

CHAPTER 9050
MINNESOTA VETERANS HOMES
BOARD OF DIRECTORS
VETERANS HOMES

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9050.0040 DEFINITIONS.

[For text of subps 1 to 5, see M.R.]

Subp 5a **Admissions committee.** “Admissions committee” means the committee appointed by the administrator to review admissions

[For text of subps 6 to 11, see M.R.]

Subp 11a. **Basic financial information.** “Basic financial information” means the financial information requested on the Minnesota veterans homes admission application.

Subp 12. **Basic needs.** “Basic needs” means food, clothing, shelter, utilities, personal hygiene items, and other subsistence items, as referenced in part 9050 0750, subpart 2

[For text of subps 13 to 20, see M.R.]

Subp. 21. **Care plan review.** “Care plan review” means an assessment of a resident’s physical and mental condition and treatment needs by the care plan team. Care plan review includes

[For text of items A to D, see M.R.]

E a review and appropriate revision of the treatment and care recommendations of the multidisciplinary staff

[For text of subps 22 to 26, see M.R.]

Subp 26a. **Child allowance.** “Child allowance” means the amount necessary to provide the basic needs of a dependent child including clothing, food, and education.

[For text of subps 27 to 30, see M.R.]

Subp. 31 **Dependent.** “Dependent” means an individual whom a person is entitled to claim as a dependent on the Minnesota or United States income tax return. An individual may not be claimed as a full unallocated dependent by more than one person. When two or more persons are entitled to claim the dependent, the dependent must be allocated equally among the persons unless the persons choose another allocation.

A “dependent” must be an unmarried person who is.

A. either living with or receiving support contributions from the applicant or resident,

B a child by birth, a stepchild, an adopted child, or a child for whom the applicant or resident has been appointed legal guardian; and

C. under 18 years of age or over 18 years of age and incapable of self-support because of physical or mental disability. A child who reaches the age of 18 while still

enrolled in high school or its equivalent is considered a dependent child until the dependent is no longer enrolled in the school.

Unless specifically noted otherwise, “children” means more than one dependent child

[For text of subps 32 to 37, see MR]

Subp 38. **Educational expenses.** “Educational expenses” means the actual amounts paid for a nonskilled resident or dependent child’s tuition, mandatory fees, transportation to and from school, supplies and equipment required for coursework, and child care while the person is in school or in transit. For a nonskilled resident to be eligible for educational expenses, the educational program must be part of the resident’s approved care plan. If there is a dispute over whether or not an item is an educational expense, the administrator shall make a final determination on the issue.

[For text of subps 39 and 40, see MR]

Subp 40a. **Expenses.** “Expenses” means basic subsistence expenses, including current expenses for the following

- A. rent or mortgage for primary residence,
- B. vehicle payment for one vehicle;
- C. food for the resident’s spouse or dependents,
- D. education for the applicant or resident’s dependents as limited by subpart 58a,
- E. court-ordered payments for the applicant or resident’s spouse or dependents, such as spousal maintenance and child support, and
- F. the average monthly expenses during the past year for the following
 - (1) utilities and insurance for the primary residence,
 - (2) out-of-pocket medical care costs not otherwise covered by insurance for the applicant or resident spouse and dependents for medical assistance spend down,
 - (3) taxes paid on income or personal property; and
 - (4) spousal or dependent basic or personal needs as defined by subparts 12 and 115a respectively.

Subp 41. **Goal.** “Goal” means the desired medical alleviation or behavioral outcome of an activity that can be observed and reliably measured by two or more multidisciplinary team members

[For text of subps 42 to 53, see MR]

Subp. 54 **Income.** “Income” means cash or in kind benefits, whether earned or unearned, received by or available to an individual and not established as property under part 9050 0700, subpart 1, and any other income not otherwise defined as earned or unearned income.

[For text of subps 55 to 57, see MR]

Subp 58 **Individual care plan.** “Individual care plan” means a written plan developed for implementing and coordinating a resident’s care and treatment that is developed and maintained by the multidisciplinary staff on the basis of assessment results for each resident. The purpose of the individual care plan is to integrate care, identify and meet the service and care needs of the resident, set treatment goals and objectives, identify outcomes or resolution of treatment for the resident, and identify responsibilities of the multidisciplinary staff for the resident’s care and treatment

Subp. 58a **Initial admission.** “Initial admission” means the first time an individual is admitted for residency at any of the Minnesota veterans homes (MVH) facilities for services such as skilled care or domiciliary care. If a resident is admitted to a MVH facility within one calendar year of being discharged from the same or another MVH facility, the admission to the first facility is the resident’s “initial admission” for the purposes of residency at both facilities.

[For text of subps 59 to 61, see MR]

Subp 62 **Level of care.** "Level of care" means the licensure level of the board-operated facility in which a resident lives and is assigned an appropriate bed through the use of a patient classification system.

[For text of subps 63 to 79, see MR.]

Subp 80 **Multidisciplinary staff.** "Multidisciplinary staff" means the health care professionals and mental health practitioners and mental health professionals employed by or under contract to the board to provide clinical and evaluative services in the treatment of conditions of the residents

[For text of subps 81 to 87, see MR]

Subp. 88a **Patient.** "Patient" means a resident.

[For text of subps 89 and 90, see MR.]

Subp 90a. **Personal needs.** "Personal needs" means items upon which the resident, spouse, or dependent child makes a personal choice about whether or not to spend money.

[For text of subps 91 to 98, see MR]

Subp 100 **Reporting year.** "Reporting year" means the period from March 1 to the last day of February immediately preceding the rate year, for which the nursing home or boarding care home calculates its costs, and which is the basis for the determination of the cost of care for the following rate year

[For text of subp 101, see MR]

Subp 102. **Reserved bed.** "Reserved bed" means a bed that has been held at the request of an applicant approved for admission, prior to admission to a facility under part 9050.0055, subpart 4.

[For text of subps 103 to 106, see MR]

Subp 106a **Spousal allowance.** "Spousal allowance" means the amount necessary to meet the basic needs of the dependent spouse or household that is deducted from the resident's gross monthly income.

[For text of subps 107 to 112, see MR]

Subp 113 **Unearned income.** "Unearned income" means any form of gross income that does not meet the definition of earned income. Unearned income includes an annuity, retirement, pension, or disability benefit, including veteran's or worker's compensation, social security disability, railroad retirement benefits, unemployment compensation, or black lung payments, benefits under a federally funded or state-funded categorical assistance program including supplemental security income, or other assistance programs, tort settlement payments, court-mandated payments, inheritance amounts, gifts, rents, dividends, interest and royalties, support and maintenance payments, pension payments, return on capital investment, insurance payments or settlements, severance payments, employment benefits, and rewards for past employment; and educational grants, deferred payment loans, and scholarships. Unearned income must be calculated according to part 9050 0710, subpart 5

[For text of subps 114 and 115, see MR]

Subp 115a **Utilization review committee.** "Utilization review committee" means the committee appointed by the administrator to conduct utilization reviews.

[For text of subps 116 to 120, see MR]

Statutory Authority: *MS s 198 003*

History: *28 SR 1251*

9050.0055 ADMISSIONS PROCESS, WAITING LIST, PRIORITY.

Subpart 1 **Process.** A person seeking admission to a board-operated facility may obtain an application form and information describing the required application procedures from the facility. The social services staff of the board-operated facility shall assist the person to complete the application form and process. When an application is

requested, the staff shall provide a checklist of items requiring documentation, information, or verification to complete the application

Subp. 1a **Preadmission screening.** The staff of the board-operated facility shall conduct a preadmission screening of applicants, similar to that prescribed in Minnesota Statutes, section 256B.0911, in order to determine whether the person meets the general eligibility requirements in part 9050.0050. If these requirements are met, an applicant's name and application file must be referred to the admissions committee or be placed on the waiting list for the particular facility as specified in subpart 3

Subp. 1b **Admission application.** Prior to admission, the staff shall obtain the following information about an applicant. Any deviation from these procedures must be approved by the administrator. If the procedures are deviated from, the administrator must obtain information that is equivalent to the following items.

[For text of items A to D, see MR.]

E. information from the applicant's previous or current placements about the applicant's compliance with the applicant's medical treatment plan or individual treatment or care plan,

F. Bureau of Criminal Apprehension reports or criminal background information or reports, as appropriate, and

G. basic financial information on the applicant and the applicant's spouse and dependents. The data is limited to the information requested on the Minnesota veterans homes admission application. The financial information must not be used to determine eligibility for admission to the facility

The appropriate clinical staff shall interview the applicant or the applicant's legal representative, if any, and the applicant's family members with the applicant's consent, and shall review the application for admission

The staff of the board-operated facility shall keep a checklist on which to record the date of receipt of information for the person's application file.

[For text of subp 2, see MR.]

Subp. 3 **Waiting lists.** Each board-operated facility shall maintain an active waiting list and an inactive waiting list to determine the admission priority of applicants. The active waiting list is for applicants desiring the first available bed at the level of care appropriate to the applicant's needs. The inactive waiting list is for those applicants who do not currently want to exercise their option for admission, or who have not yet met the established criteria for admission

If an eligible applicant cannot be considered for admission to a board-operated facility with an appropriate level of care due to unavailability of a bed, the applicant must be placed on either an active or inactive waiting list according to preference. An applicant shall indicate preference for the active or inactive waiting list on the application form. As part of the preadmission screening, the applicant's indicated preference for the waiting lists must be reviewed and amended if appropriate. An applicant may request movement from one waiting list to another at any time, unless the request is precluded by subpart 5. An applicant requesting movement from one waiting list to another must be placed at the bottom of the waiting list to which movement was requested. The applicant's position on the waiting list is determined by the date on which the application form is received.

Subp. 4 **Priority.** If it is determined by the utilization review committee that a current resident needs a level of care not offered at the board-operated facility where the resident is staying, the current resident has priority for consideration for admission to other board-operated facilities at an appropriate level of care if they meet the criteria for that level of care and a bed is available. A person who is discharged for failure to meet bed hold criteria in part 9050.0150, subpart 2 or 3, has priority for consideration for admission to a board-operated facility at an appropriate level of care if the person meets the criteria for that level of care and a bed is available. A person on the active waiting list must be considered for admission and, if approved by the admissions committee, offered a bed consistent with the person's position on the active

waiting list and the patient classification system and level of care needs as determined by the admissions committee. A person offered admission has three working days to consider the offer. If the person declines the offer of admission, the person's name must be put on the bottom of the active waiting list, unless the person requests removal from the active waiting list or transfer to the inactive waiting list. If the person fails to respond to the offer of admission within three working days from the date the offer is made, the person's application file must be closed and the person's name removed from all waiting lists. A person whose name is removed from all waiting lists for failure to respond to an offer for admission must reapply.

A bed must be held without charge for an approved applicant for up to three working days from the date of acceptance of the offer of admission. The bed may be held open for an additional period of time at the discretion of the administrator. A bed held under this subpart is a reserved bed.

[For text of subp 5, see MR]

Subp. 6. Initial financial status review. The facility financial staff shall evaluate the financial status of a person who has either been approved for admission or who is anticipated to be within 60 days of reaching the top of the waiting list. The purpose of the initial financial status review is to determine the person's ability to pay toward the cost of care and to calculate the person's maintenance charge. The financial status review must be conducted according to parts 9050.0800 to 9050.0900. The maintenance charge calculation must be according to part 9050.0560.

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

9050.0070 TYPES OF ADMISSIONS.

[For text of subps 1 and 2, see MR]

Subp 3. Criteria for admission to and continued stay in a boarding care facility. The decision about admission to or continued stay in a board-operated facility licensed to provide boarding care must be based on the facility's ability to meet the care needs of the applicant or resident. A person whose care needs can be met by the board-operated facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee or utilization review committee determines the person meets the criteria in items A to N. A person whose care needs cannot be met must be denied admission or continued stay if the admissions committee or utilization review committee determines the person does not meet the criteria in items A to N.

A. The person must have or be assigned to an appropriate bed through the use of a patient classification system.

[For text of items B to N, see MR]

Subp 4. Criteria for admission to and continued stay in a nursing home facility. The decision about admission or continued stay in a board-operated facility licensed as a nursing home must be based on the facility's ability to meet the care needs of the person. A person whose care needs can be met by the facility must be admitted, placed on the waiting list, or retained as a resident if the admissions committee or utilization review committee determines that the person meets all of the criteria in items A to G. A person whose care needs cannot be met must not be admitted or retained as a resident if the admissions committee determines the person fails to meet all of the criteria in items A to G.

A. The person must have or be assigned to an appropriate bed through a patient classification system.

[For text of items B to G, see MR]

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

9050.0150 BED HOLD.*[For text of subps 1 to 5, see MR]*

Subp. 6. [Repealed, 28 SR 1251]

*[For text of subp 7, see M.R.]***Statutory Authority:** *MS s 198 003***History:** *28 SR 1251***9050.0200 DISCHARGE.***[For text of subps 1 and 2, see MR]*

Subp 3 **Grounds for discharge.** Discharge procedures must be instituted with regard to a resident if one of the following grounds or circumstances exist

[For text of items A to F, see MR]

G the resident or resident's legal representative:

(1) falsifies or incorrectly represents information on income disclosure and verification forms required in parts 9050 0800 to 9050.0900;

(2) refuses to provide information or releases, or

(3) falsifies or incorrectly represents information relating to criteria in part 9050 0070, subpart 3 or 4

*[For text of subp 4, see MR]*Subp 5 **Contents of notice.** The notice must*[For text of items A to C, see MR]*

D state that the resident has the right to appeal the discharge and a description of the appeal procedures

If the involuntary discharge is immediate, the resident must be provided with a written notice of discharge and information regarding how to appeal the discharge. Any reconsideration hearing may be conducted via telephone if the resident requests it or the parties mutually decide it would be advisable. If a telephone reconsideration hearing is held, the parties must document the resident's consent for the telephone hearing and why the hearing was held via the telephone.

If the resident is to be discharged under subpart 3, item F, a notice of involuntary discharge must be sent to the resident's address, if it is known, or to the resident's last known address and to the address of a person listed by the resident as the person to be contacted during an emergency. The notice of discharge must be signed by the administrator or administrator's designee and sent by certified mail within five working days, following the determination that the resident is absent without notice

Subp 6 [Repealed, 28 SR 1251]

Statutory Authority: *MS s 198 003***History:** *28 SR 1251***9050.0220 INVOLUNTARY DISCHARGE PROCEDURES.***[For text of subpart 1, see MR]*

Subp 2. **Notice, review of recommendation.** A notice for involuntary discharge must be issued by the administrator of the board-operated facility or administrator's designee if, after review of the recommendations and documentation from the utilization review committee or finance department, the administrator agrees with the recommendations

Subp. 3 **Reconsideration.** A resident or the resident's legal representative may request a reconsideration of the notice of involuntary discharge. The request must be made in writing within ten days of receipt of the notice of involuntary discharge. Reconsideration must be before the administrator of the board-operated facility under the procedures in subpart 4. The resident may waive the reconsideration hearing and the resident may proceed directly to an appeal. The appeal must be made in writing

within ten days of receipt of the notice of involuntary discharge Any such appeal must otherwise follow the procedures in subpart 6

[For text of subp 4, see MR]

Subp 5 Administrator's decision and order. The administrator, within ten days after the reconsideration proceeding and on review of the record, shall review the question of discharge and issue an administrator's order supporting or reversing the involuntary discharge notice and state the reasons for the involuntary discharge.

Subp. 6. Appeals process. A resident or the resident's legal representative may appeal an administrator's discharge or transfer order A resident or the resident's legal representative has ten working days after issuance of the administrator's discharge or transfer order to request an administrative appeal

If a resident is voluntarily or involuntarily discharged from a facility while an appeal is pending and fails to notify the administrator in writing as to whether or not the appeal is to continue, the steps in items A to D must be taken

A The appeal must be placed on hold

B. The administrator shall send the resident a written notice via certified mail to the resident's forwarding address informing the resident that if no written response is received within 30 days of the date of the letter, the appeal must be dismissed. If the resident wishes the appeal to proceed, the resident must notify the administrator in writing.

C. If the resident has left no forwarding address, the facility shall document its good faith efforts to attempt to locate the resident

D. If the resident fails to respond to the certified letter or cannot be located despite good faith efforts, the appeal must be dismissed 30 days after the certified letter has been sent or the location efforts were commenced If the resident notifies the facility of a desire to continue with the appeal, the appeal hearing must be scheduled as soon as feasible for all parties.

Appeals must be in accordance with contested case procedures under the Administrative Procedure Act, Minnesota Statutes, section 14 48 et seq, until rules are adopted under Minnesota Statutes, section 144A 135, by the commissioner of health Once the rules adopted under Minnesota Statutes, section 144A 135, have taken effect, all appeals must be in accordance with those rules. The administrator shall inform the resident of the rules that govern the appeal in the notice provided under part 9050.0100, subpart 2, or 9050.0200, subpart 4. The final discharge order shall be issued by the executive director of the Veterans Homes Board, after review of the entire record including the recommendations of the administrative law judge A final discharge order issued by the executive director of the Veterans Homes Board following the Office of Administrative Hearings' review remains in effect pending judicial review under Minnesota Statutes, section 14 63, et seq. Notwithstanding this provision, the administrator may, for good cause shown, waive imposition of the discharge order until all appeals have been concluded

Nothing in this part may be construed to limit, change, or restrict other appeal or review procedures available to a resident under law.

Statutory Authority: *MS s 198 003*

History: *28 SR 1251*

9050.0230 ENFORCEMENT OF FINAL DISCHARGE ORDER.

A final discharge order is the order issued by the executive director of the Veterans Homes Board following review of the administrator's discharge order under Minnesota Statutes, chapter 14, or the discharge order issued by the administrator of a board-operated facility if no review was requested. A final discharge order is the final agency decision When a resident refuses to comply with the terms of a final discharge order issued following review under Minnesota Statutes, chapter 14, and the final agency decision, the administrator may seek enforcement of the final discharge order by applying to the district court for an order enforcing the discharge order Pursuant to

Minnesota Statutes, section 198 045, the district court may order the sheriff of the county in which the board-operated facility is located to remove the resident from the board-operated facility and authorize the administrator to remove the resident's property and hold it until it can be returned to the former resident. Upon issuance of the court order, the procedures in part 9050 0210 regarding voluntary discharge must be followed, to the extent possible, to effect the discharge.

Statutory Authority: *MS s 198 003*

History: 28 SR 1251

9050.0400 UTILIZATION REVIEW COMMITTEE.

[For text of subpart 1, see M.R.]

Subp 2 **Composition.** The utilization review committee consists of one physician and at least one of each of the following professionals: a registered nurse, the administrator or the administrator's designee, a social worker, and a medical records technician, who shall not participate in a voting capacity. Additional committee members may include any of the following staff members as indicated by the diagnosis or diagnoses of the resident to be reviewed: a chemical dependency counselor, a mental health practitioner or mental health professional, or a dietitian. The administrator or the administrator's designee, one other committee member, and at least one physician must be in attendance to hold a meeting and to take action.

[For text of subps 3 and 4, see M.R.]

Statutory Authority: *MS s 198 003*

History: 28 SR 1251

9050.0500 COST OF CARE; BASIS FOR MAINTENANCE CHARGE; BILLING.

[For text of subps 1 and 2, see M.R.]

Subp 3. **Method of calculating average daily per resident cost of care.** The cost of care for a nursing home or boarding care home must be calculated as follows:

A. total the direct costs for a particular campus or board-operated facility for a reporting year,

B. divide item A by the number of days in the reporting year,

[For text of items C and D, see M.R.]

E. divide item D by the number of days in the reporting year,

[For text of items F and G, see M.R.]

[For text of subps 4 to 6, see M.R.]

Statutory Authority: *MS s 198 003*

History: 28 SR 1251

9050.0550 MAINTENANCE CHARGE; RESOURCES CONSIDERED.

[For text of subps 1 to 3, see M.R.]

Subp. 4 **Chargeable income.** The applicant's or resident's chargeable income is the income remaining after deductions from gross income have been made according to part 9050.0720 and after deductions from net income have been made according to part 9050.0755. The applicant's or resident's entire chargeable income must be considered available to pay the cost of care. If an applicant or resident qualifies for governmental benefits or reimbursements or other benefits, the benefits must be included as income in determining the maintenance charge payable by or on behalf of a resident, unless an assignment of benefits naming the board-operated facility as representative payee has been executed in favor of the board-operated facility. Residents not paying the maximum maintenance fee who receive retroactive increases in income must have their maintenance fee recalculated and the part of the increase owed to the home must be paid. The maintenance fee must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident. If the applicant or resident has applied for government benefits and is awarded a retroactive lump sum amount after admission to a facility, but the retroactive lump sum is not

received by the resident prior to death or discharge, the maintenance charge must be recalculated for the period of the resident's stay that coincides with the period for retroactive payment of income to the resident

[For text of subp 5, see MR]

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

9050.0560 MAINTENANCE CHARGE DETERMINATION; TIME AND CALCULATION METHOD.

Subpart 1 **Time of determination.** The amount of the maintenance charge must be determined if.

A. a person is admitted to a board-operated facility and at least annually after admission;

B. there is a substantial change in the applicant's or resident's financial status or the financial status of the spouse of the applicant or resident;

C. a change in the applicant's or resident's living status requires recalculation of the benefits provided by the United States Department of Veterans Affairs or other source,

D. the resident is transferred from one level of care to another for 30 days or more, and

E. the resident is being discharged

For purposes of the subpart, "substantial change" in financial status means a change that increases the person's net worth above the \$3,000 limit or a plus or minus ten percent change in the person's total monthly expenses or income. An expense that would constitute a substantial change includes a major vehicle expense, major medical or dental expenses not covered by insurance, major home repair not covered by homeowner's insurance, or major appliance failure that requires repair or replacement. A substantial change must be reported to the facility financial officer ten days after the applicant or resident, legal representative, or spouse of the applicant or resident learns of the change. The administrator shall make the final determination of whether the change is a substantial change.

[For text of subp 2, see MR]

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

9050.0600 PROPERTY LIMITATIONS.

[For text of subpart 1, see MR]

Subp 2. **Real property limitations.** Real property owned by an applicant or resident must be excluded from consideration as an available resource, subject to the limitations in items A and B

[For text of items A to D, see MR.]

E. Real property that is not salable must be excluded. If the property is an asset that must be liquidated for the resident or applicant to meet the financial needs established by the maintenance charge calculations, the property must be sold within six months of the determination of financial need or within six months of the date of initial admission, whichever is later, unless the property is not salable. For purposes of this item, "not salable" means.

(1) two neutral licensed professionals agree that the property is not salable due to a specified condition, if the nonsalable condition is due to an action taken by the applicant or resident within the 12 months prior to the initial admission, there is a presumption that the action was an improper transfer pursuant to part 9050.0650, subpart 3, and is subject to the considerations listed in that subpart, or

(2) an actual good faith sale attempt was made at a price not more than an estimate of the highest current market value obtained within six months of

application for admission or since the last determination of the maintenance charge, but no offer to purchase was received. The market value price estimate must be based upon the written estimates from two licensed real estate professionals. If a purchase offer at the lowest professional market value price estimate was received but was rejected by the seller, it is presumed that the failure to sell the property was due to an improper action on the part of the seller. The lowest market price estimate must be the figure taken into account in determining the resident's maintenance charge or the spousal allowance.

For purposes of subitems (1) and (2), the source of information must be from the same geographic area as the property and knowledgeable about the value of the type of property offered for sale. For purposes of subitem (2), "an actual sale attempt" means the individual has listed the property with a licensed real estate broker or salesperson or, if the property is offered for sale by the owner, the owner has affixed to the property a prominently posted, conspicuous sign that is readable from the road or driveway entrance. The sign must include in large, legible type a notice of the sale and the address or phone number of the owner. The owner must prominently advertise the property for sale in the official newspaper of the county, the newspaper of largest circulation in the county, or the local shopper. The minimum period of an actual sale attempt is 90 consecutive days. If a property has been determined to be nonsalable, the owner of the property must offer it for sale again or establish it is still nonsalable within two years after the date of the last determination of nonsalability.

F. Other real property must be excluded if required by federal law, federal regulations, or state law.

Subp 3 **Other property limitations.** The facility financial staff shall exclude the value of the following personal property.

A. one motor vehicle, for personal use. The motor vehicle must be kept for the primary use of the resident, spouse, or dependent child. The person for whom the vehicle is intended must have a valid driver's license. The administrator has discretionary authority to permit a waiver on the driver's license requirement,

B. the value of a prepaid burial account, burial plan, burial contract, or burial trust up to an amount set by the board or the entire amount of an investment made prior to the date of initial admission, whichever is greater. The board shall establish and annually review the items categorized under "burial account," "burial plan," "burial contract," and "burial trust" and establish maximum value allowance limits on those items. The allowance set by the board for total burial and funeral costs must not be below \$5,000,

[For text of items C and D, see MR]

E. the value of personal property needed to produce income for a business or farm, including tools, implements, farm animals and inventory, or capital and operating assets of a trade or business necessary to income production, and if the property is sold, the proceeds must be treated as lump sum payments, and

F. other personal property specifically excluded by federal law, federal regulation, or state law.

[For text of subp 4, see MR]

Statutory Authority: *MS s 198 003*

History: *28 SR 1251*

NOTE: The amendments to subpart 3, item A, are effective for residents admitted to a Veterans Homes Board facility after April 19, 2004. The amendments to subpart 3, item B, are effective for each resident's next annual maintenance charge review following April 19, 2004.

9050.0650 TRANSFERS OF PROPERTY.

[For text of subps 1 and 2, see MR]

Subp 3. **Incorrect transfers.** A transfer or sale of property for less than market value within 12 months before admission or during the resident's stay in a board-operated facility, unless permitted under subpart 2, is presumed to be for the purpose of establishing or maintaining eligibility for admission to or continued residence in a

board-operated facility or to avoid payment of the maintenance charge, unless the person furnishes convincing evidence to show that the transfer was for another purpose. Convincing evidence must include evidence that the person had no health or economic reasons to believe that nursing home or boarding care would be needed. Upon discovery of an incorrect transfer, a retroactive adjustment must be made in the maintenance charge assessed to the resident. If the property that was incorrectly transferred was in the resident's name, the maintenance charge must be increased to the full cost of care until the facility has been paid the value of the property that was incorrectly transferred in addition to the maintenance charge that would have otherwise been received. If the property that was incorrectly transferred was in the spouse's name only, the spousal allowance must be eliminated for the number of months which, when multiplied by the amount of the spousal allowance that would have been granted but for the incorrect transfer, equals the value of the property that was incorrectly transferred.

If a resident's maintenance charge or a spousal allowance is adjusted because of a transfer for less than fair market value, the resident, spouse, dependent, or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual's health or well-being. In evaluating a request for a waiver, the administrator shall take into account whether the individual was the victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship. If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be appealed to the executive director of the board. An appeal to the executive director must be handled in the same manner as a hearing under part 9050.0580.

[For text of subps 4 and 5, see MR]

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

9050.0710 CALCULATION OF GROSS INCOME.

Subpart 1. **Items included.** The facility financial staff shall calculate gross income by adding together the amounts of income from sources in subparts 1a to 6 plus any income defined in part 9050.0040, subpart 54, that is not otherwise included in the calculations.

Subp 1a. **Earned income.** Earned income is treated according to items A to C.

A Sick leave and vacation payments for earned or accrued leave time are earned income.

B Earned income received by persons employed on a contractual basis must be prorated over the period covered by the contract even when the payments are received over a lesser period of time.

C The earned income tax credit, whether received from an employer or from the federal government, is earned income. An applicant or resident or spouse of an applicant or resident who is eligible for the earned income tax credit is required to apply for it. An applicant or resident may choose to apply for the credit either when the applicant or resident files an income tax return for the year in which the applicant or resident was eligible or in advance through the applicant's or resident's employer. A tax refund received due to earnings from a work therapy program must not be considered a means of support.

[For text of subps 2 to 4, see MR]

Subp 5 **Unearned income.** Unearned income is treated according to items A and B.

A An amount must be deducted for costs necessary to secure payments of unearned income. These costs include legal fees, medical fees, and mandatory deductions such as federal and state income taxes.

B Payments for illness or disability, except those payments described as earned income in subpart 1a, item A, must be considered unearned income whether the premium payments are made wholly or in part by an employer or by an applicant or resident.

Subp. 6 **Lump sums.** A lump sum is considered an asset immediately upon receipt unless it is a contractual payment or retroactive payment of benefits. Rebates of federal taxes and state taxes are not considered a means of support

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

9050.0720 CALCULATION OF NET INCOME; DEDUCTIONS FROM INCOME.

[For text of subpart 1, see MR]

Subp 2. **Deductions from income of applicant or resident.** The facility financial staff shall deduct the expenses in this part and parts 9050.0730 and 9050.0740 from gross income to determine net income. Deductible items include:

[For text of items A to F, see MR]

G. health and dental insurance premiums, whether mandatory or voluntary, and supplemental health care premiums for the resident or applicant if cost effective,

[For text of items H to N, see M.R.]

O. payment of documented medical expenses not related to long-term care, incurred prior to the person's admission to the board-operated facility, for which the person is legally responsible. For the purposes of this item, long-term care expense or debt includes expenses incurred for nursing homes, hospice care, home health care, foster care, adult day care, or similar nonacute care, that were incurred more than 30 days prior to the resident's admission,

P. educational expenses actually paid by the person that are not covered by United States Department of Veterans Affairs educational expense benefits or other government or private scholarships, loans, or grants if there is demonstrated progress by the person towards completion of an educational program as part of the person's individual care plan. If there is a dispute over whether or not an item is an educational expense, the administrator shall make a final determination of the issue,

Q guardianship or conservatorship fees to the extent allowed by Minnesota law or by court order; and

R. cost of transportation related to employment. For the person who uses public transportation or takes part in a car pool, the facility financial staff shall deduct the fare or fee the person actually pays. For the person who uses a private motor vehicle, the facility financial staff shall deduct the amount per mile allowed on the most recent federal income tax return for actual miles driven for business purposes

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

NOTE The amendments to subpart 2, item O, are effective for residents admitted to a Veterans Homes Board facility after April 19, 2004

9050.0750 DEDUCTION FOR VOLUNTARY SUPPORT OF DEPENDENT SPOUSE OR HOUSEHOLD.

[For text of subpart 1, see MR]

Subp 1a **Eligibility of dependent spouse for spousal allowance.** A spouse being considered for a maintenance allowance must disclose any asset, income, or expense information that is requested at the time of application or admission, at the time the maintenance allowance is requested, or at any subsequent time the maintenance is adjusted.

Subp 1b **Board authority to establish, review, and revise spousal allowance basic needs and personal needs expenditures.** The board shall establish and annually review the items categorized under "basic needs" and "personal needs" and allowance limits on categories of expenses covered within those definitions. The board shall revise the allowances as necessary to reflect a reasonable sum for the average person. If the board does not take action to review the allowance, the allowance must be adjusted by multiplying it by the percentage of change of the Consumer Price Index (CPI) on the first day of each calendar year. The initial recommendations presented to the board by the executive director must be based upon a review of the actual allowances currently being used at each home, data from the Bureau of Labor Statistics, or a combination of the two. Future recommendations must be based upon the current allowances, requests for increased allowances that have been received by the homes, and data from the Bureau of Labor Statistics.

If a spouse believes that an allowance as based upon the allowance limits is insufficient to meet the spouse's needs, the spouse or a legal representative may submit a written request to the administrator for a waiver. The decision to grant or deny a waiver must be based on assets, income, or expense information provided under subpart 1a. The reasons for granting or denying the waiver must be put in writing and delivered to the spouse or the legal representative. If the waiver is granted, the administrator shall indicate the amount of the revised spousal allowance and the duration of the waiver. No waiver may be granted for more than one calendar year. A spouse may apply for an additional waiver upon the expiration of an existing waiver.

Subp 1c **Spousal benefit applications.** If a spouse or dependent wishes to obtain spousal allowance payments, the spouse, dependent, or legal representative must apply for the maximum of every benefit for which the spouse or dependent may be eligible that will increase the income of the spouse or dependent. The benefit must be applied for only if the spouse or dependent is eligible to receive the full amount of the benefit, without penalty for making the claim or withdrawal at that time. The board-operated facility staff shall provide a spouse, dependent, or legal representative information about possible available benefits or programs of assistance and shall assist in applying for those benefits.

Subp 2 **Determination of spouse's or dependent's monthly expenses.** The deduction for the basic needs of the dependent spouse or household is the sum of the following expenses, prorated on a monthly basis as they are incurred or can be estimated with reasonable certainty:

A. expenses related to the homestead as follows:

[For text of subitem (1), see MR]

(2) costs of supporting a dependent child or children residing with the spouse. Allowances for education of the child beyond high school or the equivalent of high school must not be considered. Student loans must not be considered as an allowance expense. If there is a dispute over whether or not an item is an education expense, the administrator shall make a final determination on the issue;

[For text of subitems (3) and (4), see MR]

(5) home maintenance and repair costs in a reasonable amount. Allowances are provided for home maintenance to keep the homestead presentable and in good working order. Allowances are not provided for improvements such as adding space or remodeling, except as necessary for handicapped access for the spouse or dependent,

[For text of subitems (6) to (10), see MR]

[For text of items B to D, see MR]

E. medical insurance for the spouse and the applicant's or resident's dependent child or children residing with the spouse and long-term care insurance premiums for the spouse if the policy was purchased at least 12 months before the resident's initial admission date;

F medical expense payments, except for expenses related to long-term care treatment For the purposes of this item, long-term care expense includes expenses incurred for nursing homes, hospice care, home health care, foster care, adult day care, or similar nonacute care,

G. personal needs of the spouse or dependent child or children,

H payments for documented consumer debts incurred before the resident's admission to a board-operated facility for which the spouse is legally responsible. The payments may be limited to the minimum monthly payment due; and

I support payments actually paid by the spouse to a former spouse or dependents who do not reside with the spouse

Subp 2a. **Resources excluded.** In determining a spouse's or household's available resources, the facility financial staff shall exclude from consideration the following

[For text of items A to C, see MR]

D the value of personal property used to produce business or farm income, including tools, implements, farm animals, and inventory, or capital and operating assets of a trade or business necessary to income production,

E. life insurance policies purchased prior to the date of initial admission for residency;

F. individual retirement accounts, Keogh accounts, or other pension or deferred compensation plan accounts,

G burial accounts, burial plans, burial contracts, or burial trusts,

H other personal property specifically excluded by federal law, federal regulation, or state law; and

I. savings accounts or other monetary investment instruments that are income producing

Subp 2b **Application of dependent spouse's or household's available resources.** If an applicant or resident, or the spouse of an applicant or resident, requests a deduction from the applicant's or resident's gross monthly income for support of a dependent spouse or household, the facility financial staff shall verify the available resources of the dependent spouse or household All resources listed in subpart 2a must be excluded for the purposes of determining availability of resources If the facility financial staff has verified that the dependent spouse or household has no resources available other than excluded resources, a deduction from the applicant's or resident's gross monthly income must be calculated according to subpart 3

Available resources must be calculated to include assets belonging to the spouse as of 12 months before the date of admission Asset transfers to the applicant are permissible Any action by a spouse within the 12 months before the initial admission for residency that defers income from an asset, limits the liquid value of an asset, or makes an asset unusable is presumed to be improper. If property or resources have been incorrectly transferred, the spousal allowance will be adjusted in accordance with part 9050.0650, subpart 3 Any asset transfer or sales after the date of initial admission by a spouse to anyone other than the resident is an incorrect transfer and part 9050.0650, subpart 3 applies, unless the proceeds of the transfer or sale are used by the spouse or dependent for normal living expenses.

If a maintenance charge or a spousal allowance is adjusted because of an incorrect transfer, the resident, spouse, or dependent or their legal representative may request from the administrator a waiver if the adjusted maintenance charge or spousal allowance will cause undue hardship resulting in an imminent threat to the individual's health and well-being In evaluating a waiver, the administrator shall take into account whether the individual was a victim of financial exploitation, whether the individual has made reasonable efforts to recover the transferred property or resource, and other factors relevant to a determination of hardship If the administrator does not approve a waiver, the administrator shall issue a written notice to the individual stating the reasons for the denial and the process for appealing the decision. The decision may be

appealed to the executive director. An appeal to the executive director must be handled in the same manner as a hearing under part 9050.0580.

Subp. 3 Calculation of amount of deduction. The facility financial staff shall calculate the amount to be deducted from the applicant's or resident's monthly income for support of a dependent spouse or household as follows:

A. calculate the spouse's gross monthly income using the method for calculation of the applicant's or resident's gross income in part 9050.0710, then subtract the following deductible items:

(1) state and federal income tax payments and withholdings consistent with the number of allowable exemptions,

(2) FICA payments,

(3) mandatory retirement fund payments,

(4) voluntary retirement fund payments. The payment amounts must not exceed the average of the monthly sums paid by the spouse during the 12 to 24 months prior to the resident's initial admission,

(5) actual reasonable unreimbursed expenses of child care necessary to earn an income and paid to anyone other than a parent of the child,

(6) union dues,

(7) professional association dues if they are required to obtain or retain employment,

(8) cost of uniforms, tools, and equipment used on the job that are required to retain a job but are not furnished by the employer;

(9) public liability insurance premiums if they are required by the employer when an automobile is used in employment and the premiums are not paid by the employer, and

(10) Medicare insurance payments,

[For text of items B to D, see MR.]

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

NOTE: The second and third paragraphs of subpart 2b, added at 28 SR 1251, are effective April 19, 2005.

9050.0800 FINANCIAL INFORMATION AND INTERVIEW.

Subpart 1 General conduct. An applicant or resident should be present at an interview held to determine the applicant's or resident's ability to pay or to obtain financial information from the applicant or resident. If the applicant or resident is unable to participate in the meeting, the person's legal representative or the secondary source of information in part 9050.0810, subpart 2, must be present. If the legal representative or secondary source of information attends the meeting instead of the applicant or resident, the reason that the resident or applicant was not personally present must be placed in the applicant's or resident's financial information file.

Subp. 1a. Disclosure of all assets, property, and income. Prior to admission and whenever the resident's maintenance charge or the spousal allowance is recalculated, the applicant or resident, spouse and dependent, if any, shall disclose all of their assets, property, and income and any change in the known valuation of those items.

Subp. 2 Rights, duties, and consequences of interview and providing information. Before conducting an applicant's or resident's interview to determine financial status or ability to pay, the facility financial staff shall provide the following information to the applicant or resident, spouse or dependent as applicable:

[For text of item A, see MR.]

B. inform the person that the requested information will be used to determine ability to pay and to calculate the resident's maintenance charge or the spousal allowance;

C. inform the person that financial information obtained from or about the applicant or resident, spouse or dependent may not be released without the person's written consent, except pursuant to Minnesota Statutes, chapter 13, to specific state and federal agencies including the Minnesota Department of Veterans Affairs, Legislative Auditor, and United States Department of Veterans Affairs;

[For text of item D, see MR]

E. inform the person that failure to supply the requested information must result in a determination that the person is able to pay the full cost of care and that if a person supplies false information the resident may be subject to discharge or the spousal allowance may be subject to a decrease or elimination;

[For text of items F to I, see MR.]

Statutory Authority: *MS s 198 003*

History: *28 SR 1251*

9050.0820 VERIFICATION OF FINANCIAL INFORMATION.

[For text of subps 1 and 2, see MR]

Subp. 3 **Time of verification.** The facility financial staff must request verification of the required information no earlier than 60 days before the applicant is anticipated to reach the top of the waiting list, if one exists or admission if no waiting list exists and no later than 30 days following the date of admission or date of financial status review or other review of financial status as provided in part 9050.0560, subpart 1.

Statutory Authority: *MS s 198 003*

History: *28 SR 1251*

9050.0900 AUTHORIZATION FORMS.

[For text of subps 1 and 2, see MR]

Subp 3 **Refusal to sign authorization forms; consequences.** Failure to complete and sign authorization forms on or by the day of admission must result in the resident being refused admission to the facility. The applicant or resident, applicant's or resident's legal representative, or spouse must complete the following tasks within 30 days of the financial interview or other authorized request

A. complete and sign a financial information or authorization form,

B. apply for insurance or other benefits for which an applicant, resident, or spouse of an applicant or resident may be eligible;

C. complete assignment of benefits forms required by third-party payers,

D. sign authorizations for release of medical records, and

E. provide verification of information given on financial disclosure forms

Providing false information relating to items A to E results in disqualification of an application for admission or in discharge of a resident under part 9050 0200, subpart 3, item E. The maintenance charge must be redetermined or the application for admission must be reinstated or the discharge proceeding discontinued if the applicant, resident, or spouse takes the required action.

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

9050.1070 RESIDENT RIGHTS AND RESPONSIBILITIES.

[For text of subps 1 to 18, see MR]

Subp 19. **Resident vehicles.** Nonskilled care residents may keep one passenger vehicle, motorcycle, or motorized bicycle on the grounds of the board-operated facility in which the resident resides. "Passenger vehicle" means a passenger automobile as defined in Minnesota Statutes, section 168 011, subdivision 7; a pickup truck as defined in Minnesota Statutes, section 168.011, subdivision 29; or a van as defined in Minnesota Statutes, section 168.011, subdivision 28. "Motorcycle" has the meaning given in

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Minnesota Statutes, section 168 011, subdivision 26. "Motorized bicycle" has the meaning given in Minnesota Statutes, section 168 011, subdivision 27

A resident who wants to maintain a vehicle on the grounds of the facility shall register the make, model, color, year, and license number of the vehicle with the transportation service of the facility. The resident shall comply with applicable state statutes, including Minnesota Statutes, chapter 169, regarding payment of taxes, registration of vehicles, and safety standards; Minnesota Statutes, chapter 171, regarding operators' licenses and driving privileges; Minnesota Statutes, chapter 65B, regarding insurance coverage, and relevant rules.

Resident vehicles must be parked in designated parking areas with properly displayed facility identification decals

A resident vehicle that is an abandoned vehicle as defined in Minnesota Statutes, section 168B.02, subdivision 2, must be handled in a manner consistent with Minnesota Statutes, chapter 168B.

[For text of subps 20 and 21, see MR]

Subp 22. **Resident funds.** Resident funds must be handled according to parts 4655 1910, subpart 6; 4655 4100 to 4655.4170; and Minnesota Statutes, sections 144 651, subdivision 25, and 198.265, and be in compliance with items A to E

[For text of items A and B, see MR]

C. Residents may keep money in a personal fund account at the board-operated facility, as defined in part 9050 0040, subpart 90, and according to Minnesota Statutes, section 198 265, or in fund accounts off facility premises

Resident fund accounts at the facility are solely for the resident's use, and the facility cashier shall retain sufficient liquid funds to satisfy normal demand withdrawal requests of residents and other anticipated needs. Resident accounts of \$100 or more must be credited with interest earned from the investment of resident accounts. Interest must be credited to each resident's account on a quarterly basis. The board is not required to pay interest on any resident accounts of less than \$100. If the board does not pay interest on a resident account of less than \$100, the interest must be used by the board only for the direct benefit of the residents of the homes. Before depositing money in a fund account at the facility, a resident must sign an agreement that the resident is willing to have money in an account that may not draw interest directly to the resident, if the account balance is less than \$100.

Restrictions placed on a resident's personal funds by the resident, resident's guardian, or person responsible for the resident's fund account must be documented in the resident's treatment plan

[For text of items D and E, see M.R.]

[For text of subps 23 to 36, see MR]

Subp. 37. **Contraband.** A resident may not possess contraband items at the facility campus. Contraband includes all illegal articles, firearms, weapons, ammunition, alcoholic beverages, nonprescribed prescription drugs, including narcotics and controlled substances

Contraband is subject to seizure according to Minnesota Statutes, section 198.33, and must be disposed of according to applicable laws. A receipt must be given to the resident and the information must be documented in the resident's chart.

[For text of subps 38 and 39, see M.R.]

Statutory Authority: *MS s 198.003*

History: *28 SR 1251*

NOTE The amendments to subpart 19 are effective for residents admitted to a Veterans Homes Board facility after April 19, 2004