

Minnesota Attorney General: Administrative Rules Proceedings

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275

Attorney General

Merwin Peterson
Special Assistant
Attorney General
Department of Veterans Affairs

December 1, 1976

Michael B. Miller
Special Assistant
Attorney General
G-19K State Administration Building

296-4692

Rules of the Department of Veterans Affairs governing operation of departmental programs and services

Returned herewith are the above-captioned rules, which are not approved as to form and legality.

The reasons for return of these rules are as follows:

1. The Notice of Hearing does not describe in adequate detail the subject matter of the rules;

2. Rule DVA-100 is not necessary and was not supported by testimony at the public hearing (see Hearing Examiner's finding No. 7);

3. Rule DVA-201-A-1-5 was not supported by testimony at the public hearing (see Hearing Examiner's finding No. 24);

4. Rule DVA-201-A-1-6 is vague since the word "need" is undefined (see Hearing Examiner's finding No. 25);

5. Rule DVA-201-B-3 is vague (see Hearing Examiner's finding No. 29);

6. Rule DVA-602 is vague, since the word "need" is undefined (see Hearing Examiner's finding No. 46);

7. Rule DVA-801 contains mandatory language that is contrary to Minnesota Statutes § 197.60, subd. 1 (see Hearing Examiner's finding No. 51). Since this rule is intended to be informational, it should be handled by memorandum or directive rather than rule.

8. The documentation included with the rules did not contain agency findings of fact.

Because of the defective Notice of Hearing mentioned in No. 1 above, I find that it is necessary pursuant to Rule AttyGen 302 (d) (3) to require that the department hold another public hearing on this matter.

MBM/sr

Enclosures

RULES OF THE DEPARTMENT OF VETERANS AFFAIRS

Chapter One: General Provisions

DVA 100 The Department of Veterans Affairs is hereby organized with the following divisions: Veterans Benefits Division, Claims Division, Field Services Division, Administrative Services Division, Big Island Veterans Camp, and the Minnesota Veterans Home.

Chapter Two: Veterans Benefits Division

DVA 200 State Soldiers Welfare Activities - (Veterans Financial Assistance)

A. The Eligibility Board, hereinafter referred to as the Board, shall be composed of three members, two Senior Veterans Assistance Officers and the Division Head, appointed by the Commissioner from the technical staff.

1. The Board shall pass upon all applications for financial assistance from veterans and their dependents, through the Department, provided by the laws of the State of Minnesota, and shall determine the eligibility of each applicant to receive the benefits for which application was made.

2. Upon receipt of a properly executed application establishing proof of eligibility other than need factors, the Board shall request an investigation by the appropriate agency as to the need factor, budget, and their recommendations.

3. Upon receipt of the investigation report the Board shall determine the eligibility of the applicant to receive the benefits for which application was made. If application is approved, the Board shall determine the amount of the grant and the length of time of payment thereof. Upon completion of its action, if favorable, the Board shall transmit the case file to the proper authorizer for appropriate action. Should the Board take unfavorable action, a letter of denial with the reason for denial shall be sent to the applicant with copies to all concerned.

4. If any member of the Board shall disagree with the determination made by the other two Board Members such member may appeal therefrom to the Commissioner or his Deputy who will review the case file and make the final determination thereof.

5. The applicant or his designated representative may request reconsideration of the Board's action either by letter and/or the submission of additional information. The applicant or his designated representative may request a personal appearance and hearing before the Board for such reconsideration.

6. The applicant or his designated representative may make a final appeal to the Commissioner of the Board's determination. The Commissioner will review the case file and make the final determination thereof.

7. The Board shall make recommendations to the Commissioner on changes in procedures it may deem advisable.

B. Eligibility Requirements: (Only those persons who meet the following requirements are elgibile to receive assistance.)

1. Veteran

The word veteran means any person honorably discharged from the armed forces of the United States who served in the Civil War, Spanish American War, Philippine Insurrection, China Relief Expedition, World War I between April 6, 1917 and November 11, 1918, both dates inclusive, on or after December 7, 1941 until May 7, 1975, both dates inclusive. The word veteran does not include a person who enlisted and accepted service for training only for a period of six months or less. Service must have been continuous for 90 days or more unless discharged sooner because of a service connected disability. Some part of such service must have been within the actual period as set forth in this subdivision.

2. Resident

The veteran must be a resident of Minnesota at the time of application. The term resident shall be a veteran who has resided in Minnesota for at least six months immediately preceding application for benefits. The spouse and dependent children of a deceased veteran are not eligible for assistance unless the veteran had legal residence in Minnesota at the time of death.

3. Dependents

For the purpose of this program dependents are defined as spouses and children of disabled or deceased veterans as defined in DVA 200 B.1.

a. The spouse of a qualified veteran is eligible for assistance provided the spouse has not remarried and is unable to take care of his or or her own needs because of age, disability, or minor children in the home. The guardian or custodian of a qualified veteran's children is eligible to receive aid for these children.

b. A divorced spouse of a veteran is not eligible for assistance but as the guardian or custodian of the veteran's children is eligible to receive such aid for the veteran's children.

c. The separated spouse of a veteran may be eligible for assistance if the veteran meets all eligibility requirements and makes application for

assistance on behalf of the separated spouse and children living with such spouse.

d. The dependent children of a disabled or deceased veteran are eligible for aid regardless of the marital status of the parent or surviving spouse. Dependent children are further defined as:

(1) Unmarried children under 18 years of age.

(2) Unmarried children over 18 years of age who are attending secondary school.

(3) Unmarried children over 18 years of age residing in the veteran's home and who are attending a college of higher learning or a vocational trade school, up to their 23rd birthday.

(4) Children over 18 years of age who have been diagnosed as "totally mentally or physically handicapped" before attaining the age of 18 years.

(5) Unmarried minor children legally adopted by the veteran.

(6) Where a veteran has unmarried dependent stepchildren residing in the home and the veteran is the sole provider, the dependent stepchildren may be considered in the Department assistance budget.

(7) Foster children - same as (6).

(8) The foregoing eligibility requirements for dependent children assume that the children are not eligible for Aid to Families with Dependent Children. Where eligibility for any type of categorical aid is present it is required that immediate application for such aid be made. Any income to such dependent children as Social Security, pension, other annuities or child support will be considered as income when the dependent children are included in the Department assistance budget.

4. Disability

The veteran must be disabled to a degree sufficient to prevent the veteran from earning sufficient funds to provide for his or her own needs and the needs of eligible dependents. Disability must be for 30 days or more as determined by the submission of medical evidence which shall be passed upon by the Department Medical Officer. The disability need not be service connected.

5. Need

An applicant's need shall be determined upon the same basis as for General Relief in the State. Consideration is given to the individual requirements of the applicant as well as the resources available for meeting these requirements.

The difference between the Department allowable budget and resources available for meeting these requirements is the budget deficiency. To determine the need factor an initial investigation is required for all cases and subsequent investigations as are deemed needed by the Board.

a. Emergency grants for subsistence.

(1) In cases of emergent need an authorization of the County Welfare Board will be honored by the Department upon establishment of eligibility and acceptance of the case from the date the application was signed by the veteran, surviving spouse, or the guardian. The Department should be notified at once of the local grant in order to avoid duplication of aid. The Department cannot reimburse County Welfare Boards for aid issued prior to the date of the application for assistance.

(2) Emergency Orders may be issued by the Board when all factors of eligibility have been approved and a delay in the issuing of a cash grant would create undue hardship upon the applicant.

(3) County Veterans Service Officers may request an Emergency Order from the Board when they have the completed and signed application along with proof of eligibility factors in their office. Upon such a request the Board member shall have a case file number assigned, a control card completed listing the aid issued along with a notation behind the file number in the register to the effect a completed application will be submitted. Such aid shall be limited to $50.00 at the discretion of the Board member.

C. Budgetary Allowance and Procedures: The manner of determining the budgetary requirements and the amount of assistance to be granted will closely follow the State Welfare schedule subject to such limitations imposed by the Commissioner due to appropriation limitations.

1. Food

Budget requirements and amount of aid are determined according to Department allowable schedule and (follows schedule of established welfare practices closely.) Special diets may be allowed upon the recommendation of a physician.

2. Housing

Actual rent or mortgage payments may be paid if the cost is not excessive and will follow the Department schedule for housing as closely as possible.

3. Heating Fuel

Fuel may be allowed upon prior request or may be included in the budget.

4. Public Utilities

Allowance for cooking fuel, electricity, water, sewer rent, garbage removal and telephone may be allowed by the Board upon proper billing, or may be included in the overall budget.

5. Board and Room

a. Reasonable board and room may be allowed. This allowance can vary depending upon where and from whom the veteran is receiving board and room. The Board will determine the amount to be allowed if the veteran's relatives are providing same.

b. A maximum of 30 days room and board may be allowed at group homes or halfway houses for veterans who have received maximum treatment for chemical dependency problems at the Veterans Administration Hospital or other recognized treatment programs at hospitals and treatment centers, recommended by the Director of such hospital or treatment center. No payment will be authorized by the Board where eligibility exists for other categorical aid programs.

6. Clothing

Clothing may be granted upon request. No clothing is allowed in short term cases, emergencies excepted.

7. Personal Needs

Personal needs may be allowed according to the Department allowable budget.

8. Miscellaneous

Miscellaneous requirements not included in the foregoing budgetary allowances may be granted upon request when authorized by the Board.

D. Medical, Dental and Optical Care

1. Medical Care

Veterans requiring hospitalization should make application for admission to Veterans Administration Hospitals.

a. Emergency Medical Care

In emergent cases where hospitalization of a veteran at a Veterans Administration Hospital is impossible, or a dependent of an eligible veteran requires emergent hospitalization, the Department may provide assistance towards payment of medical bills. The Department must be notified within 15 days of the emergent admission. In computing the 15 day period the day of admission, Saturday, Sunday, and legal holidays are not counted. Payment on medical bills shall be

consistent with the Department's maximum allowance with such limitations imposed by the Commissioner due to appropriation limitations. The maximum allowance will be pro-rated between each creditor involved. Unusual circumstances which could prevent Timely Notice to the Department of emergent hospitalization within the required 15 day period will be given special consideration by the Board.

b. Non-Emergent Medical Care

In non-emergent medical cases requests for hospitalization, outpatient medical care, and medications should be supported by a statement from the attending physician indicating diagnosis and other pertinent information. The Department Medical Officer will review all such requests and authorize type of care and medications required. Prior authorization for any form of non-emergent medical, dental, optical and related care must be obtained before the Department can provide payment of medical and related bills. All bills submitted to the Department for payment must be in duplicate and show insurance credits.

2. Dental Care

The purpose of the Department dental program is to provide the basic oral health needs of the eligible person, to maintain a reasonable level of dental health. It is not intended that this be a complete dental rehabilitation program. Priorities to be considered are as follows: relief of pain, restoration to a reasonable level of function, restoration to a reasonable level of esthetics, preventive treatment instructions to insure maintenance of the restored dentition. Authorized dental treatment shall conform to the State of Minnesota Department of Public Welfare dental service schedule under the medical assistance program.

a. Dental care for eligible persons may be provided when requested and approved. The Board shall request an estimate of dental services required be completed by the dentist and returned to the Board. When all factors of eligibility have been met the Board shall authorize the dental service requested up to the Department maximum allowance which is subject to such limitations imposed by the Commissioner due to appropriation limitations. Payment will be denied for non-emergent dental service completed prior to the Board authorization.

b. Emergent dental care for relief of pain will be allowed.

c. Initial dental examination and xrays will be allowed even if no further treatment is required.

3. Optical Care

Optical care for eligible persons may be provided when requested and approved

by the Board. Optical authorization by the Board shall conform to the State of Minnesota Department of Welfare optician, optometrist schedule under the medical assistance program. An optical form must be completed and returned to the Board for prior approval.

E. Burials. The Department may pay up to $250 toward the burial costs of eligible dependents who are on the active assistance roles of the Department at the time of the dependent's death, subject to such limitations imposed by the Commissioner due to appropriation limitations. Need for this allowance will be established by the Board after a review of the case file to ascertain if insurance or other resources are available due to the dependent's death.

F. Emergency Fund (Health Fund, H Fund): The Emergency Fund referred to as the health or H fund, is used mainly for needy persons to assist them to secure medical, hospital, optical, dental and related commodities or services. Eligibility for this fund is the same as for regular financial assistance, except disability of the veteran is not required.

G. General Policy

1. Persons 65 years or older requiring general assistance, medical hospital or related services must apply for Supplemental Security Income, (S.S.I.) or Minnesota Supplemental Income or other available aid programs. This policy is in effect to conserve limited appropriations for those persons who do not have eligibility for these special assistance programs.

2. In any county that has a hospital operated by the county, the veteran and his dependents shall use such facilities for their medical needs. In extreme emergencies the Board will consider medical assistance based on the factors of each individual case.

H. The Department will not provide the following:

1. Authorization for physical examinations to establish eligibility under this program.

2. Treatment or hospitalization for conditions which have been adjudicated as service connected by the Veterans Administration.

3. Rest Home, Nursing Home, or Infirmary care.

4. Psychiatric care, either in-patient or out-patient care.

5. Routine maternity care. (Pre-natal and confinement care may be allowed when the case is open and receiving regular monthly assistance from the Department. (The case must be active for 60 days prior to confinement.)

6. Dental Orthodontia. (Teeth straightening)

7. Assistance outside the State of Minnesota.

8. Allowances for car payments, furniture, and appliances.

9. Patent medicines.

10. Assistance in payment of old bills, nor do we allow income or resources in a case to be applied on old bills or outstanding contracts.

11. Assistance to divorced spouses of veterans.

12. Assistance to dependent parents, brothers, and sisters of a veteran.

13. Hospital or medical care for chronic congenital defects of children.

14. Assistance to persons when they are in receipt of unemployment compensation. However, persons ineligible by reason of receiving unemployment compensation may still qualify for "H" fund assistance under DVA 200 F.

15. Assistance to a veteran's dependents when the whereabouts of the veteran is unknown.

DVA 201 Education

A. War Orphans Educational Assistance

1. Minnesota law provides for a maximum payment in any one calendar year for tuition, fees, board, room, books and supplies of the children of veterans who have died as a result of their service in the armed forces of the United States as determined by the United States Veterans Administration or other instrumentality of the United States.

2. Payment will be made to eligible children attending the University of Minnesota, State Universities, a community college, and any other college of higher learning within the State of Minnesota accredited by the North Central Association of colleges and secondary schools, a law college approved by the Supreme Court, a nursing school approved by the State Nursing Examining Board, Department of Education or in a theological seminary, for any course such child may elect. Payment of tuition will be made directly to the institution.

3. No child of any veteran shall make application for the benefits provided herein unless such child shall have been a resident in Minnesota for at least two years immediately prior to application.

4. Veteran's children eligible for benfits herein shall be admitted to State institutions of college grade free of tuition.

5. The veteran must have been a resident of Minnesota at the time of entry into service.

6. Need requirements for payment of benefits provided by Minnesota Statutes shall be established by the Commissioner.

7. Child or children are defined as by birth or adoption and does not include stepchildren or foster children.

B. Veterans Educational Assistance

1. Minnesota law provides that an amount not to exceed $250 may be extended to any qualified veteran to be used for tuition only for attending a qualified college in the State of Minnesota. The veteran must have been a resident of Minnesota at the time of entry into service.

2. This payment may only be made after the veteran has exhausted all Federal G.I. Educational Benefits through use thereof and has furnished proof of same to the Department.

3. Need for payment of tuition shall be established by the Commissioner

4. A veteran shall have five years from the date Federal G.I. Educational Benefits were exhausted, in which to use this $250 tuition benefit.

DVA 202 Information Referrals

A. The Department shall provide service and information referrals for veterans and their dependents who request assistance with their problems either in person or by phone.

B. The Department shall provide for liaison service between the Veterans Benefits Division and the Veterans Administration Hospital and Clinics.

DVA 203 Bonus Records

The Department shall:

A. Maintain records on the Spanish American War Pension, World War I Bonus, World War II Bonus, Korean Conflict Bonus and Vietnam Era Bonus.

B. Furnish copies or statement of service when requested by the veteran concerned, County Veterans Service Officers, Military Records Center, Funeral Home in the case of deceased veterans, and in such case as the Commissioner approves when it is clearly to the benefit of the veteran.

C. Receive and process late claims for the bonus periods named above.

Chapter Three: Claims Division

DVA 300 The Department, through its accredited claims representatives, shall present claims and appear on behalf of veterans, survivors or dependents before the Veterans Administration. Such service will be provided without charge to any claimant.

A. The Claims Division will accept responsibility for providing representation for those who elect to designate the Minnesota Department of Veterans Affairs as their individual accredited representative and for all persons mentioned above where the designated organization is Federally chartered and recognized by the U.S. Veterans Administration, provided that the veterans' organization shall agree with the Department of Veterans Affairs that it is their desire to have such an arrangement. Accordingly, the Department of Veterans Affairs in Minnesota will represent each person as described above who authorizes representation, except where the veterans' organization has established its own claims service. This latter exception would include the American Red Cross.

B. All services offered by the Claims Division will be in accordance with Federal laws and regulations covering the conduct of accredited representatives, and the representatives will maintain a confidential relationship as attorneys-in-fact on behalf of elgibile clientele.

Chapter Four: Field Services Division

DVA 400 The Department, through its Field Services Division, shall:

A. Provide service at the Fargo, N.D. Veterans Administration Center for those counties in Northwest Minnesota, under the jurisdiction of the Veterans Administration Center, Fargo, N.D. for compensation, pension, and hospitalization purposes and provide contact service for that area.

B. Provide for case investigation and benefit applications from the Duluth area, and eligibility screening for the Counties of St. Louis, Lake, Cook, Koochiching, Carlton, and Itasca in benefit cases and provide contact service for that area.

C. Instruct and advise CVSO's in methods and procedures for obtaining benefits provided by law, and shall inform them of changes in Veterans Administration forms and procedures.

D. Contact County Veterans Service Offices on a regular basis to review operations of the Offices.

E. Schedule periodic area conferences for instructional purposes of the CVSO's. The Division shall, in cooperation with the executive council of the CVSO Association, prepare a program to be presented at the Annual Conference.

F. Maintain liaison with state mental and penal institutions.

G. Secure from state mental institutions, admission records of veterans and veteran related patients for the purpose of exploring possible entitlement to veterans benefits.

H. Arrange with administrators of the state penal institutions, procedures to serve inmates on an "on-call" basis.

I. Maintain liaison with all agencies administering programs directly or indirectly affecting veterans benefits.

J. Make such special investigations and prepare reports as requested by the Commissioner.

DVA 401 Veterans Preference - The Field Service Division shall administer provisions of the Veterans Preference Act assigned to the jurisdiction of the Department of Veterans Affairs.

Chapter Five: Administrative Services Division

DVA 500 The Department, through its Administrative Services Division, shall administer all guardianship cases as they are received from the appropriate judicial jurisdiction and accepted by the Commissioner. Administration will conform to state probate law and Veterans Administration regulations.

Chapter Six: Big Island Veterans Camp

DVA 600 The Big Island Veterans Camp, located on a part of Big Island in Excelsior Bay, Lake Minnetonka, Hennepin County, Minnesota, shall be under the control of the Commissioner of Veterans Affairs.

A. He may delegate the authority to implement the rules and regulations of the Big Island Veterans Camp. He shall have the authority to engage and fix the compensation of the manager and such other employees as may be necessary for the operation of the camp. These positions shall be filled by temporary seasonal employees.

B. He shall authorize such expenditures for the procurement of supplies and equipment necessary for the operation of the camp, from appropriations provided by the Legislature and fees collected from veterans who use the camp.

C. The Commissioner of Veterans Affairs is empowered to accept donations, contributions, gifts, and bequests of real or personal property as may be made to the camp in order to further the purpose of improving the camp.

DVA 601 The admission shall be under the supervision and control of the Commissioner of Veterans Affairs. He shall delegate to the staff, the necessary authority to review and approve all applications for the Big Island Veterans Camp.

A. The Department of Veterans Affairs shall furnish all County Veterans Service Officers with applications for the camp, and establish appropriate dates for applications to be received for consideration for each camping season, which shall be from approximately June 15 until Labor Day of each year.

B. The County Veterans Service Officer will certify on the application that the applicant for the Big Island Veterans Camp is qualified, pursuant to the following priorities:

1. Veterans who are disabled.

2. Residents of the Minnesota Veterans Home and the Veterans Hospitals in Minnesota.

3. Veterans who establish a financial need for use of the camp.

4. Veterans who are receiving treatment for chemical dependency.

5. All other veterans who have discharges under honorable conditions.

6. The Department of Veterans Affairs may extend privileges of the camp to the unremarried surviving spouses of veterans and the surviving spouses' dependents, on a space available basis.

DVA 602 The Commissioner of Veterans Affairs shall annually establish a schedule of fees to be paid by the users of the camp, based on the cost of operating the camp.

A. The Commissioner of Veterans Affairs shall have the authority to accept applicants for the camp without fees, where a need factor is proven.

Chapter Seven: Minnesota Veterans Home

DVA 700 The Minnesota Veterans Home is available to veterans and dependents eligible under the provisions of Minn. Stat. 198.01 and 198.022. Applications for admission must be sent to the Administrator of the Home.

Chapter Eight: County Veterans Service Officers

DVA 800 The County Veterans Service Officers, hereinafter referred to as CVSO's, shall be classified as county employees pursuant to Minnesota Statutes. The rules place the CVSO under the general supervision of the Field Service Division of the Department as to methods of operation. These rules shall not apply to the appointment, tenure, compensation or working conditions of a CVSO, which shall be the responsibility of the County Commissioner.

A. It shall be the duty of the CVSO and his staff, to assist veterans and their dependents in securing all benefits provided by law to which they may be entitled because of service in the Armed Forces of the United States.

1. For those veterans or other claimants who request that someone act on their behalf, the CVSO shall obtain powers of attorney to provide accredited representation before the United States Veterans Administration and to offer such claimants a choice as to which organization, duly accredited, should act on their behalf.

a. Where applicable, a new power of attorney should be executed which permits the release of information to the Service Officer in the County who is actually handling the veteran or dependent's application for benefits.

2. The CVSO will assist and advise all volunteer service officers in his county.

3. The CVSO shall acquaint himself with the provisions of the State and Federal Privacy Acts and shall instruct his staff in the proper compliance required by this act.

a. The individual file of any claimant shall not be moved from one CVSO office to another without the express written consent of the claimant involved.

b. Questionable requests for information from files may be referred to the Commissioner of the Department of Veterans Affairs.

4. The CVSO shall acquaint himself with Veterans Administration rules and regulations regarding travel reimbursement for veterans transported to the Regional Centers or the V.A. Hospital. Any mileage reimbursement received by the CVSO from the veteran or the Veterans Administration shall be accounted for to the appropriate authority in the county.

B. An activity report shall be submitted to the Department monthly, in such form as prescribed by the Commissioner. A copy of this report may be submitted to the Board of County Commissioners. At the end of each calander year, an annual report shall be submitted to the Board of County Commissioners and a copy of this report shall also be filed with the Commissioner.

DVA 801 Each CVSO office, within its budget limitations, should provide the following minimal service:

A. Compliance with these rules.

B. Sufficient staff to handle the needs of the veterans to be served.

C. Sufficient budget so that each CVSO is permitted to attend conferences for instructional purposes, conducted by the Department and attendance at the Annual CVSO Conference.

D. A telephone listing in each telephone directory published in the county covered by that particular CVSO office and, if service is not provided on a full-time basis, a notation in the telephone directory listing the days the CVSO is available. Alternatively, a method for the veteran to receive this information when the office is closed may be provided.

E. Sufficient budget to provide necessary travel within the area served by the office.

F. Authority for the CVSO or his assistants to be members of the Minnesota County Veterans Service Officers Association and the payment of dues to said association.

G. Necessary training for new employees, as prescribed by the Commissioner.

DVA 802 The CVSO shall meet the requirements listed in Minnesota Statutes, Section 197.601.

A. If any County Board or CVSO requests assistance from the Department in making a determination under Section 197.601, the Field Service Division will cooperate. In addition, the Department will provide any County Board who requests it, a copy of the Department's "Desirable Qualifications Manual for CVSO's."

DVA 803 A violation of any of these rules or failure by any CVSO to comply shall be communicated to the Board of County Commissioners of the appropriate county by the Commissioner. Disciplinary action, if any, shall be determined by the Board of County Commissioners subject to Minn. Stat. 197.60.

A. Nothing in these rules shall prevent the Commissioner from counseling a CVSO or notifying him of any deficiencies in performance without notifying the County Board. The CVSO shall be provided a copy of any correspondence sent to the County Board concerning such CVSO's performance.

B. The Commissioner, or his representative, may appear at any disciplinary proceeding of a CVSO to present evidence and argument, favorable or otherwise, irrespective of whether such hearing or proceeding was instituted at the Commissioner's request.

STATE OF MINNESOTA

DEPARTMENT OF VETERANS AFFAIRS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF VETERANS AFFAIRS GOVERNING THE OPERATION OF DEPARTMENTAL PROGRAMS AND SERVICES.	))))	ORDER ADOPTING RULES

The above-entitled matter came out for hearing before Steven M. Mihalchick, Hearing Examiner, at the Minnesota Veterans Home, Building 15, Auditorium, Minneapolis, Minnesota 55417, on the 19th day of July 1976, commencing at approximately 9:00 a.m. after proper notice required by M.S. 1974, Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having considered all the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules and the reasonableness thereof.

NOW, THEREFORE, IT IS ORDERED that these rules identified as Rules of the Department of Veterans Affairs Governing the Operation of Departmental Programs and Services are adopted this 28th day of October 1976, pursuant to authority vested in me by M.S. 196.04.

STATE OF MINNESOTA
Department of Veterans Affairs

Russell R. Green

Russell R. Green
STATE VETERANS AFFAIRS COMMISSIONER

ADMIN 1000

STATE OF MINNESOTA

DEPARTMENT Attorney General

Office Memorandum

TO : Michael B. Miller
Special Assistant Attorney General
State Administration Building
G-19K

DATE: Nov. 4, 1976

FROM : Merwin Peterson
Assistant Attorney General
203 Capitol Square Building

PHONE: 7490

SUBJECT: Rules and Documents of the Department of Veterans Affairs

Enclosed for filing are Rules and Documents of the Department of Veterans Affairs. As noted on the Statement of Compliance, a mailing list is not included.

MP:bjl
Encls.

RECEIVED
JUN 10 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF VETERANS AFFAIRS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF VETERANS AFFAIRS GOVERNING THE OPERATION OF DEPARTMENTAL PROGRAMS AND SERVICES

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned proposed rules be held at the Minnesota Veterans Home, Building #15 - Auditiorium, 51st Street and Minnehaha Avenue, Minneapolis, Minnesota 55417, on July 19, 1976, commencing at 9:00 A.M., and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published in the State Register.

Russell R. Green
RUSSELL R. GREEN
Commissioner

Date: June 7, 1976

Exhibit No. A
File No.
Date

STATEMENT OF COMPLIANCE WITH

MANUAL OF RULE MAKING PROCEDURES

I, Assistant Attorney General Merwin Peterson, do hereby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed, except a list of persons to whom notice of hearing was mailed could not be obtained because the labels received from the Secretary of State were copied prior to mailing.

Merwin Peterson
Assistant Attorney General

Dated: Jan 4, 1974

RECEIVED
JUN 24 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF VETERANS AFFAIRS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF VETERANS AFFAIRS GOVERNING THE OPERATION OF DEPARTMENTAL PROGRAMS AND SERVICES

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held at the Minnesota Veterans Home, Building #15 - Auditorium, 51st Street and Minnehaha Avenue South, Minneapolis, Minnesota 55417, on July 19, 1976, commencing at 9:00 A.M., and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Mr. Steve Mihalchick, State Office of Hearing Examiners, 1745 University Avenue, St. Paul, Minnesota 55104, either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would clarify and outline the implementation of procedures and policy for existing and new programs. Copies of the proposed rules are now available and one free copy may be obtained by writing to the Department of Veterans Affairs, Veterans Service Building, St. Paul, Minnesota 55155. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. 196.04. A "Statement of Need" explaining why the agency feels the proposed rules are necessary will be filed with the Hearing Examiners Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minn. Stat. 10A.01, Subd. 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

Russell R. Green

RUSSELL R. GREEN, Commissioner

Date: June 16, 1976

Exhibit No. E

File No.

Date

RECEIVED
JUN 24 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF VETERANS AFFAIRS

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF VETERANS)
AFFAIRS GOVERNING THE OPERATION OF)
DEPARTMENTAL PROGRAMS AND SERVICES.)

STATEMENT OF NEED

The above captioned rules are not amendments to existing rules of the Department of Veterans Affairs. The last time the above captioned rules were amended was July 20, 1945.

The need to adopt these rules arises because the present rules and regulations adopted in July 1945 do not reflect the present organizational structure nor do they afford the general public a clear definition of eligibility, procedural requirements and responsibility for the programs and services provided by the department. The primary objective of adopting these rules is to clarify and inform the general public and interested individuals of the formal and informal procedures that affect their rights when making application for or utilizing benefits-services from the department. In addition to the clarification of the operational procedures and guidelines of the present programs, recent legislative action transferred the responsibility for two additional programs to this department. This will require the inclusion of these programs in the department's rules and regulations.

To meet the objective of informing the general public and interested individuals of the proposed rules governing the department's programs, two major areas of responsibility are reflected in these rules. These two areas are; Veterans Benefits (DVA 200-201) and Veteran Services (DVA 202-803). Veterans benefits involves the direct expenditure of funds to the veteran or on his behalf. The complexity of these programs require that the eligibility requirements, procedures for application and subsequent approval or denial must be outlined in order that all applicants are treated in a similar manner and receive equitable consideration of their application for benefits. The Veteran Services programs (DVA 202-803) outlines the department's responsibility to provide services to veterans ranging from information-referrals to the operation of the Veterans Home and Big Island Veterans Camp. The specific responsibilities of each of these services are outlined in order that statutory objectives are followed and that services rendered to all veterans are in compliance with this objective. The department in compliance with Minnesota Statutes-197.604 has included with the Veteran Services program proposed rules governing the method of operation of the County Veteran Service Officers excluding matters involving the appointment, tenure, compensation or working conditions which are the responsibility of the County Commissioners. It is the department's responsibility to ensure that services rendered to veterans and their dependents by the County Veteran Service Officers are uniform and that the level of service meets the demand of veterans in the individual counties. The proposed rules are therefore required if this statutory objective is to be met.

The authority to promulgate proposed rules is contained in Minnesota Statutes-196.04.

Russell R. Green

RUSSELL R. GREEN, COMMISSIONER

Exhibit No. 4
File No.
Date

(33)

RECEIVED
JUN 24 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF VETERANS AFFAIRS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF VETERANS AFFAIRS GOVERNING THE OPERATION OF DEPARTMENTAL PROGRAMS AND SERVICES	)	AFFIDAVIT OF MAILING

R. J. Lavell, being first duly sworn, deposes and says:

That on the 18th day of June, 1976, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage prepaid, to all persons and associations at the addresses listed on the attached Certificate of the Secretary of State.

R. J. Lavell
R. J. LAVELL
Deputy Commissioner

Subscribed and sworn to before me
this 18th day of June, 1976.

Mathias J. Kremer
Notary Public

MATHIAS J. KREMER
Notary Public, Anoka County, Mn.
MY COMMISSION EXPIRES
May 15, 1980

Exhibit No. G
File No.
Date

(3)

RECEIVED
JUN 24 1976
OFFICE OF HEARING EXAMINERS

STATE OF MINNESOTA
DEPARTMENT OF VETERANS AFFAIRS

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF VETERANS AFFAIRS GOVERNING THE OPERATION OF DEPARTMENTAL PROGRAMS AND SERVICES

CERTIFICATE OF DELIVERY SECRETARY OF STATE LIST

I hereby certify that the attached 499 Labels ~~sheets~~ constitute the complete list of persons, association, and other interested groups who as of 8:30 o'clock A M., this 18th day of June, 1976, have requested pursuant to M.S. 1974, Sec 15.0412, that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

SECRETARY OF STATE

Joan Anderson Growe

By Neil Dion

Exhibit No. J
File No.
Date

PROPOSED RULES

RULES OF THE DEPARTMENT OF VETERANS AFFAIRS

Chapter One: ~~Veterans Affairs~~ General Provisions

~~DVA 100 The Department of Veterans Affairs shall be under the supervision and control of the Commissioner of Veterans Affairs. Such person shall prescribe the duties and responsibilities of the Deputy Commissioner, Administrator, division heads and shall delegate the authority to implement the rules and regulations for the operation of departmental programs as set forth in Chapter Two - Six. The Commissioner will also exercise supervision and control of the County Veterans Service Officers as set forth in Chapter Eight of these rules and regulations.~~

DVA 100 ~~A.~~ The Department of Veterans Affairs is hereby organized with the following divisions: Veterans Benefits Division, Claims Division, Field Services Division, Administrative Services Division, Big Island Veterans Camp, and the Minnesota Veterans Home.

Chapter Two: Veterans Benefits Division

~~This Division shall be under the supervision and control of a Division Head appointed by the Commissioner from the Department technical staff. Such person shall have the powers hereinafter delegated and perform the duties hereinafter prescribed.~~

DVA 200 State Soldiers Welfare Activities - (Veterans Financial Assistance)

A. The Eligibility Board hereinafter referred to as the Board, shall be composed of three members, two Senior Veterans Assistance Officers and the Division Head, appointed by the Commissioner from the technical staff. ~~Such Board members shall have the powers hereinafter delegated and perform the duties hereinafter prescribed.~~

1. The Board shall pass upon all applications for financial assistance from veterans and their dependents, through the Department, provided by the laws of the State of Minnesota, and shall determine the eligibility of each applicant to receive the benefits for which application was made.

2. Upon receipt of a properly executed application, ~~the~~ establishing ~~of~~ proof of eligibility other than need factors, the Board shall request an investigation by the appropriate agency as to the need factor, budget, and their recommendations.

3. Upon receipt of the investigation report the Board shall determine the eligibility of the applicant to receive the benefits for which application was made. If application is approved, the Board shall determine the amount of the grant and the length of time of payment thereof. Upon completion of its action, if favorable, the Board shall transmit the case file to the proper authorizer for appropriate action. Should the Board take unfavorable action, a letter of denial with the reason for denial shall be sent to the applicant with copies to all concerned.

4. If any member of the Board shall disagree with the determination made by the other two Board Members such member may appeal therefrom to the Commissioner or his Deputy who will review the case file and make the final determination thereof.

5. The applicant or his designated representative may request reconsideration of the Board's action either by letter and/or the submission of additional information. The applicant or his designated representative may request a personal appearance and hearing before the Board for such reconsideration.

6. The applicant or his designated representative may make a final appeal to the Commissioner of the Board's determination. The Commissioner will review the case file and make the final determination thereof.

7. The Board shall make recommendations to the Commissioner on changes in procedures it may deem advisable.

B. Eligibility Requirements: (Only those persons who meet the following requirements are eligible to receive assistance.)

1. Veteran

The word veteran means any person honorably discharged from the armed forces of the United States who served in the Civil War, Spanish American War, Philippine Insurrection, China Relief Expedition, World War I between April 6, 1917 and November 11, 1918, both dates inclusive, on or after December 7, 1941 until May 7, 1975, both dates inclusive. The word veteran does not include a person who enlisted and accepted service for training only for a period of six months or less. Service must have been continuous for 90 days or more unless discharged sooner because of a service connected disability. Some part of such service must have been within the actual period as set forth in this subdivision.

2. Resident

The veteran must be a resident of Minnesota at the time of application. The term resident shall be a veteran who has resided in Minnesota for at least six months immediately preceeding application for benefits. The spouse and dependent children of a deceased veteran are not eligible for assistance unless the veteran had legal residence in Minnesota at the time of death.

3. Dependents

For the purpose of this program dependents are defined as spouses and children of disabled or deceased veterans as defined in ~~Chapter Two - DVA 200 - B - Number One.~~ DVA 200 B.1.

a. The spouse of a qualified veteran is eligible for assistance provided the spouse has not remarried and is unable to take care of his or or her own needs because of age, disability, or minor children in the home. The guardian or custodian of a qualified veteran's children is eligible to receive aid for these children.

b. A divorced spouse of a veteran is not eligible for assistance but as the guardian or custodian of the veteran's children is eligible to receive such aid for the veteran's children.

c. The separated spouse of a veteran may be eligible for assistance if the veteran meets all eligibility requirements and makes application for assistance on behalf of the separated spouse and children living with such spouse.

d. The dependent children of a disabled or deceased veteran are eligible for aid regardless of the marital status of the parent or surviving spouse. Dependent children are further defined as:

(1) Unmarried children under 18 years of age.

(2) Unmarried children over 18 years of age who are attending secondary school.

(3) Unmarried children over 18 years of age residing in the veteran's home and who are attending a college of higher learning or a vocational trade school, up to their 23rd birthday.

(4) Children over 18 years of age who have been diagnosed as "totally mentally or physically handicapped" before attaining the age of 18 years.

(5) Unmarried minor children legally adopted by the veteran.

(6) Where a veteran has unmarried dependent stepchildren residin in the home and the veteran is the sole provider, the dependent stepchildren may be considered in the Department assistance budget.

(7) Foster children - same as (6).

(8) The foregoing eligibility requirements for dependent childre assume that the children are not eligible for Aid to Families with Dependent Children. Where eligibility for any type of categorical aid is present it is required that immediate application for such aid be made. Any income to such dependent children as Social Security, pension, other annuities or child support will be considered as income when the dependent children are included in the Department assistance budget.

4. Disability

The veteran must be disabled to a degree sufficient to prevent the veteran from earning sufficient funds to provide for his or her own needs and the needs of eligible dependents. Disability must be for 30 days or more as determined by the submission of medical evidence which shall be passed upon by the Department Medical Officer. The disability need not be service connected.

5. Need

An applicant's need shall be determined upon the same basis as for General Relief in the State. Consideration is given to the individual requirements of the applicant as well as the resources available for meeting these requirements. The difference between the Department allowable budget and resources available for meeting these requirements is the budget deficiency. To determine the need factor an initial investigation is required for all cases and subsequent investigations as are deemed needed by the Board.

a. Emergency grants for subsistence.

(1) In cases of emergent need an authorization of the County Welfare Board will be honored by the Department upon establishment of eligibilit and acceptance of the case from the date the application was signed by the veteran, surviving spouse, or the guardian. The Department should be notified at once of the local grant in order to avoid duplication of aid. The Department cannot reimburse County Welfare Boards for aid issued prior to the date of the application for assistance.

(2) Emergency Orders may be issued by the Board when all factors of eligibility have been approved and a delay in the issuing of a cash grant would create undue hardship upon the applicant.

(3) County Veterans Service Officers may request an Emergency Order from the Board when they have the completed and signed application along with proof of eligibility factors in their office. Upon such a request the Board member shall have a case file number assigned, a control card completed listing the aid issued along with a notation behind the file number in the register to the effect a completed application will be submitted. Such aid shall be limited to $50.00 at the discretion of the Board member.

C. Budgetary Allowance and Procedures: The manner of determining the budgetary requirements and the amount of assistance to be granted will closely follow the State Welfare schedule subject to such limitations imposed by the Commissioner due to appropriation limitations.

1. Food

Budget requirements and amount of aid are determined according to Department allowable schedule and (follows schedule of established welfare practices closely.) Special diets may be allowed upon the recommendation of a physician.

2. Housing

Actual rent or mortgage payments may be paid if the cost is not excessive and will follow the Department schedule for housing as closely as possible.

3. Heating Fuel

Fuel may be allowed upon prior request or may be included in the budget.

4. Public Utilities

Allowance for cooking fuel, electricity, water, sewer rent, garbage removal and telephone may be allowed by the Board upon proper billing, or may be included in the overall budget.

5. Board and Room

a. Reasonable board and room may be allowed. This allowance can vary depending upon where and from whom the veteran is receiving board and room. The Board will determine the amount to be allowed if the veteran's relatives are providing same.

b. A maximum of 30 days room and board may be allowed at group homes or halfway houses for veterans who have received maximum treatment for chemical dependency problems at the Veterans Administration Hospital or other recognized treatment programs at hospitals and treatment centers, recommended by the Director of such hospital or treatment center. No payment will be authorized by the Board where eligibility exists for other categorical aid programs.

6. Clothing

Clothing may be granted upon request. No clothing is allowed in short term cases, emergencies excepted.

7. Personal Needs

Personal needs may be allowed according to the Department allowable budget.

8. Miscellaneous

Miscellaneous requirements not included in the foregoing budgetary allowances may be granted upon request when authorized by the Board.

D. Medical, Dental and Optical Care

1. Medical Care

Veterans requiring hospitalization should make application for admission to Veterans Administration Hospitals.

a. Emergency Medical Care

In emergent cases where hospitalization of a veteran at a Veterans Administration Hospital is impossible, or a dependent of an eligible veteran requires emergent hospitalization, the Department may provide assistance towards payment of medical bills. The Department must be notified within 15 days of the emergent admission. In computing the 15 day period the day of admission, Saturday, Sunday, and legal holidays are not counted. Payment on medical bills shall be consistent with the Departments maximum allowance with such limitations imposed by the Commissioner due to appropriation limitations. The maximum allowance will be pro-rated between each creditor involved. Unusual circumstances which could prevent Timely Notice to the Department of emergent hospitalization within the required 15 day period will be given special consideration by the Board.

b. Non-Emergent Medical Care

In non-emergent medical cases requests for hospitalization, outpatient medical care, and medications should be supported by a statement from the attending physician indicating diagnosis and other pertinent information. The Department Medical Officer will review all such requests and authorize type of care and medications required. Prior authorization for any form of non-emergent medical, dental, optical and related care must be obtained before the Department can provide payment of medical and related bills. All bills submitted to the Department for payment must be in duplicate and show insurance credits.

2. Dental Care

The purpose of the Department dental program is to provide the basic oral health needs of the eligible person, to maintain a reasonable level of dental health. It is not intended that this be a complete dental rehabilitation program. Priorities to be considered are as follows: relief of pain, restoration to a reasonable level of function, restoration to a reasonable level of esthetics, preventative treatment instructions to insure maintenance of the restored dentition. Authorized dental treatment shall conform to the State of Minnesota Department of Public Welfare dental service schedule under the medical assistance program.

a. Dental care for eligible persons may be provided when requested and approved. The Board shall request an estimate of dental services required be completed by the dentist and returned to the Board. When all factors of eligibility have been met the Board shall authorize the dental service requested up to the Department maximum allowance which is subject to such limitations imposed by the Commissioner due to appropriation limitations. Payment will be denied for non-emergent dental service completed prior to the Board authorization.

b. Emergent dental care for relief of pain will be allowed.

c. Initial dental examination and xrays will be allowed even if no further treatment is required.

3. Optical Care

Optical care for eligible persons may be provided when requested and approved by the Board. Optical authorization by the Board shall conform to the State of Minnesota Department of Welfare optician, optometrist schedule under the medical assistance program. An optical form must be completed and returned to the Board for prior approval.

E. Burials. The Department may pay up to $250 toward the ~~D. Burials. The Board may pay the Department maximum allowance towards~~ burial costs of eligible dependents who are on the active assistance roles of the Department at the time of the dependents death, subject to such limitations imposed by the Commissioner due to appropriation limitations. Need for this allowance will be established by the Board after a review of the case file to ascertain if insurance or other resources are available due to the dependent's death.

F. ~~E.~~ Emergency Fund (Health Fund, H Fund): The Emergency Fund referred to as the health or H fund, is used mainly for needy persons to assist them to secure medical, hospital, optical, dental and related commodities or services. Eligibility for this fund is the same as for regular financial assistance, except disability of the veteran is not required.

G. ~~F.~~ General Policy

1. Persons 65 years or older requiring general assistance, medical hospital or related services ~~should~~ must apply ~~to the County Welfare Board~~ for Supplemental Security Income, (S.S.I.) or Minnesota Supplemental Income or other

available aid programs. This policy is in effect to conserve limited appropriations for those persons who do not have eligibility for these special assistance programs.

2. In any county that has a hospital operated by the county, the veteran and his dependents shall use such facilities for their medical needs. In extreme emergencies the Board ~~will not~~ will consider medical assistance based on the factors of each individual case.

H. ~~G.~~ The Department will ~~be unable to~~ provide the following:

1. Authorization for physical examinations to establish eligibility under this program.

2. Treatment or hospitalization for conditions which have been adjudicated as service connected by the Veterans Administration.

3. Rest Home, Nursing Home, or Infirmary care.

4. Psychiatric care, either in-patient or out-patient care.

5. Routine maternity care. (Pre-natal and confinement care may be allowed when the case is open and receiving regular monthly assistance from the Department. (The case must be active for 60 days prior to confinement.)

6. Dental Orthodontia. (Teeth straightening)

7. Assistance outside the State of Minnesota.

8. Allowances for car payments, furniture, and appliances.

9. Patent medicines.

10. Assistance in payment of old bills, nor do we allow income or resources in a case to be applied on old bills or outstanding contracts.

11. Assistance to divorced spouses of veterans.

12. Assistance to dependent parents, brothers, and sisters of a veteran.

13. Hospital or medical care for chronic congenital defects of children.

14. Assistance to persons when they are in receipt of unemployemnt compensation. However, persons ineligible by reason of receiving

unemployment compensation may still qualify for "H" fund assistance under DVA 200 F.

15. Assistance to a veteran's dependents when the whereabouts of the veteran is unknown.

DVA 201 Education

A. War Orphans Educational Assistance

1. Minnesota law provides for a maximum payment in any one calendar year for tuition, fees, board, room, books and supplies of the children of veterans who have died as a result of their service in the armed forces of the United States as determined by the United States Veterans Administration or other instrumentality of the United States.

2. Payment will be made to eligible children attending the University of Minnesota, State Universities, a community college, and any other college of higher learning within the State of Minnesota accredited by the North Central Association of colleges and secondary schools, a law college approved by the Supreme Court, a nursing school approved by the State Nursing Examining Board, Department of Education or in a theological seminary, for any course such child may elect. Payment of tuition will be made directly to the institution.

3. No child of any veteran shall make application for the benefits provided herein unless such child shall have been a resident in Minnesota for at least two years immediately prior to application.

4. Veteran's children eligible for benefits herein shall be admitted to State institutions of college grade free of tuition.

5. The veteran must have been a resident of Minnesota at the time of entry into service.

6. Need requirements for payment of benefits provided by Minnesota Statutes shall be established by the Commissioner.

~~7. A child may be eligible for this benefit until a reasonable educational objective has been attained as determined by the Commissioner.~~

7.~~8.~~ Child or children are defined as by birth or adoption and does not include stepchildren or foster children.

B. Veterans Educational Assistance

1. Minnesota law provides that an amount not to exeed $250.00 may be extended to any qualified veteran to be used for tuition only for attending a qualified college in the State of Minnesota. The veteran must have been a resident of Minnesota at the time of entry into service.

2. This payment may only be made after the veteran has exhausted all Federal G. I. Educational Benefits ~~and has furnished proof of same to the Department,~~ through use thereof and has furnished proof of same to the Department.

3. Need for payment of tuition shall be established by the Commissioner.

~~4. A veteran shall be eligible for payment of tuition until completion of his/her primary educational objective as may be determined by the Commissioner.~~

4. ~~5.~~ A veteran shall have five years from the date Federal G. I. Educational Benefits were exhausted, in which to use this $250.00 tuition benefit.

DVA 202 Information Referrals

A. The Department shall provide service and information referrals for veterans and their dependents who request assistance with their problems either in person or by phone.

B. The Department shall provide for liaison service between the Veterans Benefits Division and the Veterans Administration Hospital and Clinics.

DVA 203 Bonus Records

The Department shall:

A. Maintain records on the Spanish American War Pension, World War I Bonus, World War II Bonus, Korean Conflict Bonus and Vietnam Era Bonus.

B. Furnish copies or statement of service when requested by the veteran concerned, County Veterans Service Officers, Military Records Center, Funeral Homes in the case of deceased veterans, and in such case as the Commissioner approves when it is clearly to the benefit of the veteran.

C. Receive and process late claims for the bonus periods named above.

Chapter Three: Claims Division

~~DVA 300 The Claims Division shall be under the supervision and control of the Division head appointed by the Commissioner from the Department technical staff and such person shall have the powers hereinafter prescribed.~~

DVA 300 The Department, through its accredited claims representatives, shall

~~A. Duties: To direct and supervise the activities of accredited Claims Representatives who in the course of their duties~~ present claims and appear on behalf of veterans, survivors ~~and~~/or dependents before the Veterans Administration ~~Such Claims Representatives will have the necessary clerical support to fulfill their duties.~~ Such service will be provided without charge to any claimant.

A. ~~B. Information:~~ The Claims Division will accept responsibility for providing representation for those who elect to designate the Minnesota Department of Veterans Affairs as their individual accredited representative and for all persons mentioned above where the designated organization is Federally chartered and recognized by the U.S. Veterans Administration, provided that the veterans' organization shall agree with the Department of Veterans Affairs that it is their desire to have such an arrangement. Accordingly, the Department of Veterans Affairs in Minnesota will represent each person as described above who authorizes representation, except where the veterans' organization has established its own claims service. This latter exception would include the American Red Cross.

B. All services offered by the Claims Division will be in accordance with Federal laws and regulations covering the conduct of accredited representatives, and the representatives will maintain a confidential relationship as attorneys-in-fact on behalf of eligible clientele. ~~Such service will be provided without charge to any claimant.~~

Chapter Four: Field Services Division

~~DVA 400 Responsibilities - The Division of Field Service shall be under the supervision of a Division Head appointed by the Commissioner from the Department Technical Staff, and such person shall have the powers hereinafter delegated, and perform the duties hereinafter prescribed.~~

DVA 400 The Department, through its Field Services Division, shall:

A. ~~The Field Service Division shall~~ Provide service at the Fargo, N. D. Veterans Administration Center for those counties in Northwest Minnesota, under the jurisdiction of the Veterans Administration Center, Fargo, N. D. for compensation, pension, and hospitalization purposes and provide contact service for that area.

B. ~~The Field Service Division shall~~ Provide for case investigation and benefit applications from the Duluth area, and eligibility screening for the Counties of St. Louis, Lake, Cook, Koochiching, Carlton, and Itasca in benefit cases and provide contact service for that area.

C. ~~The Field Service Division shall~~ Instruct and advise CVSO's in methods and procedures for obtaining benefits provided by law, and shall inform them of changes in Veterans Administration forms and procedures.

D. ~~The Field Service Division shall~~ Contact County Veterans Service Offices on a regular basis to review operations of the Offices.

E. ~~The Field Service Division shall~~ Schedule periodic area conferences for instructional purposes of the CVSO's. The Division shall ~~also prepare~~ in cooperation with the executive council of the CVSO Association, prepare a program to be presented at the Annual Conference. ~~of CVSO's Association.~~

F. ~~The Field Service Division shall~~ Maintain liaison with State Mental and Penal institutions.

G. ~~The Field Service Division shall~~ Secure from State Mental institutions, admission records of Veterans and Veteran related patients for the purpose of exploring possible entitlement to Veterans benefits.

H. ~~The Field Service Division shall~~ Arrange with Administrators of the State Penal institutions, procedures to serve inmates on an "on-call" basis.

I. ~~The Field Service Division shall~~ Maintain liaison with all agencies administering programs directly or indirectly affecting Veterans benefits.

J. ~~The Field Service Division shall~~ Make such special investigations and prepare reports as requested by the Commissioner.

DVA 401 Veterans Preference - The Field Service Division shall administer provisions of the Veterans Preference Act assigned to the jurisdiction of The Department of Veterans Affairs.

Chapter Five: Administrative Services Division

~~DVA 500 The Administrative Services Division shall be under the supervision and control of the division head appointed by the Commissioner of Veterans Affairs. Such person shall have the powers hereinafter delegated and shall perform the duties hereinafter prescribed.~~

~~A. The division shall be responsible for the management of all fiscal services of the department.~~

~~B. The division shall be responsible for the preparation of the biennial, annual and supplemental budgets.~~

~~C. The division shall be responsible for the auditing and payment of all obligations incurred within established guidelines.~~

~~D. The division shall follow guidelines as established by the Department of Finance (Statewide Accounting System), Department's of Administration and Personnel as they pertain to accounting functions and procedures.~~

~~E. The division shall be responsible for the management of all personnel functions within the department as they pertain to affirmative action, training, contract administration, manpower planning, and any other responsibilities as established by statute or Personnel regulation.~~

DVA 500 The Department, through its Administrative Services Division, ~~DVA 501 The division~~ shall ~~be responsible for the~~ administer all guardianship cases as they are received from the appropriate judicial jurisdiction and accepted by the Commissioner. Administration will conform to state probate law and Veterans Administration regulations.

Chapter Six: Big Island Veterans Camp

DVA 600 The Big Island Veterans Camp, located on a part of Big Island in Excelsior Bay, Lake Minnetonka, Hennepin County, Minnesota, shall be under the control of the Commissioner of Veterans Affairs.

A. He may delegate the authority to implement the rules and regulations of the Big Island Veterans Camp. He shall have the authority to engage and fix the compensation of the manager and such other employees as may be necessary for the operation of the camp. These positions shall be filled by temporary seasonal employees.

B. He shall authorize such expenditures for the procurement of supplies and equipment necessary for the operation of the camp, from appropriations provided by the Legislature and fees collected from veterans who use the camp.

C. The Commissioner of Veterans Affairs is empowered to accept donations, contributions, gifts, and bequests of real or personal property as may be made to the camp in order to further the purpose of improving the camp.

DVA 601 The admission shall be under the supervision and control of the Commissioner of Veterans Affairs. He shall delegate to the staff, the necessary authority to review and approve all applications for the Big Island Veterans Camp.

A. The Department of Veterans Affairs shall furnish all County Veterans Service Officers with applications for the camp, and establish appropriate dates for applications to be received for consideration for each camping season, which shall be from approximately June 15 until Labor day of each year.

B. The County Veterans Service Officer will certify on the application that the applicant for the Big Island Veterans Camp is qualified, pursuant to the following priorities:

1. Veterans who are disabled.

2. Residents of the Minnesota Veterans Home and the Veterans Hospitals in Minnesota.

3. Veterans who establish a financial need for use of the camp.

4. Veterans who are receiving treatment for chemical dependency.

5. All other veterans who have discharges under honorable conditions.

6. The Department of Veterans Affairs may extend privileges of the camp to the unremarried surviving spouses of veterans and the surviving spouses' dependents, on a space available basis.

DVA 602 The Commissioner of Veterans Affairs shall annually establish a schedule of fees to be paid by the users of the camp, based on the cost of operating the camp.

A. The Commissioner of Veterans Affairs shall have the authority to accept applicants for the camp without fees, where a need factor is proven.

~~DVA 603 The Veterans Advisory Committee shall establish a subcommittee of four members to regularly visit the Big Island Veterans Camp, and to make such recommendations to the Commissioner that they feel would improve the operation of the Veterans Camp.~~

Chapter Seven: Minnesota Veterans Home

~~DVA 700 The Minnesota Veterans Home shall be under the supervision and control of an Administrator appointed by the Commissioner of Veterans Affairs. Such person shall have the powers hereinafter delegated and perform the duties hereinafter prescribed.~~

~~DVA 701 He will convene, at least monthly, a meeting of the Management Staff Committee, which will include representation of all appropriate program and organization elements who will consider program changes, budget and staff allocation priorities for the Home, and participate in preparing the annual budget and the process of allocating Home staff.~~

~~DVA 702 He will convene at least weekly, the Patient Care Committee to review patient profiles and evaluate levels of patient care.~~

~~DVA 703 He will define goals and objectives in measurable terms and submit periodic progress reports as directed by the Commissioner.~~

~~DVA 704 Subject to the approval of the Commissioner, he will appoint a Medical Director or designate a qualified physician to act in this capacity.~~

~~DVA 705 He is responsible for the administrative aspects of admission, placement, and discharge of residents/patients from the Home. He will be guided by the eligibility requirements in Minnesota Stat. Chapters 198.01 and 198.022. The admissions to the Home will be reviewed with the Commissioner or Deputy Commissioner.~~

~~DVA 706 He will determine that appropriate professional staff design and implement a suitable care and treatment program for each patient/resident. He will periodically request of the Commissioner, the necessary personnel to perform this responsibility according to the rules and regulations of the Minnesota State Health Department.~~

DVA 700 The Minnesota Veterans Home is available to veterans and dependents eligible under the provisions of Minn. Stat. §§198.01 and 198.022. Applications for admission must be sent to the Administrator of the Home.

DVA 707 He is responsible for the provisions of medical and nursing services as are needed for the proper health care of the residents/patients. He shall review periodically, the requests of the Medical Director for specific services needed for the residents/patients. He will coordinate programs of medical services, dental, and other domiciliary care from the Veterans Administration Hospital.

DVA 708 He is responsible for the preparation and administration of the biennial budgets and such other budgets and materials relating thereto as directed. He will be responsible to keep the Commissioner informed of all expenditures and receipts to the Home, as authorized under Minnesota Stat. Chapter 198.16 and 198.161. He will also be responsible to the Commissioner for all of the personal property and other requirements, as prescribed in Minnesota Stat. Chapter 198.23, and for the expenditures of any profits derived from the canteen and coffee shop, as prescribed in Minnesota Stat. Chapter 198.261.

A. The Administrator shall be responsible to the Commissioner for the safe keeping of any monies accepted from the residents and shall follow the regulations required in Minnesota Stat. Chapter 198.265. The Administrator shall be responsible to the Commissioner to make sure that there is no account that exceeds the maximum protection of the Federal Deposit Insurance Corporation. Qualified securities may be pledged by the depository institution in excess of the Federal Deposit Insurance Corporation limits as prescribed by Minnesota Statutes. All monies expended under the provisions of Minnesota Stat. Chapters 198.16, 198.161, and 198.261, and the interest earned from Minnesota Stat. Chapter 198.265 to be expended to the benefit of the patients/residents, shall have the prior approval of the Commissioner or Deputy Commissioner.

DVA 709 He is responsible for the most efficient and effective utilization of real estate, buildings, and other capital equipment as well as the proper maintenance and upkeep of the buildings, grounds, equipment and materials at his command as these resources pertain to the needs of the patient/resident population.

DVA 710 He is responsible for clearly defining the Home's organizational structure, supervisory responsibilities, chains of command and communications system.

A. He is responsible for the establishment and administration of a program of modern management policies and practices.

B. He is responsible for the establishment and proper conduct of an effective personnel management program to include selection and appointment of all personnel at the Home in accordance with the philosophies of the state's Equal Opportunity Program.

C. Within laws, rules and regulations, and policies of departments of government having appropriate authority, he is responsible for administering a labor relations program.

DVA 711 He is responsible for installing and maintaining applicable health, safety and sanitation standards for all patients/residents and staff.

DVA 712 He is responsible within budgetary allowances for the provision of nutritionally adequate and aesthetically pleasing food service to the residents/patients of the Home.

DVA 713 He shall establish and maintain an efficient system for determining patient/resident ability to pay their cost of care. He shall seek assistance from the Department's Claims Division or any of the other Veterans Organization's Service Officers in applying for all federal benefits available to the patient/resident that the Veterans Administration offers. He shall keep himself informed of all benefits available to the Home from the Veterans Administration. With permission of the Commissioner, he shall be an active member of the National Association of State Home Directors, and shall be authorized to lobby for benefits from Congress for the operation of State Homes.

DVA 714 Within resources made available, he is responsible for the provision of supporting services to or on behalf of all patients/residents such as:

Veterans Organization volunteers; Chaplaincy services; social services; and various therapies such as: music, vocational, occupational, speech, recreation, etc.

DVA 715 He is authorized to represent the Commissioner as the official representative of the Home to public and official bodies such as the Legislature.

DVA 716 He is responsible for the enforcement of the legal and civil rights of the patients/residents.

DVA 717 He is responsible for conformance with all applicable license and program standards; state and federal laws; Department of Veterans Affairs program policies, rules and regulations within available resources.

A. He will strive to maintain appropriate liaisons for the Home.

B. He is responsible for prompt investigation and follow up on all complaints from the public, residents and staff.

DVA 718 He is responsible for the control and administration of any research proposed or conducted at the Home.

DVA 719 He will perform related duties not enumerated above that are necessary and appropriate.

DVA 720 In carrying out the responsibilities stated and/or inferred above, the Administrator may delegate and authorize certain employees at the Home to carry out specific functions and sign official documents related to the Home operations. In those instances where delegations are made, the Administrator shall notify the Commissioner of such delegation in a prescribed manner.

Chapter Eight: County Veterans Service Officers

DVA 800 The County Veterans Service Officers, hereinafter referred to as CVSO's, shall be classified as county employees pursuant to Minnesota Statutes. The rules and regulations herein promulgated shall place the CVSO under the general functional supervision of the Field Service Division of the Department of Veterans Affairs as to methods of operation. These rules and regulations shall be imposed by the Commissioner. These rules and regulations shall not apply to the appointment, tenure, compensation, or working conditions of a CVSO, which shall be the responsibility of the County Commissioners.

A. It shall be the duty of the CVSO and his staff, to assist veterans and their dependents in securing all benefits provided by law to which they may be entitled because of service in the Armed Forces of the United States.

1. For those veterans or other claimants who request that someone act on their behalf, the CVSO shall obtain powers of attorney from veterans and their claimants, to provide accredited representation before the United States Veterans Administration and to offer such claimants a choice as to which organization, duly accredited, should act on their behalf.

a. Where applicable, a new power of attorney should be executed which permits the release of information to the Service Officer in the county who is actually handling the veteran or dependent's application for benefits.

2. The CVSO will assist and advise all volunteer service officers in his county.

3. The CVSO shall acquaint himself with the provisions of the State and Federal Privacy Acts and shall instruct his staff in the proper compliance required by this act.

a. The individual file of any claimant shall not be moved from one CVSO office to another without the express written consent of the claimant involved.

b. Questionable requests for information from files may be referred to the Commissioner of the Department of Veterans Affairs.

4. The CVSO shall acquaint himself with Veterans Administration rules and regulations regarding travel reimbursement for veterans transported to the Regional Centers or the V.A. Hospital. Any mileage reimbursement received by the CVSO from the veteran or the Veterans Administration shall be accounted for to the appropriate authority in the county.

B. An activity report shall be submitted to the Department monthly, in such form as prescribed by the Commissioner. A copy of this report may be submitted to the Board of County Commissioners. At the end of each calendar year, an annual report shall be submitted to the Board of County Commissioners and a copy of this report shall also be filed with the Commissioner.

DVA 801 Each CVSO office, within its budget limitations, should ~~operated pursuant to Chapter 197.60 and Chapter 197.602, shall~~ provide the following minimal service: ~~to the veterans in the county or contiguous counties, as the County Boards have selected in their options under Chapter 197.602.~~

A. ~~Complete~~ Compliance with these rules ~~established by the Commissioner.~~

B. Sufficient staff to handle the needs of the veterans to be served.

C. Sufficient budget so that each CVSO is permitted to attend conferences for instructional purposes, conducted by the Department and attendance at the Annual CVSO Conference.

D. A telephone listing in each telephone directory published in the county covered by that particular CVSO office, and, if

~~E. If~~ service is not provided on a full-time basis, a notation in the telephone directory listing the days the CVSO is available, ~~or~~ Alternatively, a method for the veteran to receive this information when the office is closed, ~~shall~~ may be provided. ~~by someone in the County Courthouse.~~

E. ~~F.~~ Sufficient budget to provide necessary travel within the area served by the office.

F. ~~G.~~ ~~The County Boards shall authorize~~ Authority for the CVSO or his assistants to be members of the Minnesota County Veterans Service Officers Association and ~~may authorize~~ the payment of dues to said association.

G. ~~H.~~ ~~Each County Board shall authorize the~~ Necessary training for new employees, as prescribed by the Commissioner.

DVA 802 The CVSO shall ~~have~~ meet the requirements listed in Minnesota Statutes, ~~Chapter~~ Section 197.601, ~~as amended.~~

A. If any County Board or CVSO requests assistance from the Department in ~~carrying out its responsibilities pursuant to Chapter~~ making a determination under Section 197.601, the Field Service Division will cooperate. In addition, the Department will provide any County Board who requests it, a copy of the Department's "Desirable Qualifications Manual for CVSO's."

~~B. Each CVSO office will acquaint itself with the United States Veterans Administration rules and regulations regarding travel reimbursement for veterans transported to the Regional Centers or the Veterans Administration Hospital. Any mileage reimbursement received by the CVSO from the veteran or the Veterans Administration shall be accounted for to the appropriate authority in the county.~~

DVA 803 A violation of any of these rules or failure by any CVSO to comply shall be communicated to the Board of County Commissioners of the appropriate county by the Commissioner. Disciplinary action, if any, shall be determined by the Board of County Commissioners subject to Minn. Stat. §197.60.

A. Nothing in these rules shall prevent the Commissioner from counseling a CVSO or notifying him of any deficiencies in performance without notifying the County Board. The CVSO shall be provided a copy of any correspondence sent to the County Board concerning such CVSO's performance.

B. The Commissioner, or his representative, may appear at any disciplinary proceeding of a CVSO to present evidence and argument, favorable or otherwise, irrespective of whether such hearing or proceeding was instituted at the Commissioner's request.

DVA-76-004-SM

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF VETERANS AFFAIRS

In the Matter of the Proposed)
Adoption of Rules of the)
Department of Veterans Affairs) REPORT OF THE ACTING
Governing the Operation of) CHIEF HEARING EXAMINER
Departmental Programs and)
Services.)

WHEREAS, a hearing was held on July 19, 1976, before Steve M. Mihalchick, a Hearing Examiner of the State Office of Hearing Examiners, on the above-entitled matter in compliance with Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Report of Hearing Examiner made pursuant to Minn. Stat. §15.052, Subd. 3, was issued to the Department of Veterans Affairs on September 8, 1976; and

WHEREAS, the Department of Veterans Affairs has now determined to adopt rules pursuant to Minn. Stat. §15.0412, Subd. 4; and

WHEREAS, the Department of Veterans Affairs has submitted said rules to the Acting Chief Hearing Examiner for review pursuant to Minn. Stat. §15.052, Subd. 4, and Rule HE 107; and

WHEREAS, the Acting Chief Hearing Examiner finds that there are no substantial changes in said rules as originally proposed.

NOW, THEREFORE, upon receipt of this Report, the Department of Veterans Affairs has the responsibility of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General and to publish in the State Register, all pursuant to Minn. Stat. §15.0412, Subd. 4.

Dated this 4th day
of October, 1976.

Duane R. Harves

DUANE R. HARVES
Acting Chief Hearing Examiner

RUSSELL R. GREEN
Commissioner

September 29, 1976

Mr. Duane R. Harves
Room 300
1745 University Avenue
St. Paul, Minn. 55104

Dear Mr. Harves:

Subject: In the Matter of the Proposed Adoption of Rules of the Department of Veterans Affairs Governing the Operation of Departmental Programs and Services. File #DVA-76-004SM

This letter is to inform your office that we have reviewed the findings of Steve M. Mihalchick, Hearing Examiner concerning the proposed adoption of rules for this department and file no objection as to his findings.

In accordance with the established rules of your office we submit the entire hearings record including a revised copy of the proposed rules that reflect the findings of the Hearing Examiner Steve Mihalchick.

If additional information is required please contact this office at 296-2345.

Yours truly,

R. J. Lavell
Deputy Commissioner

RJL:do
cc Commissioner Russell Green

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 – 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

September 8, 1976

TO ALL INTERESTED PARTIES:

RE: In the Matter of the Proposed Adoption of Rules of the Department of Veterans Affairs Governing the Operation of Departmental Programs and Services.
Our File No. DVA-76-004-SM

This letter is to advise you that the Report of the Hearing Examiner in the above-entitled matter has been submitted to the Department of Veterans Affairs. The Department may not act on this Report until at least ten days have expired. During that time, the Department and the Office of Hearing Examiners will make a copy of the Report available for review by any interested individuals. Copies will be furnished by the Office of Hearing Examiners for $10.00 (40 pages at 25 cents per page). Kindly make your checks payable to the State Treasurer - Hearing Examiners account.

Yours very truly,

STEVE M. MIHALCHICK
Hearing Examiner

SMM/eag

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

September 9, 1976

Mr. Ronald J. Lavell
Deputy Commissioner
Department of Veterans Affairs
Veterans Service Building
St. Paul, Minnesota - 55155

RE: In the Matter of the Proposed Adoption of Rules of the Department of Veterans Affairs Governing the Operation of Departmental Programs and Services.
Our File No. DVA-76-004-SM

Dear Mr. Lavell:

I enclose herewith and serve upon you by mail the Report of the Hearing Examiner in the above-entitled matter, together with your file papers, and I am closing our file in this case.

Yours very truly,

STEVE M. MIHALCHICK
Hearing Examiner

SMM/eag

Encs.

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
OFFICE OF HEARINGS EXAMINERS

FOR THE DEPARTMENT OF VETERANS AFFAIRS

In the Matter of the Proposed Adoption of Rules of the Department of Veterans Affairs Governing the Operation of Departmental Programs and Services.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Hearing Examiner Steve M. Mihalchick of the Minnesota Office of Hearing Examiners on July 19, 1976 at 9:00 a.m. in the Auditorium of the Minnesota Veterans Home, Minneapolis, Minnesota.

The following persons testified for the Department of Veterans Affairs (Department): Russell R. Green, Commissioner; R. J. Lavell, Deputy Commissioner; Robert Strunk; Phillip D. Nygren; Mathias J. Kremer, and Raymond Schultz. Interested persons attending the hearing and offering comments consisted primarily of County Veterans Service Officers. Representatives of veterans' organizations were also present. The hearing continued until all interested groups or persons had an opportunity to be heard concerning the adoption of the proposed rules.

Pursuant to Minn. Stat. § 15.052, subd. 3 (1975 Supp.), this Report will include Findings of Fact, Conclusions and Recommendations. The Department and the Office of Hearing Examiners will make a copy of this Report available for review to any interested person upon request. Copies of the Report will be furnished at a nominal cost.

Based upon the proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

1. Beginning in April, 1976, Department personnel conducted several hearings around the state soliciting comments and proposals on preliminary drafts of these rules. Several modifications were made before the rules as proposed here were finally drafted.

2. On June 18, 1976, the Department mailed the Notice of Hearing to all persons and associations who had registered their

names with the Secretary of State for the purpose of receiving such notice.

3. On June 24, 1976, the Department filed with the Office of Hearings Examiners the following documents:

(a) The Order for Hearing;

(b) The Notice of Hearing as mailed;

(c) The affidavit of receipt of the Secretary of State's list;

(d) The Affidavit of Mailing;

(e) The Statement of Need;

(f) A copy of the Notice of Seeking Outside Information pursuant to Minn. Stat. § 15.0412, subd. 6, and material received pursuant to the Notice;

(g) A statement of evidence, including names of agency personnel expected to testify;

(h) The Certificate of Delivery of Secretary of State's list.

The documents were available for inspection at the Office of Hearings Examiners from the date of filing to the date of the hearing. Two persons examined the documents. The documents were proper and adequate. No objection was made to any of them. The statements of need and evidence were not specific, but given the informational hearings conducted by the Department, and the lack of any claim of surprise by interested persons, the Examiner finds that they were adequate to provide notice of the matters to be presented at the hearing.

4. The record was closed on August 9, 1976, after allowing 20 days for submission of written comments.

5. Statutory authority to promulgate the proposed rules is found in several statutes.

> Minn. Stat. § 196.04, subd. 1, provides that: "The Commissioner shall adopt reasonable and proper rules to govern the procedure of the divisions of the department, and to regulate and provide for the nature and extent of the proofs and evidence and the method of taking and furnishing the same, in order to establish the right to benefits provided for by the law."
>
> Minn. Stat. § 197.15 (as amended by Laws 1976, Ch. 149, § 45) states: "The commissioner shall have full power and authority to formulate, make and enforce all rules and regulations necessary for the proper management, control, and use of the [Big Island Veterans Camp.]"

Minn. Stat. § 197.605, subd. 3, states: "The commissioner of veterans affairs shall have authority to prescribe such rules or regulations as are necessary for [the general supervision of the veterans services officers]."

Minn. Stat. § 15.0412, subd. 3,(Supp. 1975), directs all state agencies to adopt rules setting forth the nature and requirements of all formal and informal procedures related to administration of official agency duties.

6. The general need to adopt these proposed rules arises because the present rules which were adopted July 20, 1945, and filed with the Secretary of State on December 29, 1945, do not reflect the present organizational structure, nor do they afford the general public a clear definition of eligibility procedural requirements and responsibility for the programs and services provided by the Department. Because the Department is primarily a service agency, that is, its duties include assisting veterans to secure benefits provided other agencies and the administration of state provided benefits, the proposed rules are, in large part, intended to describe the benefits and services available and procedures for securing them. The rules also recognize that the County Veterans Service Officers (CVSOs) are the primary contact for the veteran with "the system". Few veterans work directly, at least initially, with the Department. The rules update old rules and memoranda that have been issued to CVSOs over the past 30 years.

7. Proposed Minn. Rule DVA 100 is a general introduction stating that the Department of Veterans Affairs shall be under the supervision and control of the Commissioner of Veterans Affairs and naming the divisions into which the Department is divided. The Statement of the powers of the Commissioner is essentially a restatement of the powers provided in the statute, and the Department presented no testimony as to why it was necessary to repeat it in the rules.

Paragraph A of the rule naming the divisions of the Department is necessary as an introduction to the remaining rules in that they are organized by the divisions which provide specific benefits or services to veterans.

8. Chapter 2 of the proposed rules is entitled "Veterans Benefits Division". The introductory paragraph to this chapter states that this division shall be under the supervision and control of the division head who shall have powers hereinafter delegated. The Department presented no testimony as to why such provision was needed in the rules, and the provision deals only with internal management. Under Minn. Stat., § 15.0412, subd. 3 (Supp. 1975), procedures concerning only internal management which do not directly affect the rights of, or procedures available to the public need not be adopted as rules. The Examiner concludes that the introductory paragraph should be deleted from the proposed rule.

9. DVA 200, State Soldiers Welfare Activities (Veterans Financial Assistance), sets forth the nature and requirements of procedures related to administration of the state soldiers' welfare fund created by Minn. Stat. §§ 197.03 through 197.05. Under the statutes, the fund was created to aid any citizen in Minnesota who is a veteran in securing relief or benefits from the United States or other government and for the emergency relief, hospitalization, treatment and maintenance of all such persons who are bona fide residents of the state at the time the need arose and their dependents. The statute is very vague and provides only that "Such fund is hereby appropriated to be used in such manner as the commissioner of veterans affairs may determine for such purposes." Therefore, there is clearly a need to describe the eligibility requirements and the procedural process in obtaining the benefits provided by the fund.

10. DVA 200 A. provides for an eligibility board that will pass upon all applications for financial assistance and for appeal procedures to the Commissioner from the board's determinations. This rule is essentially a restatement of the part 2, § 1 of the 1945 rules which established the board, and it is the procedure that has been used by the Department since that time. Two changes are made to the existing rule. The first provides the composition of the board. This provision is necessary and reasonable to inform members of the public as to whom shall be making

decisions on the applications for assistance. The second change provides that appeal from the board's decision may be made by the applicant or his representative. The rule formerly provided that only a dissenting board member could make such appeal. The right to due process makes this provision necessary and reasonable.

11. DVA 200 B. states the eligibility requirements for receiving veterans financial assistance. As stated above, it is necessary to establish eligility requirements by rule because the statute is not specific. The rule is a codification of policies that have been implemented by the Department since the adoption of the 1945 rules. Department personnel testified that the Soldiers' Welfare Fund receives a limited appropriation and that the requirements listed in the rule have been designed and used to remain within the limits of the appropriations.

12. DVA 200 B.1. defines "veteran." There is no such definition in the welfare fund statutes, and therefore, it is necessary to be defined in these rules. The definition adopted is essentially that contained in Minn. Stat. § 197.447 which defines the word "veteran" for other statutes providing various veterans' benefits. It differs from that section in that Minn. Stat. § 197.447 includes persons honorably discharged after December 7, 1941 until final cessation of hostilities as determined by proper state authorities, and this rule includes persons honorably discharged on or after December 7, 1941 until May 7, 1975. The date, May 7, 1975, was questioned at the hearing, and the Commissioner testified that it was the date set by the President of the United States for federal benefits and that it was a reasonable date because people are no longer being drafted, and we essentially have a peacetime military. The Examiner finds the date to be reasonable but encourages the Department to reconsider whether events in Korea since the hearing invalidate the statement about a "peacetime military."

13. DVA 200 B.2. defines "resident" as a veteran who has resided in Minnesota for at least six months immediately preceding application for benefits. The 1945 Rules had established a two-year residence requirement. The six months' requirement is

similar to the requirement imposed by Minn. Stat. § 197.971, pertaining to Vietnam veterans bonuses, and has been used by the Department for several years in administering the Soldiers' Welfare Fund. The legality of the rule, in a constitutional sense, was discussed at the hearing. Given the limited amount of money in the fund, and given the fact that persons who may not be eligible because they have been residents of Minnesota for less than six months are still eligible for welfare assistance, the Examiner believes that the rule is reasonable and legal. Objection was made to the provision in the rule providing that otherwise eligible dependents of veterans are not eligible for assistance unless the veteran was a resident of Minnesota at the time of his death. Department personnel reasonably justified the rule on the grounds that the fund was primarily a veterans benefit, that such dependents would remain eligible for other types of relief, and that the limited funding required the restriction.

14. DVA 200 B.3. defines "dependents" who may be eligible for veterans financial assistance. Testimony by Department personnel showed that definitions were formulated to include those persons who would normally receive their support from the qualified veteran. Provision is also made in this rule for offsetting any income which the dependents may have in determining need. Such provision is reasonable and necessary to insure that the limited fund is expended only in cases where there is genuine need.

15. DVA 200 B.4. provides that the veteran must be disabled to a degree sufficient to prevent the veteran from earning sufficient funds to provide for his or her own needs and the needs of eligible dependents. Department personnel testified that the entire program is based primarily upon temporary disability. The rule is a reasonable general statement of the purpose of the Soldiers' Welfare Fund.

16. DVA 200 B.5., entitled "need" is a restatement of the existing 1945 Rule, part II, Section II, subdivision VIII and states the policy that has been followed by the Department for many years. A new provision is added to allow County Veteran Service Officers to request, by telephone, an emergency assistance

order for up to $50.00, and for such request to be approved by a single board member. Such a provision is a reasonable part of the overall system of providing temporary financial assistance to disabled veterans. It provides a mechanism for immediate aid where the need is apparent.

17. DVA 200 C. lists the items for which financial assistance will be granted and provides generally that the amount of assistance for each item will follow the state welfare schedule. Department personnel testified that under this procedure, the Department adjusts the limits payable for each item every six months based upon the Department of Public Welfare's allowance for those same items. The items listed for which assistance will be paid include basic necessities such as food, housing, fuel, utilities and so forth. It is clearly reasonable and necessary to specify the items for which assistance will be paid.

18. DVA 200 D. specifies the conditions under which medical, dental and optical care will be paid for out of the Soldiers' Welfare Fund. It generally provides that prior authorization for any form of non-emergency medical, dental, optical or related care must be obtained before the Department will provide payment. Such prior authorization is necessary because of the limited amount of funds and because of the necessity to establish the eligibility of the veteran. The rule allows payment for treatment in emergency situations without prior authorization. Maximum payments are again limited by Department of Public Welfare maximum allowances. The rule is reasonable and necessary to provide for only necessary medical assistance out of the funds available.

(NOTE: The following section was incorrectly numbered DVA 200 D.; it, and following sections, should be renumbered.)

19. DVA 200 D. provides for an allowance toward the burial costs of dependents of veterans who are on active assistance rolls at the time of the dependent's death. The rule is vague in that it states that the Department will pay the maximum allowance and that term is not defined. Testimony by Department personnel was that maximum allowance was that equal to that paid by the federal government for veterans' burial benefits which is currently $250.

The rule should be modified to either state a definite amount or to state how that maximum allowance is determined.

No provision is made in this section of the rule for the implementation of Minn. Stat. § 197.23. That section provides that the Commissioner shall, upon petition, provide some suitable and appropriate marker for the grave of veterans for the purpose of permanently marking and designating the grave for memorial purposes. The absence of any provision was the source of many comments. At the hearing, the Commissioner stated that the legislative appropriation for this function had been severely limited, making it impossible to provide markers to all those who requested them. The current appropriation is $12,000 for the biennium, and the Commissioner stated that he did not expect to seek the funds for this purpose unless such funds would be adequate to provide markers for all those who requested them. The comments received on this subject are not relevant to these rules because a rule is not necessary to implement that statute. The matter appears to be purely a question of appropriations, and therefore, comments should be directed to the Legislature or the Commissioner of Veterans Affairs.

20. DVA 200 E. states that emergency assistance may be paid to needy persons even if the veteran is not disabled. This provision is reasonable and necessary in order to assist veterans in extreme hardship cases.

21. DVA 200 F. states the general policy that persons over 65 who are eligible for other categorical aids must apply first for those benefits. Such provision is reasonable and necessary to conserve the limited appropriations available and to insure that they are used for the benefit of the greatest number of eligible persons.

22. DVA 200 G. provides a list of the items for which payment will not be made. The Department generally justified them all based upon the limitation of funds and the fact that there are other programs available to meet these needs. At the hearing, and upon recommendation of several persons present, subsection 14 of the rule was amended to read, "Assistance to persons

when they are in receipt of unemployment compensation, notwithstanding that persons ineligible by reason of being in receipt of unemployment compensation may still qualify for "H" fund assistance under DVA 200." Except for comments on grammar, and those comments noted above, there was no objection to any provisions in DVA 200 by the persons present at the hearing or in comments received after the hearing. There was general support for the rule as proposed.

23. Minn. Rule DVA 201 is intended to implement the provisions of Minn. Stat. § 197.75 which provides for educational assistance to veterans who have exhausted their federal education benefits and to children of soldiers who have died as a result of their service in the military. That statute also provides that children of soldiers who are eligible for benefits hereunder shall be admitted to state institutions of college grade free of tuition.

24. DVA 201 A. describes war orphans' educational assistance. The first five subsections of the rule are simply a restatement of the statute, and no testimony was given as to the specific need of setting them forth. However, it is set forth somewhat more clearly than it is in the statute, and thus the rule does serve the purpose of explaining and clarifying programs administered by the Department.

25. DVA 201 A.6. provides that "Need requirements for payments of benefits provided by Minnesota statutes shall be established by the Commissioner." The statute directs that not more than $250 in any calendar year shall be expended for the benefit of any child under this section and that the need therefore shall be established and determined by the Commissioner. The Examiner questioned the vagueness of the rule and Department personnel testified that it was difficult or impossible to set standards in terms of dollars and that need would have to be determined on a case by case basis considering the person's expenses and resources. The Examiner still believes that the rule is vague and provides little guidance to anyone who might seek this benefit in determining whether he might be eligible. However, if the rule

is not adopted, we are left with the statute which makes precisely the same requirement. The Examiner recommends that the Department consider adopting an amendment at a later date that would more clearly define what the term "need" means.

26. DVA 201 A.7. provides that "A child may be eligible for this benefit until a reasonable educational objective has been attained as determined by the Commissioner." Again, this subection is vague because it does not define what a reasonable educational objective is. Further, it appears to be contrary to the statute which states that the benefit will be paid ". . . for any course which such soldier or child may elect." It gives the Commissioner no authority to approve the objective. Because the subsection imposes requirements not required by the statute and which are in fact contrary to the statute, the subsection is not reasonable and should be deleted from the proposed rules.

27. Subsection 8 defines the word "children" and is necessary to make the statute clear. The definition is reasonable because it is the definition found in Minn. Stat. § 645.45(8).

28. DVA 201 B. describes veterans educational assistance under the same Minn. Stat. § 197.75. Subsection 1 of DVA 201 B. paraphrases the statute and states that an amount up to $250 may be paid for tuition for any veteran attending a qualified college in the state of Minnesota. Subsection 2 restates the requirement of Minn. Stat. § 197.75, subd. 2, that such a benefit shall not be paid unless the veteran has exhausted the benefits he is entitled to under the laws of the United States. The proposed rule was amended at the hearing to include the phrase that the federal benefits be exhausted "through actual use thereof." The provision is necessary and reasonable to define and clarify the word "Exhausted". It was added in response to questions of whether a veteran who had become ineligible for federal benefits by a lapse of time would be eligible for the state benefit. The word "exhaustion" reasonably implies the actual use of the benefits.

29. Subsection 3 stating that need shall be established by the Commissioner is somewhat objectionable for the same reasons stated in finding No. 25 above. Again, the rule could be improved,

and the Examiner recommends that the Department consider amendment of the rule at a future date.

30. Subsection 4, like DVA 201 A.7. is unreasonable because it requires the veteran to be working toward a primary educational objective as determined by the Commissioner. Again, the requirement is contrary to the statute. This subsection should be deleted.

31. Subsection 5 of DVA 201 B. places a time limit of five years after the exhaustion of federal educational benefits upon the use of the state benefits. Department personnel testified that the purpose of the educational benefit was to allow veterans or to assist veterans in completing their educational objectives after their federal benefits had expired. Placing a five-year limit on that was consistent with the intention of the law and without such requirements, administration of the program would be difficult.

32. DVA 202 is necessary and reasonable to inform persons dealing with the Department that the Department will provide information referrals and liaison to the Veterans Administration. The rule implements Minn. Stat. § 196.05(6) which requires the Commissioner to cooperate with all national, state, county, municipal and private social agencies in securing to veterans and their dependents the benefits provided by such agencies.

33. DVA 203 is reasonable and necessary to describe the use of veterans bonus records which the Commissioner is required to keep under Minn. Stat. § 196.05(2). Because of a fire in the Federal Records Center in 1973, the state bonus records are now the only method by which many veterans can document their service. The rule reasonably provides for the release of information from the files to the veteran or to others in such cases as the Commissioner approves when it is clearly to the benefit of the veteran. Such cases typically arise when the veteran is deceased and dependents are attempting to secure certain benefits from either state or federal agencies.

34. DVA 300 describes the operation of the claims division of the Department which is charged with the responsibility of

carrying out the Department's duty to aid veterans in securing benefits provided by the federal government. Those parts of the rule that describe the availability of the service and the persons or organizations who may use the service are reasonable and necessary. However, those parts of the rule that describe only internal management are not necessary. Thus, the introductory paragraph to DVA 300 should be deleted and DVA 300 A should be rewritten to provide that the Department, through its accredited claims representatives, shall present claims and appear on behalf of veterans' survivors or dependents before the Veterans Administration. A request was made at the hearing that the claims division be made responsible for advising County Veterans Service Officers of changes in Veterans Administration forms and procedures. The Department quite reasonably responded that such responsibility was covered in DVA 400. Though the actual source of the information may, in fact, be the claims division, such is really a matter of internal management and need not appear in the rules.

35. DVA 400 describes the services of the Department which are provided through the Field Service Division and is reasonable and necessary to describe those functions. However, as with prior rules, the introductory paragraph relates only to internal management and is not necessary. It should be deleted.

36. DVA 400 A. is necessary to make it clear that the Department will provide services outside of the state in Fargo, North Dakota, to those veterans within the state who are serviced by the Veterans Administration Center at Fargo. Full service to the veterans in northwestern Minnesota could not be provided unless the Department did operate in this limited situation outside of the State.

37. DVA 400 B. is necessary to describe the services provided by the Department in the Duluth area. The area is unique because the Department has a branch office located in Duluth.

38. DVA 400 C, D & E are necessary and reasonable to describe the Department functions of instructing and advising County Veterans Services Officers in methods and procedures. In response

to comments at the hearing, DVA 400 C. was amended to make it clear that the Department shall inform County Veterans Service Officers of changes in Veterans Administration forms and procedures. The provision is reasonable to insure that County Veterans Service Officers can adequately perform their duties.

39. Sections D and E of DVA 400 are reasonable and necessary in further defining what the Department shall do in assisting County Veterans Service Officers and insuring their competence.

40. DVA 401 simply states that the Field Service Division shall administer the provisions of the Veterans Preference Act. The provision is reasonable and necessary to inform County Veterans Service Officers as to where to direct veterans preference questions and claims.

41. DVA 500 describes the financial and personnel functions of the Administrative Services Division of the Department. No testimony was given as to why this rule is necessary. The rule pertains strictly to internal management and should be deleted.

42. DVA 501 is reasonable and necessary to inform the public as to the guardianship function performed by the Administrative Services Division pursuant to Minn. Stat. § 196.05(8).

43. Chapter Six of the rules, Big Island Veterans Camp, is an entirely new set of rules. The camp was formerly under the control of the Big Island Board of Governors created by Minn. Stat. § 197.14 (1974). Laws 1976, Ch. 149, §§ 44 to 49, 61, 63 and 64 transferred all authority over the camp to the Commissioner and directed the Board to transfer title to the state effective May 1, 1976 at which time the Board would go out of existence. The constitutionality of the law, itself, was questioned at the hearing. Commissioner Green responded that he had asked for an Attorney General's opinion on the question. He further stated that the Board had not instituted any legal proceeding to prevent implementation of the law. It is clear to the Examiner that the Department must obey the law as adopted by the Legislature unless the law is declared unconstitutional by a court. The Attorney General can make no such declaration. Therefore, the Department must proceed to take control of the camp and adopt rules

for its operation as directed by Laws 1976, Ch. 149. If the law is subsequently declared invalid, Chapter Six of these rules will also be invalid. No objection to the rules, themselves, except as relates to the issue above was made.

44. DVA 600 is a restatement of the statute defining the authority of the Commissioner. It is reasonable to set forth this authority as set forth here to show that the service is provided by the Department, especially in light of the change in the law. One provision of the rule is not in the law; it states that employees will be temporary seasonal employees. This provision is reasonable since the camp only operates in the summer.

45. DVA 601 is reasonable and necessary to clarify and explain admission policies and procedures. The rule was copied from the existing policy of the Board of Governors.

46. DVA 602 is reasonable and necessary to allow determination of user fees and to make it clear that needy veterans may attend the camp free. The rule is vague in that "need" is not defined. However, as with prior rules, deleting the rule would take away this necessary option. The Department should consider amending the rule at a future date to remove the ambiguity.

47. DVA 603 exceeds the authority of the Commissioner in that it attempts to control rather specifically the operations of the Veterans Advisory Committee. Further, the rule is not necessary because the statute requires the Committee to advise the Commissioner on matters relating to the camp, and no purpose of informing the public of Department services is accomplished. The rule should be deleted.

48. Chapter Seven of the rules, Minnesota Veterans Home, is a list of the authorities and responsibilities delegateddand assigned to the Administrator of the Home. It was adopted from the Delegation of Authority form used by the Commissioner of Public Welfare to delegate authority to administrators of state hospitals. It is essentially a job description and appears to be excellent for that purpose. However, the Examiner can find no necessity for adopting any of its provisions in rule form. Under Minn. Stat. § 198.06 (Supp. 1975),

". . . The commissioner shall determine policy and shall adopt and enforce rules for the government of the home and proper bylaws for the conduct of its business. The commissioner shall make rules not inconsistent with this chapter respecting the admission, maintenance, conduct and discharge of residents of the home, and the disbursements of funds under its control."

The rules proposed in Chapter Seven do none of these things.

In keeping with the theme of the entire set of rules, DVA 700 should be modified to state the availability of the Minnesota Veterans Home and the remainder of the Chapter should be deleted.

49. Chapter Eight of the Rules, County Veterans Service Officers, implements the provisions of Minn. Stat. §§ 197.60 through 197.606. Those sections state that any county board or two or more county boards operating by joint action may appoint a Veterans Service Officer and provide him with necessary equipment and supplies. It allows counties having a population of 150,000 or less to levy taxes in excess of statutory limitations to defray the expense of salaries and incidental expenses. The statutes make the County Veterans Service Officers employees of the county but places them under the general supervision of the Commissioner of Veterans Affairs as to methods of operation. Minn. Stat. § 197.605, subd. 3, states:

"The commissioner of veterans affairs shall have authority to prescribe such rules or regulations as are necessary for compliance with this section and the efficient, uniform administration of sections 197.60 to 197.606. Such rules or regulations shall not apply to the appointment, tenure, compensation or working conditions of the veterans service officer appointed under sections 197.60 to 197.606."

Comments received by the Department during hearings conducted during the preparation of the rule, and comments received by the Examiner, indicate a wide divergence of opinion on how much authority should be exercised by the Department. At least one county board and CVSO felt that the Department should exercise no authority and leave the operation of the service officer to the county. At the other extreme, some counties would prefer to be relieved of the responsibility of discipline of CVSOs and requested that that function be handled by the Department. The rules proposed in Chapter Eight are necessary to implement the

statutory duty of the Commissioner of Veterans Affairs to exercise general supervision of the CVSOs.

50. DVA 800 is a statement of the authority of the Department and of the county boards as specified in the statute. The rule was modified at the hearing to make it conform more precisely with the statute. Section A of DVA 800 restates the duties of the County Veterans Service Officers as stated in Minn. Stat. § 197.603, and states some additional duties that are clearly part of providing service to veterans within the counties.

Comments from Becker County personnel indicated that all the duties should be phrased using the word "may" rather than "shall". Such a provision would be contrary to the statute that requires a CVSO, if one is appointed, to provide service to the veterans and also to the requirement placed upon the Commissioner to provide general supervision over the operation of the CVSOs.

Becker County also requested that the rules provide immunity for CVSOs from violations of federal and state privacy acts. The power to do so is clearly beyond the authority of the Department of Veterans Affairs. Those acts prescribe the responsibilities of public officials. The understandable apprehension of the Becker County personnel is remedied somewhat by the provision in the rule that allows questionable requests for information to be referred to the Commissioner.

Section D of DVA 800 provides an activity report shall be submitted monthly to the Department, of which a copy may be submitted to the Board of County Commissioners. It also requires an annual report to the Board of County Commissioners with a copy filed with the Commissioner. No objection was made to the requirement of the annual report.

Becker County requested that the monthly report be made permissive and requested that a provision be added that ". . . such report may not necessarily be 100% accurate in its content." That comment is without merit.

51. DVA 801 attempts to impose minimum requirements for services provided by counties that elect to have veterans service

officers. It appears to the Examiner that the rule exceeds the authority of the Commissioner. Minn. Stat. § 197.60, subd. 1, makes the employment of a service officer and furnishing of necessary expenses permissive upon the counties. As the rule is written, it makes provision of certain services and sufficient budget mandatory. It is, therefore, beyond the provision of the statute and thus unreasonable.

Only two counties indicated that they could not, or would not,comply with the rules as proposed. St. Louis County indicated that it could not be sure of full compliance because of budget limitations. Becker County felt that its powers were being usurped by the Department. The Examiner agrees in this case. However, a rule is necessary to provide guidelines to the counties as to what minimum services should be provided, and therefore, the rule, rewritten in permissive language, should be adopted.

52. DVA 802 states that county service officers shall meet the requirements stated in Minn. Stat. § 197.601. It states that the Department will assist the county board or CVSO in determining whether new service officers or assistants meet the qualifications of the statute. The rule is necessary and reasonable to make the availability of that service known to the counties.

53. DVA 802 B makes it a duty of the CVSO to be familiar with certain Veterans Administration regulations. The rule is reasonable and necessary, but is more properly a part of DVA 800 which prescribes other CVSO duties. It should be deleted from DVA 802 and made a part of DVA 800.

54. DVA 803 is reasonable and necessary to allow the Commissioner to have input into disciplinary actions related to CVSOs while at the same time retaining control of such actions in the hands of the county board of commissioners. Becker County requested that the rule make it absolutely clear that the county board shall maintain control. The Examiner believes such provision is reasonable and should be added to the rule.

CONCLUSIONS

1. Due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Veterans Affairs. All other substantive and procedural requirements of statute or rule have been fulfilled.

2. The Department has demonstrated its statutory authority to adopt the proposed rules with the exceptions noted in the Findings above.

3. The Department has, by an affirmative presentation of facts, demonstrated the need for and reasonableness of its proposed rules with the exceptions noted in the Findings above.

RECOMMENDATION

The Hearing Examiner recommends that the Department of Veterans Affairs adopt the proposed rules with the modifications shown in the attached exhibit. The modifications are based on the foregoing Findings and Conclusions and also include some non-substantial, grammatical, numbering and clarity changes not noted above.

Dated this 8th day of September, 1976.

STEVE M. MIHALCHICK
Hearing Examiner

NOTICE

PLEASE TAKE NOTICE that pursuant to Minn. Stat. §§ 15.0412, subd. 4, and 15.052, subd. 4 (Supp. 1975), the Department shall make this Report available to all affected individuals upon request for at least ten (10) days before the Agency takes any final action on the proposed rules.

The Department shall, if it decides to adopt the rules as originally proposed or amended, submit the complete hearing record to the Chief Hearing Examiner no earlier than ten (10) days subsequent to the receipt of this Report. The Department must submit the rules as originally proposed and the rules as proposed for adoption in final form.

The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issue of substantial changes in the rules within ten (10) calendar days. The Department is then responsible for filing the rules with the Attorney General.