

Form #4

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OFFICE WEST VIRGINIA
SECRETARY OF STATE


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

**SERIES 4
VA HEADSTONES OR MARKERS**

§86-4-1. General.

1.1. Scope. -- To establish guidelines for the administration of funds by H.B. 4169: and payment for veteran headstones or markers.

1.2. Authority. -- W. Va. Code § ~~9A-1-1~~ 29-22A-10.

1.3. Filing Date -- ~~March 26, 1998.~~

1.4. Effective Date. -- ~~March 26, 1998.~~

§86-4-2. Definitions.

2.31. "Agency Application Form" means form prepared by the WV Division of Veterans Affairs for use in determining eligibility for said funds.

2.42. "Applicant" means a person who submits an application for financial assistance in setting of US Department of Veterans Affairs grave marker.

2.23. "Designated Agency" means an agency, department, division or office of state or local government, or a program supported by state funds, which is designated to provide financial assistance.

2.14. "Indigent Widow/Next of Kin" means survivor responsible for setting US Department of Veterans Affairs furnished headstone or marker and whose income is within the US federal poverty levels.

2.5. "Means Test and Geographic-based Means Test Threshold" means the threshold established by the Department of Veterans Affairs, Veterans Health Administration, and used

to qualify applicants for headstones or markers. This information is published annually on their website at <http://www1.va.gov/vhapublications/publications.cfm?Pub=1>, and click on "Means Test." See Appendix 1.

§86-4-3. Priority in Setting Markers.

The director of ~~v~~Veterans ~~a~~Affairs shall determine the grave markers that have been in storage at the state's perpetual care cemeteries for the longest period of time and ensure those markers are installed on a priority basis as funding permits.

§86-4-4. Application Process

4.1. The director of Veterans Affairs shall make application forms available to applicants and shall process completed applications in accordance with a process and eligibility standard as set forth in this rule. Applications are available by calling Veterans Affairs at (888) 838-2332, or may be obtained at any of the sixteen (16) Regional Offices of Veterans Affairs, or local funeral homes.

4.2. Any family member of a deceased veteran, a licensed funeral home or cemetery may make application, on an application form provided by the director of the Division of Veteran Affairs for an award from the John "Jack" Bennet Fund.

4.3. The award will pay the cost of the installation of the federal veterans' grave marker for an eligible veteran.

4.4. The application shall contain the following information: name of veteran; serial number; date of birth; date of death; enlistment and discharge dates; branch of service and rank; character of discharge; cemetery (name, address, county); grave number (lot, block, section); nearest

relative and relative's address; designation of type of headstone, claimant's name, address, social security number; applicant's monthly income information.

4.5. The director shall within ninety (90) days of receipt of a completed application, notify the applicant of the status of the application and the eligibility of the deceased veteran for an award from the John "Jack" Bennet Fund.

§86-4-5 Eligibility

5.1. The eligibility of a deceased veteran to receive a John "Jack" Bennet Fund award shall be based on the following elements:

5.1.1. Period of time the deceased veteran has been buried without having a federal grave marker in place.

5.1.2. Availability of other financial resources for payment of the setting of the federal grave marker, which shall be determined by the Means Test and Geographic-based Means Test Threshold for the calendar year in which the application is made, and

5.1.3. Availability of funds in the John "Jack" Bennet Fund Account.

5.2. The director of veterans affairs shall make discretionary award determinations based on the factors established in 5.1.1 through 5.1.3.

§86-4-6. Expenditure of Funds

Awards shall be based on the fund solvency and shall conform to the West Virginia Public Service Commission Rules for the Government of Fees for Installation of United States Department of Veterans Affairs Grave Markers, 150 CSR 28.

Department of Veterans Affairs
Veterans Health Administration
Washington, DC 20420

VHA DIRECTIVE 2004-071

December 17, 2004

MEANS TEST AND GEOGRAPHIC-BASED MEANS TEST THRESHOLDS FOR CALENDAR YEAR 2005

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides the Means Test Thresholds, Medicare Deductible Rate, and Child Income Exclusion for calendar year 2005. In addition, this Directive provides an internet link to the United States (U.S.) Housing and Urban Development's (HUD) income limits for Fiscal Year (FY) 2004 for use by VHA in calendar year 2005.

2. BACKGROUND

a. Title 38 United States Code (U.S.C.) Section 1722(c) requires that on January 1 of each year, the Secretary of Veterans Affairs increase the means test threshold amounts by the same percentage the maximum rates of pension benefits were increased under 38 U.S.C. Section 5312(a) during the preceding calendar year. Under the provisions of 38 U.S.C. Section 5312, the Department of Veterans Affairs (VA) is required to increase the benefit rates and income limitations in the pension and parents' Dependency and Indemnity Compensation (DIC) Program by the same percentage and effective date as increases in the benefit amounts payable under Title II of the Social Security Act.

b. On November 15, 2004, the Veterans Benefits Administration (VBA) announced that effective December 1, 2004, veterans' benefits will receive an increase of 2.7 percent.

c. Public Law 107-135, the Department of Veterans Affairs Health Care Programs Enhancement Act of 2001, directed VA to implement a Geographic-based Means Test (GMT) (see 38 U.S.C. Section 1705(a)(7)). VA uses HUD's "low-income" geographic-based income limits as the thresholds for VA's GMT. **NOTE:** *The Health Eligibility Center (HEC) controls the GMT for VA; as such, HEC will install Patch IVMB*2*819 before January 1, 2005. A veteran's income from the previous year is compared with the appropriate GMT threshold for the previous fiscal year to determine if the veteran should be placed in priority category 7. HUD's "low income" geographic-based income limits for FY 2004 can be found at: <http://www.huduser.org/datasets/il/il04/index.html>. The easiest way to find the limit for a geographical area is to click on the State on the map. **NOTE:** *Be sure to use only the "low income" limits or 80% of median income in the chart.**

d. Definitions

(1) **"Below the means test threshold."** "Below the means test threshold" is defined as those veterans whose attributable income and net worth are such that they are unable to defray the expenses of care; therefore, they are not subject to co-payment charges for hospital and outpatient medical services. Within the Veterans Health Information Systems and Technology Architecture (Vista) system such veterans are designated as "Means Test Copay Exempt."

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(2) **"Above the means test and GMT threshold."** "Above the means test and GMT threshold" is defined as those veterans whose attributable income and net worth are such that they are able to defray the expenses of care; therefore they must agree to pay a co-payment for hospital care and outpatient medical services. Within the VistA system these veterans are designated as "Means Test Copay Required."

(3) **"Above the means test and below the GMT threshold."** "Above the means test and below the GMT threshold," is defined as those veterans whose attributable income and net worth are such that they are able to defray the expense of care, but whose inpatient medical care co-payments are reduced 80 percent. Within the VistA system these veterans are identified as "GMT Copay Required."

3. POLICY: It is VHA policy that all VA health care facilities must install patch DG*5.3*637, EAS*1.0*61 and IVMB*2*819 before January 1, 2005. **NOTE:** *The new means test, net worth, and GMT threshold rates are effective January 1, 2005.*

4. ACTION

a. **Medical Facility Director.** Before January 1, 2005, each medical facility Director, or designee, is responsible of installing patch DG*5.3*637, EAS*1.0*61 and IVMB*2*819.

NOTE: *The new means test and GMT threshold rates are effective January 1, 2005.*

b. **Means Test Thresholds.** The following new Means Test Thresholds are effective January 1, 2005, through December 31, 2005:

(1) **Veterans with No Dependents**

(a) Below Means Test Threshold: \$25,842.

(b) Above Means Test Threshold: \$25,843.

(2) **Veterans with One Dependent**

(a) Below Means Test Threshold: \$31,013.

(b) Above Means Test Threshold: \$31,014.

(3) **Veterans with Two Dependents**

(a) Below Means Test Threshold: \$32,747.

(b) Above Means Test Threshold: \$32,748.

(4) **Veterans with Three Dependents**

(a) Below Means Test Threshold: \$34,481.

(b) Above Means Test Threshold: \$34,482.

(5) Veterans with Four Dependents

(a) Below Means Test Threshold: \$36,215.

(b) Above Means Test Threshold: \$36,216.

(6) Veterans with Five Dependents

(a) Below Means Test Threshold: \$37,949.

(b) Above Means Test Threshold: \$37,950.

c. Dependent threshold amount increase (above two dependents): \$1,734.

d. Child Income Exclusion: \$8,200.

e. Medicare Deductible: \$912.

f. Income and/or asset threshold for net worth development: \$80,000.

g. Maximum annual Rate of Pension: Base rate.

(1) The base rate is \$10,162. ***NOTE:** The base pension rate is also used to determine if certain veterans are subject to co-payments for Extended Care Services.*

(2) The base rate with one dependent is \$13,309.

(3) Add \$1,734 for each additional dependent.

5. REFERENCES

a. Title 38 U.S.C. Sections 1705(a) (7) and 1722.

b. Title 38 Codes of Federal Regulations (CFR) Sections 17.36(b)(7), 17.47(d), and 7.111(f)(2).

c. VHA Directive 2003-005, Implementation of Geographic Means Testing and Revised Inpatient Co-payments Requirements.

6. FOLLOW-UP RESPONSIBILITY: The Chief Business Office (16) is responsible for the contents of this Directive. Questions may be addressed to 202-254-0406.

VHA DIRECTIVE 2004-071

December 17, 2004

7. RESCISSIONS: VHA Directive 2003-069 is rescinded. This VHA Directive expires December 31, 2005.

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