

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

BOARD OF MANAGERS

VETERANS HOME RULES

(By authority conferred on the board of managers by section 8 of 1885 PA 152, MCL 36.8 and Executive Order 1991-7, MCL 36.1)

R 32.71 Purpose.

Rule 1. The veterans home rules are created to provide substantive and procedural due process to members of the homes and the public; to assure the continued financial stability of the homes; to prevent and prohibit fraudulent admissions, continued care and unjust enrichment; and, to maximize the availability of housing and care to qualified veterans and their family members.

History: 2007 AACCS.

R 32.72 Definitions.

Rule 2. As used in these rules:

(1) "Administrator" means the chief executive officer of a state veterans home, or his or her designated representative.

(2) "Applicant" means an individual who is applying for admission to a state veterans home.

(a) "Financially sufficient applicant" means an individual who is applying for admission to a state veterans home, and who is not an indigent and/or whose non-excluded assets exceed the indigent criteria.

(b) "Financially insufficient applicant" means an individual who is applying for admission to a state veterans home, and who is an indigent and/or whose non-excluded assets do not exceed the indigent criteria.

(3) "Arrearage" means the cost of care a home provides less the amount of funds that a member has paid to the state for the cost of care. An arrearage is a debt owed by a member or his or her estate to the state of Michigan.

(4) "Asset" means the valuable property of an applicant or member.

(5) "Asset divestment" means the disposing, transfer, gifting, conversion, or giving away of assets for less than fair market value.

(6) "Asset restriction" means the moving or transferring of assets, thereby making them unavailable to pay the cost of care.

(7) "Board" means the board of managers, as established by 1885 PA 152, MCL 36.2.

(8) "Contract" means the written agreement between a member and the home.

(9) "Cost of care" means the monthly amount set by the Board at the start of each fiscal year.

(10) "Department" means the department of military and veterans affairs.

(11) "Department of veterans affairs" or "DVA" means the federal agency tasked with operating and maintaining federal programs for veterans benefits.

(12) "Eligible veteran" means an individual who meets either of the following conditions:

(a) Was part of a military organization or unit recognized by the department of defense and/or the state of Michigan that had its principle nexus in Michigan at any time during the individual's service.

(b) Was part of a military organization or unit recognized by the department of defense and/or the state of Michigan and who is a resident of the state of Michigan at the time of application for admission to a state veterans home.

(13) "Home" means a state veterans home, including the Grand Rapids Home for Veterans and the D.J. Jacobetti Home for Veterans.

(14) "Homestead" means the primary residence of an applicant, member, or spouse of an applicant or member.

(15) "Indigent" means an individual who is disabled by disease, wounds or

otherwise, who has no adequate means of support, and by reason of such disability is incapable of earning a living and is otherwise dependent on public or private charity, as defined in section 11 of 1885 PA 152, MCL 36.11.

(16) "MCL" means Michigan compiled laws.

(17) "Member" means an individual who has been admitted to a state veterans home and may be either of the following:

(a) "Financially sufficient member" means an individual who has been admitted to a state veterans home, and who is not an indigent and/or whose non-excluded assets exceed the indigent criteria.

(b) "Financially insufficient member" means an individual who has been admitted to a state veterans home, and who is an indigent and/or whose non-excluded assets do not exceed the indigent criteria.

(18) "Resident" means an individual who is living in the state voluntarily with the intention of making his or her permanent home there.

(19) "Responsible party" means either of the following:

(a) The spouse of an applicant, member, or eligible veteran.

(b) An individual with the legal authority to act on behalf of an applicant, member, or eligible veteran.

(20) "State" means the state of Michigan.

(21) "Substantial evidence" means evidence that a reasonable person would accept as sufficient to support a conclusion.

History: 2007 AACS.

#### R 32.73 Eligibility for admission; continued care.

Rule 3. (1) Before entering into a contract for admission, the administrator will determine whether the applicant meets the criteria for admission as specified in section 11 of 1885 PA 152, MCL 36.11, or section 1 of 1921 PA 15, MCL 36.31. The applicant must provide substantial evidence to establish that he or she is an eligible veteran.

(2) The home may refuse admission to applicants whose medical conditions and/or disabilities exceed the level of service provided by the home.

(3) In determining whether to admit an applicant, the home will consider the medical diagnosis of the applicant's actual or suspected conditions, the classifications of risk potential, the ability of the home to provide adequately and appropriately for the applicant's medical and social needs, and the applicant's ability and willingness to adapt to the home's environment.

(4) The home will provide continued care for any member whose medical conditions and/or disabilities change or worsen after admission, provided that the member's medical conditions and/or disabilities do not exceed the level of service provided by the home. If the member's level of care exceeds what the home is able to provide, the home will attempt to transfer the member to an appropriate treatment center.

History: 2007 AACS.

#### R 32.74 Involuntary transfer and discharge.

Rule 4. (1) The home may involuntarily transfer or discharge a member for 1 or more of the following reasons:

(a) Medical reasons.

(b) The member's welfare.

(c) The welfare of other members or home employees.

(d) Non-payment for the member's stay.

(2) Policies regarding involuntary transfers and discharges will be established by the board.

History: 2007 AACS.

#### R 32.75 Holding bed open during temporary absence of member.

Rule 5. (1) If a member is temporarily absent from the home for emergency medical treatment, the home will hold the bed open for the member for at least 10 days, if there is a reasonable expectation that the member will return within that period of time and the home receives payment for each day the member is absent from the home.

(2) If a patient is temporarily absent from the home for therapeutic reasons as approved by a physician, the home will hold the bed open for 30 days, if there is a reasonable expectation that the member will return within that period of time. Personal leaves of absence for therapeutic reasons are limited to 30 days per year.

(3) When a member's absence is longer than specified under subrule (1) or (2) of this rule, or both, the member may return to the home for the next available bed.

History: 2007 AACS.

#### R 32.76 Financial disclosure.

Rule 6. (1) In determining financial eligibility for admission or continued care, a financially insufficient applicant, financially insufficient member, or responsible party must make full and honest disclosure of all current assets, as well as all assets held within 3 years before the date of application.

(2) Financially sufficient applicants, financially sufficient members, and responsible parties who do not have an arrearage and who are paying the cost of care are not required to disclose asset information.

(3) Applicants and/or members must fully disclose information requested by the administrator and must authorize the release of information as requested by the administrator.

History: 2007 AACS.

#### R 32.77 Financial responsibility.

Rule 7. (1) Financially sufficient members must pay the cost of care.

(2) Financially insufficient members must pay for care in accordance with the board's approved schedules and formulas.

(3) Any amounts not paid are considered an arrearage. The state may file an appropriate legal proceeding at any time to recover an arrearage owed.

History: 2007 AACS.

#### R 32.78 Asset divestment; asset restriction.

Rule 8. (1) Divestment of assets during the 36 months before the date of application to a home subjects an applicant to an admission disqualification period.

(2) Restriction of assets during the 36 months before the date of application to a home subjects an applicant to an admission disqualification period.

(3) An applicant must not divest assets after application or admission to a home.

(4) An applicant must not restrict assets after application or admission to a home.

History: 2007 AACS.

#### R 32.79 Exempt assets.

Rule 9. (1) The exempt dollar amount for a single applicant or member is \$2,000. The exempt dollar amount for a married applicant or member is \$25,000. Assets exempt from this dollar amount include all of the following:

(a) The homestead of a married applicant or member.

(b) An automobile.

(c) An irrevocable or prepaid funeral/burial contract up to an amount determined by the board.

(2) The board may determine if the homestead of a single applicant or member is an exempt asset. In making its decision, the board may consider various reasons for exemption of the homestead of a single applicant or member, including the possibility that the applicant or member may recover his or her health and return home.

History: 2007 AACS.

R 32.80 Asset divestment or restriction at time of application; verification; admission disqualification period; waiver of disqualification period.

Rule 10. (1) If an applicant has divested or restricted an asset during the 36 months before the date of application, the applicant must provide verification of the date and amount of the divestment or restriction.

(2) If the home believes that an applicant has divested or restricted an asset during the 36 months before the date of application, the applicant may be asked to provide verification that the divestment or restriction did not occur.

(3) The length of an admission disqualification period is determined by dividing the value of the divested or restricted asset or assets by the monthly cost of care.

(4) A period of admission disqualification will begin with the month in which the divestment or restriction occurred.

(5) A period of admission disqualification will take place in whole-month increments, up to a maximum of 36 months.

(6) An admission disqualification period may be waived to facilitate immediate admission, provided that the applicant agrees to pay the cost of his or her care until such time as the combined value of the divested or restricted assets and any remaining non-exempt assets have been used to pay the cost of care. The applicant will pay for the cost of care for the remainder of the disqualification period or until any remaining non-exempt assets have been utilized, whichever is longer.

History: 2007 AACS.

R 32.81 Asset divestment or restriction after application or admission.

Rule 11. (1) If a divestment or restriction of assets occurs after application but before admission, the applicant is ineligible for admission unless the applicant pays the cost of care until such time as the combined value of the divested or restricted assets and any remaining non-exempt assets have been used to pay the cost of care.

(2) If an asset divestment or restriction occurs after admission, the member may be discharged unless the member pays the cost of care until such time as the combined value of the divested or restricted assets and any remaining non-exempt assets have been used to pay the cost of care.

History: 2007 AACS.

R 32.82 Contract for admission.

Rule 12. There will be a contract for admission between a member and a home.

History: 2007 AACS.

R 32.83 Right to compliance conference; grounds; written notice; appearance by letter; date, time, and location of compliance conference; stay pending decision.

Rule 13. (1) An applicant, member, or responsible party may request a compliance conference with the home in the event of any the following:

- (a) A denial of admission to a state veterans home.
- (b) A denial of continued care at a state veterans home.
- (c) A decision to involuntarily transfer or discharge a member.

- (d) A determination of an amount owed.
  - (e) A determination of "financially sufficient" or "financially insufficient."
  - (f) A determination of asset divestment or restriction.
- (2) To request a compliance conference, the applicant, member, or responsible party must provide written notice to the home administrator that he or she wishes to contest the denial of admission to a state veterans home, the denial of continued care at a state veterans home, the decision to involuntarily transfer or discharge a member, the determination of an amount owed, the determination of "financially sufficient" or "financially insufficient," or the determination of asset divestment or restriction. Written notice must include all of the following:
- (a) The date.
  - (b) The name of the person providing notice.
  - (c) The name of the affected applicant, member, or responsible party.
  - (d) The basis for the objection.
  - (e) All documents that support the objection.
  - (f) Any other pertinent documents that the person providing notice wants the home to consider.
- (3) A compliance conference will be conducted at a reasonable time and date, to be determined by the home administrator. The location of a compliance conference will be the home where the member resides or, in the case of applicants not yet admitted to a state veterans home, the home where application was made. The home administrator may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a compliance conference. The applicant, member, or responsible party must notify the home administrator, in writing, that he or she wishes to appear by letter before the start of the scheduled compliance conference.
- (4) Notice of the time, date, and location of compliance conference will be mailed to the applicant, member, or responsible party requesting a compliance conference at least 10 business days before the date of the compliance conference.
- (5) Requesting a compliance conference under this subrule will automatically stay a member's transfer or discharge pending a decision. The automatic stay requirement of this subrule does not apply in any of the following instances:
- (a) If an emergency transfer or discharge is mandated by the member's health care needs.
  - (b) If the transfer or discharge is mandated by the physical safety of other patients and/or home employees.
  - (c) If the transfer or discharge is later agreed to by the member or the responsible party.

History: 2007 AACCS.

#### R 32.84 Denial or dismissal of request for compliance conference.

Rule 14. (1) The home will deny or dismiss the request for a compliance conference if any of the following occur:

- (a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the date of the compliance conference.
  - (b) The applicant, member, or responsible party abandons the compliance conference.
  - (c) The home has no jurisdiction over the matter.
- (2) Abandonment occurs if an applicant, member, or responsible party, without good cause, fails to appear at the scheduled compliance conference or fails to submit an appearance by letter.

History: 2007 AACCS.

#### R 32.85 Home's decision; notice of opportunity to appeal the home's decision; date, time, and location of hearing; telephonic attendance; appearance by letter; waiver.

Rule 15. (1) Within 10 business days following a compliance conference, the home will provide the applicant, member, or responsible party written notice of the home's decision. Written notice will include all of the

following:

- (a) A statement of what action the home intends to take.
  - (b) The reasons for the intended action.
  - (c) The specific rules supporting the action.
  - (d) An explanation of the applicant's, member's, or responsible party's right to request a hearing before the board.
  - (e) The circumstances, if any, under which a member's transfer or discharge will be stayed if a hearing is requested.
- (2) Within 15 business days of service of the written notice of the home's decision, the applicant, member, or responsible party may request, in writing, a hearing before the board to appeal the decision of the home. Written notice must include all of the following:
- (a) The date.
  - (b) The name of the person requesting a hearing.
  - (c) The name of the affected applicant, member, or responsible party.
  - (d) The basis for the appeal.
  - (e) All documents that support the appeal.
  - (f) Any other pertinent documents that the person requesting a hearing wants the board to consider.
- (3) A hearing will be conducted at a reasonable time, date, and location, to be determined by the board. The board may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a hearing before the board. The applicant, member, or responsible party must notify the board, in writing, that he or she wishes to appear by letter before the start of the scheduled hearing.
- (4) Notice of the time, date, and location of hearing will be mailed to the applicant, member, or responsible party requesting a hearing at least 10 business days before the date of the hearing.
- (5) A hearing may be conducted via telephone upon written request by the applicant, member, or responsible party. Written request for a hearing via telephone must accompany the applicant's, member's, or responsible party's written request for a hearing before the board in order to be considered.
- (6) If the applicant, member, or responsible party does not request a hearing before the board within 15 business days of service of the notice of opportunity to appeal the home's decision, then the applicant, member, or responsible party will be deemed to have waived the right to appeal the home's decision to the board.

History: 2007 AACCS.

#### R 32.86 Hearing rights of parties.

- Rule 16. (1) An applicant, member, or responsible party may do any of the following:
- (a) Examine the contents of his case file and all documents and records to be used by the board at the hearing at a reasonable time before the date of the hearing, as well as during the hearing.
  - (b) Present a case himself or with the aid of legal counsel or an authorized representative
  - (c) Bring witnesses.
  - (d) Establish all pertinent facts and circumstances.
  - (e) Advance any relevant arguments without undue interference.
  - (f) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.
- (2) The home may be represented by legal counsel and other representatives, staff, or former staff members.

History: 2007 AACCS.

#### R 32.87 Denial or dismissal of request for hearing.

- Rule 17. (1) The home will deny or dismiss the request for a hearing under any of the following conditions:
- (a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the hearing date.

- (b) The applicant, member, or responsible party abandons the hearing.
- (c) The home has no jurisdiction over the matter.
- (2) Abandonment occurs if an applicant, member, or responsible party, without good cause therefor, fails to appear at the scheduled hearing or fails to submit an appearance by letter.

History: 2007 AACS.

R 32.88 Board's decision.

Rule 18. (1) After the hearing and an opportunity to consider the evidence presented, the board may do any of the following:

- (a) Affirm the home's decision.
- (b) Make a finding that the home's decision be overturned.
- (c) Enter into a written settlement of the matter with the applicant, member, or responsible party.
- (d) Direct the home to provide the applicant, member, or responsible party with written notice of the opportunity to appeal the board's decision to the circuit court.

History: 2007 AACS.

R 32.89 Judicial review.

Rule 19. (1) Decisions of the board are appealable to the circuit court as provided by law.

History: 2007 AACS.