

Form #2

OFFICE OF THE VIRGINIA
SECRETARY OF STATE

ATTACH A BRIEF SUMMARY OF YOUR PROPOSAL

15 January 2010

To Whom It May Concern:

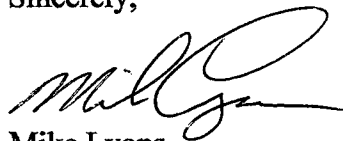
We request that the current rules and procedures to establish who is a qualified veteran be changed. In its current form, in order to reside at the veterans home, a veteran must be a resident of the State of West Virginia for one (1) year or more immediately prior to the date of application. Or, was a resident of the State of West Virginia at the time of enlistment or induction as documented by Department of Defense Form 214.

Nearly all veterans who apply for residency to the State Home for Veterans are homeless. In some cases, it is impossible for them to prove (1) year residency. Many veterans who apply to reside at the State Home for Veterans have resided in their vehicle or on the streets for years. Some have not had a hot meal in months. Although we must follow the current procedural rule and deny these veterans the opportunity to reside at the State Home for Veterans, this clearly was not the intent of the prior administrations.

This rule change is also a fiscally responsible decision. The State of West Virginia receives \$32.54 per day for every resident at the State Home for Veterans. The complex has a maximum capacity of 190 residents set by the Federal Veterans Administration. Rarely, more than 55 percent of the complex is utilized.

If you have any questions feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read "Mike Lyons", with a stylized flourish at the end.

Mike Lyons
Deputy Director
WVDVA

APPENDIX B

FISCAL NOTE FOR PROPOSED RULES

Rule Title:

TITLE 86 STATE HOME FOR VETERANS

Type of Rule:

☐ Legislative ☐ Interpretive ☒ Procedural

Agency:

WEST VIRGINIA DIVISION OF VETERANS AFFAIRS

Address:

1321 PLAZA EAST - SUITE 101
CHARLESTON, WEST VIRGINIA 25301-1400

Phone Number:

(304) 558-3661

Email: MIKE.C.LYONS@WV.GOV

Fiscal Note Summary

Summarize in a clear and concise manner what impact this measure will have on costs and revenues of state government.

THIS RULE CHANGE WOULD INCREASE THE FEDERAL PER DIEM RECEIVED BY THE STATE OF WEST VIRGINIA BY APPROXIMATELY \$345,000 THE FIRST YEAR AND \$485,000 THE SECOND.

Fiscal Note Detail

Show over-all effect in Item 1 and 2 and, in Item 3, give an explanation of Breakdown by fiscal year, including long-range effect.

FISCAL YEAR			
Effect of Proposal	Current Increase/Decrease (use "-")	Next Increase/Decrease (use "-")	Fiscal Year (Upon Full Implementation)
1. Estimated Total Cost	455,000.00	365,000.00	365,000.00
Personal Services	65,000.00	65,000.00	65,000.00
Current Expenses	270,000.00	270,000.00	270,000.00
Repairs & Alterations			
Assets	120,000.00	30,000.00	30,000.00
Other			
2. Estimated Total Revenues	800,000.00	850,000.00	850,000.00

Rule Title:

Rule Title:

TITLE 86 STATE HOME FOR VETERANS

3. Explanation of above estimates (including long-range effect):

Please include any increase or decrease in fees in your estimated total revenues.

First Year we will need to hire an additional nurse, housekeeper and driver. Mattresses, beds, linens, towels, wardrobes, night stands are included in the initial costs. We will have a continuing increase in utilities, medical supplies, primary care, contract services such as - dietitian, doctor (medical reviews) dentist and laundry services.

The initial cost will be offset by the increase in federal per diem received for each additional resident.

The first year of implementing this rule change will result in a net increase of approximately \$345,000. that can be used for operating expenses.

MEMORANDUM

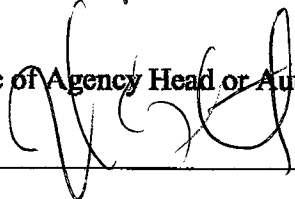
Please identify any areas of vagueness, technical defects, reasons the proposed rule would not have a fiscal impact, and/or any special issues not captured elsewhere on this form.

N/A

Date:

1/15/10

Signature of Agency Head or Authorized Representative



FILED

**TITLE 86
PROCEDURAL RULE
WEST VIRGINIA DIVISION OF VETERANS AFFAIRS**

2010 JAN 21 PM 2:10

**SERIES 1
STATE HOME FOR VETERANS**

OFFICE OF THE
SECRETARY OF STATE

'86-1-1. General.

1.1. Scope. — These regulations establish general rules for the operation of the State Home for Veterans at Barboursville, West Virginia. (This rule supersedes and replaces procedural rule filed January 19, 1979).

1.2. Authority. — W. Va. Code '9A-2-3.

1.3. Filing Date. — November 25, 1997.

1.4. Effective Date. — December 26, 1997.

'86-1-2. General Plan of Filing.

2.1. General purposes: The general purpose of these rules and procedures is to establish who is a qualified veteran and the processes involved in the operation of the West Virginia Home in Barboursville.

'86-1-3. West Virginia Veterans Home in Barboursville.

3.1. The law authorizing the establishment of the West Virginia State Home for Veterans is published in the forward of this section.

3.2. A qualified veteran is defined as follows:

a. A qualified veteran must be ambulatory and independent in all activities of daily living such as eating in an open mess, dressing, bathing, self-medicating and light housekeeping. The Home will assist the eligible veteran who suffers from a disability, disease or defect, to such a degree that they are incapacitated from substantial gainful employment, but who are not in need of hospitalization or nursing care services.

b. Served on active duty with the armed forces of the United States during a period of declared war. Any veteran discharged since September 7, 1980, must have served a minimum of twenty-four (24) consecutive months on active duty.

c. Priority will be established for a veteran who was Is a resident of the State of West Virginia for one (1) year or more immediately prior to the date of application. Or, was a resident of the State of West Virginia at the time of enlistment or induction as documented by Department of Defense Form 214.

d. Was discharged from active duty with an Honorable discharge or a General Discharge Under Honorable Conditions. All veterans discharged since May 8, 1975, must have an Honorable Discharge.

3.3. Applications for admission should be made at the nearest field office of the West Virginia Division of Veterans Affairs or the Registrar's office at the Veterans Home. A completed admissions package will be presented to the Admissions Committee at the Veterans Home for evaluation. The Admissions Committee will

recommend approval or disapproval to the Home Administrator whose decision will be final. Those veterans found to have a medical or psychiatric condition which requires continuous clinical care will be rejected and so informed. Those veterans approved for admission will be notified as to date and time to report to the Veterans Home for processing. Upon arrival at the Veterans Home, the applicant will be examined by an appointed physician. The physician will recommend admission or rejection based upon the results of the physical examination. The veteran, after successfully completing the physical examination will then be officially admitted as a resident of the facility.

The veteran must provide proof of service when making application. VA Form 10-10(RS) must be submitted with the application. To apply for readmission, the same procedure applies as for an original admission.

3.4. Each resident will be required to contribute toward their maintenance based solely upon their monthly income. This contribution formula will be prescribed by the Veterans Home Administrator.

3.5. A resident who has been discharged from the Veterans Home under an Involuntary status will not be permitted to apply for readmission for a period of one year from the date of discharge. Residents discharged on a voluntary basis will be permitted to apply for readmission 90 days from their date of discharge. Residents discharged from the Home for medical reasons are eligible to apply for readmission whenever their condition improves sufficiently to permit reentry.

'86-1-4. Leaves of Absence, Furloughs, or Discharges.

4.1. Passes are authorized for a period of time not to exceed 72 hours within any consecutive seven (7) days.

4.2. Furloughs are defined as any nonmedical absence which is greater than 95 consecutive hours. Furloughs must be pre-approved by the Registrar or his designee. Residents are permitted to take 30 days of furlough during the prescribed 12 month period.

4.3. Discharges from the Veterans Home are divided into three categories: voluntary, involuntary and medical.

4.4. Residents requesting a voluntary discharge must submit, in writing, such request and complete all necessary procedures as outlined in current resident manual.

4.5. Involuntary discharges are issued whenever resident misconduct so merits.

4.6. Medical discharges are made after consultation with appropriate medical personnel who deem resident physically or mentally inappropriate for continued residency.

'86-1-5. Discipline.

5.1. The Veterans Home Administrator or his/her designee, will hear all cases of misconduct and will pass judgement according to the nature of the infraction. The decision of the Administrator or his/her designee will be final.

5.2. The Administrator will be assisted in the enforcement of the Rules and Regulations by the registrar and by one (1) other employee of the home, who will be selected by the Administrator.

5.3. The following are examples which constitute grounds for disciplinary action to be taken: (these completely supersede 5.4 and 5.5 of existing code)

- a. AWOL for any period of time.
- b. Habitual intoxication on premises.
- c. Disorderly conduct.
- d. Gambling on premises.
- e. Any act of a violent nature.
- f. Transporting or possession of alcohol or unauthorized drugs on premises.
- g. Transporting or possession of weaponry on premises.
- h. Habitual lack of compliance with Home policies.
- i. Writing or speaking false charges against another.
- j. Creating dissension.
- k. Theft and vandalism.
- l. Any and all violations as deemed appropriate by the Home Administrator or his/her designee.

'86-1-6. Floor Leaders.

6.1. A floor leader will be a resident of the home, will be selected by the Administrator or his/her designee, and will be responsible for a specific resident area.

6.2. Floor leaders will be responsible for completing a daily census of the residents in their assigned areas and reporting same to the Registrar on a daily basis, seven (7) days a week. Floor leaders will assist administration with the observance of all rules and regulations of the facility.

6.3. Floor leaders will report to nursing personnel any resident in need of medical attention who is unable to come to the nursing area.

6.4. Floor leaders will inspect their respective areas and report any gross violation of hygiene, safety and/or noncompliance.

6.5. Floor leaders will submit such reports and perform related duties as described by the registrar.

6.6. Floor leaders will accompany the registrar or his/her designee whenever so directed for the purpose of entering resident's quarters.

'86-1-7. Clothing.

7.1. Any resident admitted to the Home in need of clothing will be directed to the Home clothing room. Donated clothing received by the Home will be made available to all residents regardless of income. Donated

clothing distributed to any resident becomes their personal property.

'86-1-8. Medical Care.

8.1. A complete clinical record will be kept under the direction of the Director of Nursing as approved by the contract physician.

8.2. Residents in need of nursing assistance will report to the nursing station for proper disposition. In the event of a medical emergency, nursing service will notify the proper authorities.

8.3. All residents are assumed to be capable of rational and competent decisions. However, resident refusal to follow a prescribed course of treatment may result in disciplinary action up to and including involuntary discharge.

'86-1-9. Burials.

9.1. The remains of deceased veterans will be sent to the local US Department of Veterans Affairs Medical Center for certification of death. Nursing personnel will immediately notify next of kin, if known, and also notify the registrar's office.

9.2. All personal effects not claimed by the residents designee as indicated on the personal property form, will be removed and placed in storage by the registrar and the storekeeper. Small items of special value will be placed in the Home safe. All cash will be turned in to the fiscal department for safekeeping. Personal property not claimed within 60 days may be disposed of in an appropriate manner such as given to other needy veterans or service agencies or simply discarded.

'86-1-10. General.

10.1. Fire drills will be held at least once each calendar month, under the direction of the Veterans Home Safety Officer.

10.2. The Administrator or his/her designee will arrange for nondenominational church services to be held each Sunday. Hours of the service will be announced.

10.3. The loan of money by officers, employees or residents of the home will not be permitted, whether or not interest is charged.

10.4. The Veterans Home Administrator shall designate the person and place for safekeeping of resident valuables. There shall be no charge for this service and no loss should ever be sustained by any resident whose valuables have been so deposited. All valuables thus retained will be recorded and a deposit ticket reflecting the items given to said resident.

10.5. The registrar regulates the housing in the West Virginia Veterans Home in Barboursville.

10.6. The West Virginia Veterans Home in Barboursville, 512 Water Street, Barboursville, West Virginia 25504 is the official address of the home.

'86-1-11. Report of Administrator to Division of Veterans Affairs.

11.1. The Administrator of the veterans home shall submit to the Director of the Division of Veterans Affairs, a monthly report of all disbursements by the home and of other matters pertaining to the general operations of the home as required by the Director of the Division of Veterans Affairs.

'86-1-12. Administrator May Accept Gifts, Donations or Bequests.

12.1. The Veterans Home Administrator or his/her designee, for and in behalf of the veterans home, is hereby authorized to accept or receive any donations, gifts or bequests offered or tendered to, or for the benefit of the veterans home. All such monies received or accepted shall be used for the specific purposes for which they were given or donated. This authority shall apply and be retroactive to any or all gifts, donations or bequests heretofore tendered, offered or made.

JOE MANCHIN III
GOVERNOR

JAMES W. SPEARS
CABINET SECRETARY
MILITARY AFFAIRS & PUBLIC SAFETY



West Virginia

Division of Veterans Affairs

2010 JAN 21 PM 2:10

KEITH GWINN
DIRECTOR

MIKE LYONS
DEPUTY DIRECTOR

CONNIE S. HODAPP
ADMINISTRATIVE SERVICE ASSISTANT III

SECRETARY OF STATE

1321 Plaza East - Suite 109
Charleston, West Virginia 25301-1400
Telephone: (304) 558-3661
email: wvdva@state.wv.us

January 15, 2010

Joseph C. Thornton
Department of Military Affairs and Public Safety
Building 1, Room W400
Charleston, WV 25305

Dear Secretary Thornton,

Respectfully request your approval of the following procedural rule change to Title 86, State Home for Veterans. We request that the current rules and procedures to establish who is a qualified veteran be changed. In its current form, in order to reside at the veterans home, a veteran must be a resident of the State of West Virginia for one (1) year or more immediately prior to the date of application. Or, was a resident of the State of West Virginia at the time of enlistment or induction as documented by Department of Defense Form 214.

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Sincerely,

Mike Lyons
Deputy Director
WVDVA

