitting comments to the ALJ.
2. Minn. Stat. § 14.116. The MDVA will send a cover letter via email to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule, and to the Legislative Coordinating Commission, as required by Minn. Stat. § 14.116. The letter will include a copy of the Notice, the proposed rule amendments, and the SONAR. This Notice will be sent at least 33 days before the end of the comment period.

3. Minn. Stat. § 14.131. The MDVA will send a copy of the SONAR to the Legislative Reference Library in accordance with Minn. Stat. § 14.131 when the Notice required under Minn. Stat. § 14.14, subd. 1a, is sent. This Notice will be sent at least 33 days before the end of the comment period.
4. Minn. Stat. § 14.111. If the rule affects farming operations, Minn. Stat. § 14.111 requires an agency to provide a copy of a proposed rule that will affect farming operations to the Commissioner of the Minnesota Department of Agriculture no later than 30 days before publication of the proposed rule amendments in the *State Register*. The MDVA does not believe the proposed rule will affect agricultural land or farming operations, and therefore does not intend to provide a copy of the proposed rule to the Commissioner of the Minnesota Department of Agriculture.

The following notices are required under certain circumstances; however, they do not apply to this rulemaking and will not be sent:

1. Minn. Stat. § 14.116. In addition to requiring notice to affected/interested legislators, this statute also states that if the mailing of the notice is within two years of the effective date of the law granting the agency authority to adopt the proposed rules, the agency must make reasonable efforts to send a copy of the notice and SONAR to all sitting House and Senate legislators who were chief authors of the bill granting the rulemaking. This requirement does not apply because the MPCA is using its general rulemaking authority for these rules, and no bill was authored within the past two years granting special authority for this rulemaking.
2. Minn. Stat. § 116.07, subd. 7i. This statute requires notification of specific legislators of the adoption of rules applying to feedlots and fees. The proposed amendments do not relate to feedlots or fees so this requirement does not apply.

B. Additional notice plan

Minn. Stat. § 14.14 requires that in addition to its required notices:

“each agency shall make reasonable efforts to notify individuals or classes of individuals who may be significantly affected by the rule being proposed by giving notice of its intention in newsletters, newspapers, or other publications, or through other means of communication.”

The MDVA considered these statutory requirements governing additional notification and as detailed in this section, intends to fully comply with the requirements. In addition, as described above in Section 2, the MDVA has made reasonable efforts, thus far, to notify and involve the public and stakeholders in the rule process, including various meetings and publishing the Request for Comments.

The MDVA intends to request that the OAH review and approve the Additional Notice Plan, pursuant to Minn. R. 1400.2060. The MDVA’s plan to notify additional parties includes the following:

1. Publish its Notice of Intent to Adopt Rules, the proposed rule amendments, and the SONAR on the MDVA's Rulemaking Docket webpage at <https://mn.gov/mdva/about/reports.jsp>
2. Provide specific notice to tribal authorities. The MDVA will send via email specific electronic notice from the MDVA Tribal Liaison to the Minnesota Indian Affairs Council for distribution to the Minnesota Tribal Nations. The notice will be sent on or near the day the proposed rule amendments are published in the *State Register*, and will have a hyperlink to the webpage where electronic copies of the Notice, proposed rules, and SONAR can be viewed.
3. Provide specific notice to agencies and organizations. The notice will be sent via either US mail or email to the following agencies and organizations on or near the day the proposed rule amendments are published in the *State Register*, and will have a hyperlink to the webpage where electronic copies of the Notice, proposed rules, and SONAR can be viewed.
 - Minnesota Association of County Veterans Service Officers
 - Minnesota Assistance Council for Veterans
 - Minnesota Commanders Task Force
 - The American Legion Department of Minnesota
 - Department of Minnesota AMVETS
 - Vietnam Veterans of America MN State Council
 - Disabled American Veterans Department of Minnesota
 - Jewish War Veterans
 - Marine Corps League - Department of Minnesota
 - Military Order of the Purple Heart – Department of Minnesota
 - Minnesota Paralyzed Veterans of America
 - Department of Minnesota Veterans of Foreign Wars
 - Minnesota Council of Nonprofits
 - Minnesota Dental Association
 - Minnesota Association of Optometrists and Opticians
 - Minnesota Optometric Association
 - University of Minnesota Government and Community Relations
 - Director of State Relations
 - Minnesota State Colleges and Universities
 - Director of Government Relations
 - Minnesota Office of Higher Education
 - Minnesota Department of Human Services

Director of State Government Relations

- Minnesota Department of Public Safety-Homeland Security and Emergency Management
- Minnesota Housing
- Minnesota Multi Housing Association

Director of Government Affairs

8. Consideration of economic factors

In exercising its powers, the MDVA is required by identical provisions in Minn. Stat. § 116.07, subd. 6 and Minn. Stat. § 115.43, subd. 1 to give due consideration to:

...the establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility and practicability of any proposed action, including, but not limited to, the burden on a municipality of any tax which may result there from, and shall take or provide for such action as may be reasonable, feasible, and practical under the circumstances...

Minn. R. ch. 9055 provides the procedures followed by the MDVA Programs and Services Division and sets forth the eligibility requirements and the proofs and evidence necessary for an individual to establish a right to benefits and services provided by law. The commissioner must interpret this chapter to give meaning to Minn. Stat. chs. 196 and 197.

Through due consideration MDVA has concluded that the, “establishment, maintenance, operation and expansion of business, commerce, trade, industry, traffic and other economic factors and other material matters” have no effect on the, “feasibility or practicability” of adopting and implementing the proposed rule. None of the above activities have any bearing on the process of establishing an individual’s right to benefits and services and any subsequent providing of such benefits and services. Therefore, MDVA’s provision of benefits and services to eligible individuals will have a positive effect on business and commerce as state soldiers’ assistance funding is disbursed into the state’s economy.

In regard to municipalities the adoption and implementation of the proposed results in no tax of any sort; hence, there is no burden whatsoever on municipalities.

9. Authors, witnesses, and SONAR exhibits

A. Authors

The primary author of this SONAR is Eric Eversman, MDVA.

B. Witnesses

The MDVA anticipates that if a hearing is held on the proposed rules the following individuals will testify as witnesses in support of the need for and reasonableness of the rules.

1. Senior State Programs Administrator, Eric Eversman, MDVA. Mr. Eversman is the primary author of the SONAR and lead in the rule amendment development. Mr. Eversman will testify on the rule amendment and SONAR.
2. General Counsel, Kristen Root, MDVA. Ms. Root is General Counsel to the MDVA. She will introduce the required jurisdictional documents into the record.

C. SONAR exhibits

S-1 MDVA Schedule of Monthly Maximum Allowances (with attachments)

Attachment 1 – Medical Assistance Asset Limits

Attachment 2 – Insurance Affordability Programs Income and Asset Guidelines

Attachment 3 – MFIP/DWP Assistance Standards

Attachment 4 – GA Assistance Standards

10. Conclusion

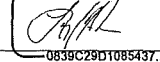
The MDVA has established the need for and the reasonableness of the proposed rule parts added to Minn. R. ch. 9055 in this SONAR. The MDVA has also in this SONAR documented its compliance with all applicable administrative rulemaking requirements of Minnesota statutes and rules.

Based on the foregoing, the proposed amendments are both needed and reasonable.

4/12/2021

Date

DocuSigned by:



0839C29D1085437...

Larry Herke, Commissioner
Minnesota Department of Veterans Affairs

Minnesota Department of Veterans Affairs Schedule of Maximum Monthly Allowances

Effective January 1, 2021

DENTAL AND OPTICAL BENEFITS

First-Tier Dental Benefit: \$1,000 awarded annually to an eligible household member.

Second-Tier Dental Benefits:

\$2,000 maximum lifetime benefit awarded to an eligible household member for tooth extractions, including tissue and bone removal and restoration in preparation for dentures, partial dentures, or a flipper; and

\$3,000 maximum lifetime benefit awarded to an eligible household member for dentures, partial dentures, or a flipper.

Optical Benefit: \$400 per eligible household member annually.

DENTAL AND OPTICAL BENEFITS Income and Asset Limits

Household Size	1	2	3	4	5	6	7	8	9	10
Maximum Household Asset Limit ¹	\$3,000	\$6,000	\$6,200	\$6,400	\$6,600	\$6,800	\$7,000	\$7,200	\$7,400	\$7,600
Maximum Monthly Household Income Limit ²	\$1,937	\$2,296	\$2,495	\$2,693	\$2,892	\$3,090	\$3,289	\$3,487	\$3,686	\$3,884

¹ Maximum household asset limits are equivalent to the MN Department of Human Services Insurance Affordability Programs Income and Asset Guidelines.

http://hcopub.dhs.state.mn.us/epm/#t=2_3_3_2_1.htm

<https://edocs.dhs.state.mn.us/lfsrserver/Public/DHS-3461A-ENG>

² Maximum Monthly Household Income Limits are equivalent to the United States Department of Veterans Affairs Maximum Annual Pension Rate reduced to a monthly benefit amount and rounded up to the next whole dollar amount.

<https://www.va.gov/pension/veterans-pension-rates/>

SUBSISTENCE BENEFITS

Household Size	1	2	3	4	5	6	7	8	9	10
Maximum Monthly Shelter Benefit – Lessee or Owner	Actual Amount	Actual Amount	Actual Amount	Actual Amount	Actual Amount	Actual Amount	Actual Amount	Actual Amount	Actual Amount	Actual Amount
Maximum Monthly Shelter Benefit – Nontraditional Housing Agreement	\$400	\$500	\$600	\$700	\$800	\$900	\$1,000	\$1,100	\$1,200	\$1,300
Maximum Monthly Cash Benefit	\$205 ³	\$262 ⁴ \$539 ⁵	\$634 ⁶	\$723 ⁶	\$799 ⁶	\$875 ⁶	\$952 ⁶	\$1,018 ⁶	\$1,082 ⁶	\$1,137 ⁶
Maximum Household Asset Limit⁷	\$3,000	\$6,000	\$6,200	\$6,400	\$6,600	\$6,800	\$7,000	\$7,200	\$7,400	\$7,600

³ The Maximum Monthly Cash Benefit amount for a household of 1 is equivalent to the General Assistance Monthly Assistance Standard for one adult not living with parent; 1 adult living with parent(s) who have no minor children; or an emancipated minor; increased by \$2.

⁴ The Maximum Monthly Cash Benefit amount for a household of 2 consisting of a married couple is equivalent to the General Assistance Monthly Assistance Standard for a married couple with no children; increased by \$2.

https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelecti onMethod=LatestReleased&dDocName=CM_002018

⁵ The Maximum Monthly Cash Benefit amount for a household of 2 consisting of a veteran or surviving spouse and 1 dependent child or dependent adult child is equivalent to the Cash Portion of the MFIP/DWP Assistance Standards for two eligible persons; increased by \$2.

⁶ The Maximum Monthly Cash Benefit amount for households consisting of 3 to 10 eligible persons is equivalent to the Cash Portion of the MFIP/DWP Assistance Standards for the corresponding number of eligible persons; increased by \$2.

https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_DYNAMIC_CONVERSION&RevisionSelecti onMethod=LatestReleased&dDocName=CM_002009

⁷ Maximum household asset limits are equivalent to the MN Department of Human Services Insurance Affordability Programs Income and Asset Guidelines.

http://hcopub.dhs.state.mn.us/epm/#t=2_3_3_2_1.htm
<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-3461A-ENG>

EPM Home > 2 Medical Assistance (MA) > 2.3 MA for People Who Are Age 65 or Older or People Who Are Blind or Have a Disability (MA-ABD) > 2.3.3 MA-ABD Financial Eligibility > 2.3.3.2 MA-ABD Assets > 2.3.3.2.1 MA-ABD Asset Limits

Medical Assistance for People Who Are Age 65 or Older or People Who Are Blind or Have a Disability

2.3.3.2.1 Asset Limits

This section provides information about asset limits for the bases of eligibility for Medical Assistance for People Who Are Age 65 or Older or People Who Are Blind or Have a Disability (MA-ABD). It also discusses which household members' assets are counted toward the asset limit.

Asset Limit

The asset limit for MA-ABD is based on household size. The asset deeming rules are applied to determine whose assets count.

The MA-ABD asset limits are as follows:

Household Size		
One	Two	Add this amount for each additional household member
\$3,000	\$6,000	\$200

People with No Asset Limit

Children under age 21 through the month of their 21st birthday do not have an asset limit for MA-ABD.

Legal Citations

Minnesota Statutes, section 256B.056, subdivision 1a

Minnesota Statutes, section 256B.056, subdivision 3



Insurance Affordability Programs (IAPs) Income and Asset Guidelines

		Effective 7/1/20 – 6/30/21						Effective 1/1/21 – 12/31/21		
Prog.	MA Parents, Caretaker Relative, Children 19–20 Years Old, Adults without Children	MA Children 2–18 Years Old		MA Pregnant Women		MA Infants under Age 2		MinnesotaCare	Advanced Premium Tax Credit	
Family Size	133% FPG		275% FPG		278% FPG		283% FPG		200% FPG	400% FPG
	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Annually	Annually
1	\$1,414	\$16,970	\$2,924	\$35,090	NA		\$3,009	\$36,110	\$25,520	\$51,040
2	\$1,910	\$22,929	\$3,950	\$47,410	\$3,993	\$47,927	\$4,065	\$48,789	\$34,480	\$68,960
3	\$2,407	\$28,887	\$4,977	\$59,730	\$5,031	\$60,381	\$5,122	\$61,467	\$43,440	\$86,880
4	\$2,903	\$34,846	\$6,004	\$72,050	\$6,069	\$72,836	\$6,178	\$74,146	\$52,400	\$104,800
5	\$3,400	\$40,804	\$7,030	\$84,370	\$7,107	\$85,290	\$7,235	\$86,824	\$61,360	\$122,720
6	\$3,896	\$46,762	\$8,057	\$96,690	\$8,145	\$97,744	\$8,291	\$99,502	\$70,320	\$140,640
7	\$4,393	\$52,721	\$9,084	\$109,010	\$9,183	\$110,199	\$9,348	\$112,181	\$79,280	\$158,560
8	\$4,889	\$58,679	\$10,110	\$121,330	\$10,221	\$122,653	\$10,404	\$124,859	\$88,240	\$176,480
Add'l	\$496	\$5,958	\$1,026	\$12,320	\$1,037	\$12,454	\$1,056	\$12,678	\$8,960	\$17,920
Asset Test	No Asset Test		No Asset Test		No Asset Test		No Asset Test		No Asset Test	No Asset Test

Note: “FPG” stands for federal poverty guideline.

Note: Income guidelines are approximations only. Use this chart for general reference only.

Effective 7/1/20 – 6/30/21														
Family Size	MA Elderly, Blind, Disabled (with a spenddown)		MA Elderly, Blind, Disabled (no spenddown)		*MA Qualified Medicare Beneficiaries (QMB)		*MA Service Limited Medicare Beneficiaries (SLMB)		*MA Qualifying Individuals (QI)		*MA Qualified Working Disabled Individuals (QWD)		Minnesota Family Planning Program	
	81% FPG		100% FPG		100% FPG		120% FPG		135% FPG		200% FPG		200% FPG	
	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually
1	\$862	\$10,344	\$1,064	\$12,768	\$1,084	\$13,008	\$1,296	\$15,552	\$1,456	\$17,472	\$2,147	\$25,764	\$2,127	\$25,524
2	\$1,161	\$13,932	\$1,438	\$17,256	\$1,458	\$17,496	\$1,744	\$20,928	\$1,960	\$23,520	\$2,894	\$34,728	\$2,874	\$34,488
3	\$1,460	\$17,520	\$1,812	\$21,744	\$1,832	\$21,984	\$2,192	\$26,304	\$2,464	\$29,568	\$3,641	\$43,692	\$3,621	\$43,452
4	\$1,759	\$21,108	\$2,186	\$26,232	\$2,206	\$26,472	\$2,640	\$31,680	\$2,968	\$35,616	\$4,388	\$52,656	\$4,368	\$52,416
5	\$2,058	\$24,696	\$2,560	\$30,720	\$2,580	\$30,960	\$3,088	\$37,056	\$3,472	\$41,664	\$5,135	\$61,620	\$5,115	\$61,380
6	\$2,357	\$28,284	\$2,934	\$35,208	\$2,954	\$35,448	\$3,536	\$42,432	\$3,976	\$47,712	\$5,882	\$70,584	\$5,862	\$70,344
7	\$2,656	\$31,872	\$3,308	\$39,696	\$3,328	\$39,936	\$3,984	\$47,808	\$4,480	\$53,760	\$6,629	\$79,548	\$6,609	\$79,308
8	\$2,955	\$35,460	\$3,682	\$44,184	\$3,702	\$44,424	\$4,432	\$53,184	\$4,984	\$59,808	\$7,376	\$88,512	\$7,356	\$88,272
Add'l	\$299	\$3,588	\$374	\$4,488	\$374	\$4,488	\$448	\$5,376	\$504	\$6,048	\$747	\$8,964	\$747	\$8,964
Asset Test	<ul style="list-style-type: none"> \$3,000 for a single person \$6,000 for household of two, plus \$200 for each dependent 		<ul style="list-style-type: none"> \$3,000 for a single person \$6,000 for household of two, plus \$200 for each dependent 		<ul style="list-style-type: none"> \$10,000 for a single person \$18,000 for household of two 		<ul style="list-style-type: none"> \$10,000 for a single person \$18,000 for household of two 		<ul style="list-style-type: none"> \$10,000 for a single person \$18,000 for household of two 		<ul style="list-style-type: none"> \$4,000 for a single person \$6,000 for household of two 		None	

ADA1 (2-18)

MA for Employed Person with Disabilities (MA-EPD)
 To qualify for MA-EPD, you must:

- Be certified disabled by the Social Security Administration (SSA) or the State Medical Review Team (SMRT)
- Have monthly earnings of more than \$65 (there is no upper income limit)
- Be employed and have Social Security and Medicare (FICA) taxes withheld or paid from earned income
- Meet the MA-EPD asset limit of \$20,000 per enrollee
- Pay a premium and an unearned income obligation, if required

For accessible formats of this information or assistance with additional equal access to human services, write to DHS.info@state.mn.us, call 800-657-3739, or use your preferred relay service.

* A \$20 disregard is included in each amount listed.

Note: Income and asset guidelines are approximations only. Use this chart for general reference only.



Insurance Affordability Programs (IAPs) Income and Asset Guidelines

		Effective 7/1/20 – 6/30/21						Effective 1/1/20 – 12/31/20		
Prog.	MA Parents, Caretaker Relative, Children 19–20 Years Old, Adults without Children	MA Children 2–18 Years Old		MA Pregnant Women		MA Infants under Age 2		MinnesotaCare	Advanced Premium Tax Credit	
Family Size	133% FPG		275% FPG		278% FPG		283% FPG		200% FPG	400% FPG
	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Annually	Annually
1	\$1,414	\$16,970	\$2,924	\$35,090	NA		\$3,009	\$36,110	\$24,980	\$49,960
2	\$1,910	\$22,929	\$3,950	\$47,410	\$3,993	\$47,927	\$4,065	\$48,789	\$33,820	\$67,640
3	\$2,407	\$28,887	\$4,977	\$59,730	\$5,031	\$60,381	\$5,122	\$61,467	\$42,660	\$85,320
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7	\$4,393	\$52,721	\$9,084	\$109,010	\$9,183	\$110,199	\$9,348	\$112,181	\$78,020	\$156,040
8	\$4,889	\$58,679	\$10,110	\$121,330	\$10,221	\$122,653	\$10,404	\$124,859	\$86,860	\$173,720
Add'l	\$496	\$5,958	\$1,026	\$12,320	\$1,037	\$12,454	\$1,056	\$12,678	\$8,840	\$17,680
Asset Test	No Asset Test		No Asset Test		No Asset Test		No Asset Test		No Asset Test	No Asset Test

Note: "FPG" stands for federal poverty guideline.

Note: Income guidelines are approximations only. Use this chart for general reference only.

Effective 7/1/20 – 6/30/21														
Family Size	MA Elderly, Blind, Disabled (with a spenddown)		MA Elderly, Blind, Disabled (no spenddown)		*MA Qualified Medicare Beneficiaries (QMB)		*MA Service Limited Medicare Beneficiaries (SLMB)		*MA Qualifying Individuals (QI)		*MA Qualified Working Disabled Individuals (QWD)		Minnesota Family Planning Program	
	81% FPG		100% FPG		100% FPG		120% FPG		135% FPG		200% FPG		200% FPG	
	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually	Monthly	Annually
1	\$862	\$10,344	\$1,064	\$12,768	\$1,084	\$13,008	\$1,296	\$15,552	\$1,456	\$17,472	\$2,147	\$25,764	\$2,127	\$25,524
2	\$1,161	\$13,932	\$1,438	\$17,256	\$1,458	\$17,496	\$1,744	\$20,928	\$1,960	\$23,520	\$2,894	\$34,728	\$2,874	\$34,488
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4	\$1,759	\$21,108	\$2,186	\$26,232	\$2,206	\$26,472	\$2,640	\$31,680	\$2,968	\$35,616	\$4,388	\$52,656	\$4,368	\$52,416
5	\$2,058	\$24,696	\$2,560	\$30,720	\$2,580	\$30,960	\$3,088	\$37,056	\$3,472	\$41,664	\$5,135	\$61,620	\$5,115	\$61,380
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7	\$2,656	\$31,872	\$3,308	\$39,696	\$3,328	\$39,936	\$3,984	\$47,808	\$4,480	\$53,760	\$6,629	\$79,548	\$6,609	\$79,308
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Add'l	\$299	\$3,588	\$374	\$4,488	\$374	\$4,488	\$448	\$5,376	\$504	\$6,048	\$747	\$8,964	\$747	\$8,964
Asset Test	<ul style="list-style-type: none"> • \$3,000 for a single person • \$6,000 for household of two, plus \$200 for each dependent 		<ul style="list-style-type: none"> • \$3,000 for a single person • \$6,000 for household of two, plus \$200 for each dependent 		<ul style="list-style-type: none"> • \$10,000 for a single person • \$18,000 for household of two 		<ul style="list-style-type: none"> • \$10,000 for a single person • \$18,000 for household of two 		<ul style="list-style-type: none"> • \$10,000 for a single person • \$18,000 for household of two 		<ul style="list-style-type: none"> • \$4,000 for a single person • \$6,000 for household of two 		None	

ADA1 (2-18)

MA for Employed Person with Disabilities (MA-EPD)

To qualify for MA-EPD, you must:

- Be certified disabled by the Social Security Administration (SSA) or the State Medical Review Team (SMART)
- Have monthly earnings of more than \$65 (there is no upper income limit)
- Be employed and have Social Security and Medicare (FICA) taxes withheld or paid from earned income
- Meet the MA-EPD asset limit of \$20,000 per enrollee
- Pay a premium and an unearned income obligation, if required

For accessible formats of this information or assistance with additional equal access to human services, write to DHS.info@state.mn.us, call 800-657-3739, or use your preferred relay service.

* A \$20 disregard is included in each amount listed.

Note: Income and asset guidelines are approximations only. Use this chart for general reference only.



> Combined Manual > 20 - NET INCOME LIMITS > 0020.09 - MFIP/DWP ASSISTANCE STANDARDS

MFIP/DWP ASSISTANCE STANDARDS

ISSUE DATE: 10/2020

MFIP:

# Eligible People	FAMILY WAGE LEVEL	-----TRANSITIONAL STANDARD-----		
		Full Standard	Cash Portion	Food Portion
1	\$567	\$515	\$350	\$165
2	\$925	\$841	\$537	\$304
3	\$1,175	\$1,068	\$632	\$436
4	\$1,406	\$1,278	\$721	\$557
5	\$1,617	\$1,470	\$797	\$673
6	\$1,859	\$1,690	\$873	\$817
7	\$2,021	\$1,837	\$950	\$887
8	\$2,228	\$2,025	\$1,016	\$1,009
9	\$2,431	\$2,210	\$1,080	\$1,130
10	\$2,629	\$2,390	\$1,135	\$1,255
Each add'l person	\$197	\$179	\$53	\$126

Use the Family Wage Level (FWL) standard for all applicants at the initial income test.

When calculating the monthly benefit level, use the FWL only for units with earned income. See [0022.12 \(How to Calc. Benefit Level - MFIP/DWP/GA\)](#).

Some state and federal programs do not count the food portion as income. Examples of these programs include housing subsidy programs, low income energy assistance program, and Supplemental Security Income when determining interim assistance amount.

DWP:

Follow the CASH portion of the MFIP Transitional Standard. The maximum monthly benefit amount available under DWP is the difference between the unit's needs and the unit's countable income, not to exceed the cash portion of the MFIP standard of need.

SNAP, MSA, GA, GRH:

No provisions.

PREVIOUS REVISIONS

Date	Notes
<u>2/2020</u>	in MFIP updates the Family Wage Level and the Transitional Standard 02/2020 due to Legislative MFIP cash grant increase.
<u>10/2019</u>	in MFIP updates the Family Wage Level and the Transitional Standard.
<u>10/2018</u>	in MFIP updates Family Wage Level and Transitional Standard due to (FY) 2019 Cost-of-Living Adjustments (COLA) to SNAP.
.....	in MFIP updates the Familv Wage Level and the Transitional Standard due to the (FY) 2018 Cost-of-Living

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> Combined Manual > 20 - NET INCOME LIMITS > 0020.18 - GA ASSISTANCE STANDARDS

GA ASSISTANCE STANDARDS

ISSUE DATE: 12/2014

MFIP, DWP, SNAP, MSA, GRH:

No provisions.

GA:

For a person living in a licensed residential facility, use the personal needs allowance. See 0020.24 (Personal Needs Allowance) for the amount to use.

The assistance standard for a client living in group residential housing is the personal needs allowance. See 0020.24 (Personal Needs Allowance). Pay the personal needs allowance to the client or the authorized representative.

For residents of homeless or family violence shelters, use the full basic needs standard.

If 1 adult of a married couple who are living together is not included in the GA unit for any reason, use the 2nd Adult Standard for the remaining member.

ELIGIBLE PEOPLE	MONTHLY STANDARD
Minor not living with parent, stepparent, or legal custodian	\$250
Married couple with no children	\$260
1st Adult Standard	\$187

2nd Adult Standard	\$73
One adult not living with parent; 1 adult living with parent(s) who have no minor children; or an emancipated minor	\$203
One adult living with parent(s):	
and the parent's 1 minor child	\$95
and the parent's 2 minor children	\$89
and the parent's 3 minor children	\$76
and the parent's 4 minor children	\$76
and the parent's 5 minor children	\$77
and the parent's 6 minor children	\$66
and the parent's 7 minor children	\$64
and the parent's 8 minor children	\$55
and the parent's 9 minor children	\$54
and the parent's 10 or more minor children	\$53

Upon request, provide information to people living in a family violence shelter about cash assistance programs and the opportunity to apply.

PREVIOUS REVISIONS

Date	Notes
<u>9/2012</u>	update Food Support and FS to Supplemental Nutrition Assistance Program (SNAP) and FSET to SNAP E&T throughout. No policy was changed.

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