

DEPARTMENT OF MILITARY AND VETERANS AFFAIRS

VETERANS HOME RULES

(By authority conferred on the board of managers by section 8 of 1885 PA 152, MCL 36.8 and Executive Order 1991-7, MCL 36.71)

R 32.71 Purpose.

Rule 1. The intent of the veterans home rules is to provide substantive and procedural due process to members of the homes and the public; assure the continued financial stability of the homes; ensure sufficient standards related to admissions, transfers, and discharges; and maximize the availability of care to qualified veterans and their family members.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.72 Definitions.

Rule 2. As used in these rules:

- (1) "Administrator" means the licensed senior authority of a state veterans home, or his or her designated representative.
- (2) "Applicant" means an individual who is applying for admission to a state veterans home.
- (3) "Arrearage" means a balance owed by an applicant, member, or his or her estate to this state for care provided at a state veterans home. This definition does not apply to care covered by Medicaid that is also subject to estate recovery.
- (4) "Assessment" means the members charge for services that is less than the cost of care as determined by the governing board.
- (5) "Asset" means the valuable property of an applicant or member.
- (6) "Asset divestment" means the disposing, transfer, gifting, or giving away of assets for less than fair market value.
- (7) "Asset restriction" means the moving or transferring of assets, thereby making them unavailable to pay the member's individual assessment or the cost of care.
- (8) "CFR" means the Code of Federal Regulations.
- (9) "Contract" means the written agreement between a member and the home.
- (10) "Cost of care" means the monthly amount set by the governing board at the start of each fiscal year.
- (11) "Governing board" means the applicable authority; either the board of managers, as established by former section 2 of 1885 PA 152, or the veterans' facility authority board as established by section 3 of 2016 PA 560, MCL 36.103
- (12) "Home" means a state veterans home as defined by 38 CFR 51.2.
- (13) "MCL" means Michigan compiled laws.
- (14) "Member" means an individual who has been admitted to a state veterans home.
- (15) "Responsible party" means an individual with the legal authority to act on behalf of an applicant or member.

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

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.73 Eligibility for admission; continued care.

Rule 3. (1) Applicants for admission must meet the criteria specified in section 11 of 1885 PA 152, MCL 36.11 or section 1 of 1921 PA 15, MCL 36.31.

(2) In addition to the requirements in subrule (1) of this rule, an applicant must demonstrate both of the following:

(a) Be able to pay his or her portion of the cost of care.

(b) Not require care for which the home is not equipped or staffed to provide.

(3) The home may refuse admission to applicants whose medical, behavioral, or other conditions exceed the level of care provided by the home.

(4) Following admission, the home shall continue to provide care, provided that the care required does not exceed the level of care offered at the home.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.74 Involuntary transfer and discharge.

Rule 4. The governing board shall establish policies regarding involuntary transfers and discharges. The policies must be in compliance with 38 CFR 51.80 and 42 CFR 483.15.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.75 Holding bed open during temporary absence of member.

Rule 5. The governing board shall establish policies regarding the holding of beds for members absent from the home for emergency medical treatment, therapeutic leave, or other reasons. The policies must be in compliance with 38 CFR 51.80 and 42 CFR 483.15.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.76 Financial disclosure.

Rule 6. In determining financial eligibility for admission or continued care, an applicant, member, or responsible party must make full disclosure of all assets and income in accordance with the policies developed by the governing board.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.77 Financial responsibility.

Rule 7. (1) A member must pay his or her portion of the total cost of care as determined in policy established by the governing board.

(2) Any amounts of the member's portion of the cost of care not paid are considered an arrearage. The state may file an appropriate legal proceeding at any time to recover an arrearage owed.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.78 Asset divestment; asset restriction.

Rule 8. The governing board shall determine policies establishing asset divestment and restriction penalties.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.79 Exempt assets and income.

Rule 9. The governing board shall determine policies establishing exempt assets and income.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.80 Rescinded.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.81 Rescinded.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.82 Contract for admission.

Rule 12. A member and a home must enter into a contract for admission.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

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

Rule 13. (1) Appeals associated with Medicaid must comply with federal regulations. An applicant, member, or responsible party may request a compliance conference with the home in the event of any the following:

(a) A denial of admission to a state veterans home.

- (b) A denial of continued care at a state veterans home.
- (c) A decision to involuntarily transfer or discharge a member.
- (d) A determination of an amount owed.
- (e) A determination of asset divestment or restriction.

(2) To request a compliance conference, the applicant, member, or responsible party must provide written notice to the home administrator that he or she wishes to contest the denial of admission to a state veterans home, the denial of continued care at a state veterans home, the decision to involuntarily transfer or discharge a member, the determination of an amount owed, or the determination of asset divestment or restriction. Written notice must include all of the following:

- (a) The date.
- (b) The name and address of the person providing notice.
- (c) The name of the affected applicant, member, or responsible party.
- (d) The basis for the objection.
- (e) All documents that support the objection.
- (f) Any other pertinent documents that the person providing notice wants the home to consider.

(3) A compliance conference must be conducted at a reasonable time and date, to be determined by the home administrator. The location of a compliance conference will be the home where the member resides or, in the case of applicants not yet admitted to a state veterans home, the home where application was made. The home administrator may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a compliance conference. The applicant, member, or responsible party must notify the home administrator, in writing, that he or she wishes to appear by letter before the start of the scheduled compliance conference.

(4) The home shall mail notice of the time, date, and location of compliance conference to the applicant, member, or responsible party requesting a compliance conference at least 10 business days before the date of the compliance conference.

(5) Requesting a compliance conference under this rule will automatically stay a member's transfer or discharge pending a decision. The automatic stay requirement of this subrule does not apply in any of the following instances:

- (a) If an emergency transfer or discharge is mandated by the member's health care needs.
- (b) If the transfer or discharge is mandated by the physical safety of other members, visitors, employees, or contractors.
- (c) If the transfer or discharge is later agreed to by the member or the responsible party.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.84 Denial or dismissal of request for compliance conference.

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

- (a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the date of the compliance conference.

(b) The applicant, member, or responsible party abandons the compliance conference.

(c) The home has no jurisdiction over the matter.

(2) Abandonment occurs if an applicant, member, or responsible party, without good cause, fails to appear at the scheduled compliance conference or fails to submit an appearance by letter.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

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

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

(a) A statement of the action the home intends to take.

(b) The reasons for the intended action.

(c) The specific rules supporting the action.

(d) A statement that the applicant, member, or responsible party has the right to request a hearing before the governing board.

(e) The circumstances, if any, under which a member's transfer or discharge will be stayed if a hearing is requested.

(2) Within 15 business days of service of the written notice of the home's decision, the applicant, member, or responsible party may request, in writing, a hearing before the board to appeal the decision of the home. Written notice must include all of the following:

(a) The date.

(b) The name and address of the person requesting a hearing.

(c) The name of the affected applicant, member, or responsible party.

(d) The basis for the appeal.

(e) All documents that support the appeal.

(f) Any other pertinent documents that the person requesting a hearing wants the governing board to consider.

(3) A hearing will be conducted at a reasonable time, date, and location, to be determined by the governing board. The governing board may accept a letter from the applicant, member, or responsible party, instead of the applicant's, member's, or responsible party's personal appearance at a hearing before the governing board. The applicant, member, or responsible party must notify the governing board, in writing, that he or she wishes to appear by letter before the start of the scheduled hearing.

(4) The home shall mail notice of the time, date, and location of hearing to the applicant, member, or responsible party requesting a hearing at least 10 business days before the date of the hearing.

(5) A hearing may be conducted via telephone upon written request by the applicant, member, or responsible party. Written request for a hearing via telephone must accompany the applicant's, member's, or responsible party's written request for a hearing before the governing board in order to be considered.

(6) If the applicant, member, or responsible party does not request a hearing before the governing board within 15 business days of service of the notice of opportunity to appeal the home's decision, then the applicant, member, or responsible party is deemed to have waived the right to appeal the home's decision to the governing board.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.86 Hearing rights of parties.

Rule 16. (1) An applicant, member, or responsible party may do any of the following:

(a) Examine the contents of his or her case file and all documents and records to be used by the governing board at the hearing at a reasonable time before the date of the hearing, as well as during the hearing.

(b) Present a case individually or with the aid of legal counsel or an authorized representative

(c) Bring witnesses.

(d) Establish all pertinent facts and circumstances.

(e) Advance any relevant arguments without undue interference.

(f) Question or refute any testimony or evidence, including the opportunity to confront and cross-examine adverse witnesses.

(2) The home may be represented by legal counsel and other representatives, staff, or former staff members.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.87 Denial or dismissal of request for hearing.

Rule 17. (1) The home shall deny or dismiss the request for a hearing under any of the following conditions:

(a) The request is withdrawn by an applicant, member, or responsible party, in writing, before the hearing date.

(b) The applicant, member, or responsible party abandons the hearing.

(c) The home has no jurisdiction over the matter.

(2) Abandonment occurs if an applicant, member, or responsible party, without good cause, fails to appear at the scheduled hearing or fails to submit an appearance by letter.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.88 Decision of governing board.

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

(a) Affirm the home's decision.

(b) Make a finding that the home's decision be overturned.

(c) Enter into a written settlement of the matter with the applicant, member, or responsible party.

(d) Direct the home to provide the applicant, member, or responsible party with written notice of the opportunity to appeal the governing board's decision to the circuit court.

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.

R 32.89 Judicial review.

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

History: 2007 AACCS; 2019 MR 1, Eff. Jan 2, 2019.