

## **IDAPA 21 – DIVISION OF VETERANS SERVICES**

### **Central Support Office**

#### **21.01.01 – Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure**

##### **Who does this rule apply to?**

*Veterans and spouses who wish to reside in an Idaho State Veterans Home and those who are already residents.*

##### **What is the purpose of this rule?**

*This rule establishes governing requirements for admission to Idaho State Veterans Homes and establishes governing charges for residency.*

##### **What is the legal authority for the agency to promulgate this rule?**

*This rule implements the following statutes passed by the Idaho Legislature:*

Soldiers and Sailors -

Division of Veterans Services — Veterans Affairs Commission:

- [Section 65-202, Idaho Code](#) – Powers and Duties
- [Section 65-204, Idaho Code](#) – Rules – Employment of Assistants

State Charitable Institutions -

Idaho Veterans' Home:

- [Section 66-907, Idaho Code](#) – Admissions to and Charges for Residence at Homes

##### **Who do I contact for more information on this rule?**

Kevin Wallior

8:00 AM – 5:00 PM

351 Collins Road

Boise, ID 83702

Phone: (208) 780-1300

Fax: (208) 780-1301

Email: [kevin.wallior@veterans.idaho.gov](mailto:kevin.wallior@veterans.idaho.gov)

[www.veterans.idaho.gov](http://www.veterans.idaho.gov)

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**21.01.01 – RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE  
CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF  
VETERANS SERVICES ADMINISTRATIVE PROCEDURE**

**000. LEGAL AUTHORITY.**

The Administrator of the Division of Veterans Services with the advice of the Veterans Affairs Commission is authorized by the Idaho Legislature to establish rules governing requirements for admission to Idaho State Veterans Homes and to establish rules governing charges for residency, pursuant to Sections 65-202, 65-204 and 66-907, Idaho Code. (3-23-22)

**001. TITLE AND SCOPE.**

**01. Title.** These rules are titled IDAPA 21.01.01, “Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure.” (3-23-22)

**02. Scope.** These rules contain provisions for determining eligibility for admission and for establishing charges for residency in Idaho State Veterans Homes, together with rules of administrative procedure before the Idaho Veterans Affairs Commission. (3-23-22)

**002. POLICY.**

Through the facilities and services available at Idaho State Veterans Homes, the Division of Veterans Services will provide necessary care for honorably discharged eligible veterans. No applicant will be denied admission on the basis of sex, race, color, age, political or religious opinion or affiliation, national origin, or lack of income, nor will any care or other benefit at a Home be provided in a manner, place, or quality different than that provided for other residents with comparable disabilities and circumstances. However, if residents are financially able to do so, they must contribute to the cost of their care, with allowances made for retention of funds for their personal needs. (3-23-22)

**003. INCORPORATION BY REFERENCE.**

**01. Incorporated Documents.** These rules incorporate by reference: (3-23-22)

**a.** 5 U.S.C. Section 2108(1) dated October 7, 2015. (3-23-22)

**b.** 38 CFR Part 51, Subpart A, B, C, D, and E dated December 28, 2018. (3-23-22)

**02. Document Availability.** Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-0001. (3-23-22)

**004. -- 009. (RESERVED)**

**010. DEFINITIONS.**

For the purposes of the rules contained in this Chapter, the following terms are used as defined: (3-23-22)

**01. Applicant.** A person who has expressed interest in applying for residency in an Idaho State Veterans Home. (3-23-22)

**02. Asset.** Real or personal property that is owned in whole or in part by an applicant or resident, including stocks, bonds, goods, rights of action, evidences of debt, and cash or money that is not income. Insurance payments or monetary compensation for loss of or damage to an asset is an asset. Income not expended in the calendar month received is an asset beginning on the first day of the next calendar month. (3-23-22)

**03. Bona Fide Resident.** A person who maintains a principal or primary home or place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence pursuant to Section 66-901, Idaho Code. (3-23-22)

**04. Commission.** The Idaho Veterans Affairs Commission. (3-23-22)

**05. Division.** Division of Veterans Services in the Idaho Department of Self Governing Agencies. (3-23-22)

**06. Division Administrator.** The Administrator of the Division of Veterans Services in the Department

of Self Governing Agencies, or his designee. The chief officer of the Division of Veterans Services. (3-23-22)

**07. Home Administrator.** Administrator of an Idaho State Veterans Home. The chief officer of each respective Veterans Home. (3-23-22)

**08. Home.** An Idaho State Veterans Home. (3-23-22)

**09. Idaho State Veterans Home.** Pursuant to Section 66-901, Idaho Code, a Home for eligible veterans. (3-23-22)

**10. Income.** Money received from any source including wages, tips, commissions, private pension and retirement payments, social security benefits, unemployment compensation, veterans assistance benefits, and gifts. (3-23-22)

**11. Legal Dependents.** The mother, father, spouse, or minor children of an applicant or a resident who, by reason of insufficient financial resources, or non-minor children who because of disease, handicap or disability, must have financial support from the applicant or resident in order to maintain themselves. (3-23-22)

**12. Liquid Assets.** Those assets which are cash or can be liquidated for cash within a reasonable period of time including, but not limited to, money market certificates, certificates of deposit, stocks and bonds, and some tax shelter investments. (3-23-22)

**13. Maintenance Charge.** A charge made for care and residence at an Idaho State Veterans Home, based upon the current established rate. (3-23-22)

**14. Net Income.** That income used to compute charges after allowable deductions have been made. (3-23-22)

**15. Resident.** A person who is a resident of an Idaho State Veterans Home. (3-23-22)

**16. Spouse.** The husband or wife, under a marriage recognized by Title 32, Idaho Code, of a veteran or the widow or widower of a veteran under a marriage recognized by Title 32, Idaho Code. (3-23-22)

**17. VA.** United States Department of Veterans Affairs. (3-23-22)

**18. Veteran.** Has the meaning established in Section 65-203, Idaho Code. The separation or discharge considered under this definition means the conditions of the most recent separation or discharge from military service. (3-23-22)

**011. -- 049. (RESERVED)**

**050. ADMINISTRATIVE POWERS.**

The Home Administrator has full authority in the management of a Home, subject to review by the Division Administrator and Commission. A Home Administrator can, in the execution of his duties, delegate certain responsibilities to his staff. When requested by the Division Administrator, the Home Administrator will attend regular and special meetings of the Commission. (3-23-22)

**01. Representative Powers.** The Division Administrator is authorized to represent the Commission in all official transactions between the Homes and other departments of Idaho state government. (3-23-22)

**02. Investigation Powers.** Upon receipt of an application for residency and for the duration of residency of any resident, the Division is authorized to conduct an investigation to determine the total value of the property and assets of the applicant/resident to determine his ability to pay maintenance charges established in this Chapter pursuant to Section 66-907, Idaho Code. (3-23-22)

**03. Inspection Powers.** Inspection of the rooms and facilities of a Home, as well as of the dress and appearance of all residents, can be conducted at any time by the Home Administrator. (3-23-22)

**04. Emergency Powers.** In an emergency, the Home Administrator is authorized to use his judgment in matters not specifically covered by a statute, order, rule, or policy. (3-23-22)

**051. -- 074. (RESERVED)**

**075. ADMINISTRATIVE DUTIES.**

The Home Administrator will enforce all orders and rules and implement all policies of the Division in the administration of a Home. (3-23-22)

**01. Management of Records.** The Home Administrator must maintain accurate fiscal and resident records. (3-23-22)

**a.** Nursing care records. Records relating to each nursing care resident of a Home will be kept in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities in Idaho," and VA Rules 38 CFR Part 51; Subpart A, B, C, and D dated December 28, 2018. (3-23-22)

**b.** Residential and domiciliary care records. Records relating to each residential care resident of a Home will be kept in accordance with VA Rules 38 CFR Part 51; Subpart A, B, C, and E dated December 28, 2018. (3-23-22)

**02. Response to Complaints.** The Home Administrator will respond in writing to any written and signed complaint made by a resident pursuant to Section 300 of these rules. (3-23-22)

**076. -- 099. (RESERVED)**

**100. ELIGIBILITY REQUIREMENTS.**

Applicants and residents must satisfy the following requirements: (3-23-22)

**01. Veterans or Eligible Spouse.** (3-23-22)

**a.** Nursing Care. Applicants for and residents of nursing care must be a veteran or the spouse of a veteran who is eligible for admission to a Home. The death of a veteran shall not disqualify a resident spouse if the veteran was eligible for admission to a Home at the time of death. (3-23-22)

**b.** Residential Care and Domiciliary Care. Applicants for and residents of residential care and domiciliary care must be a veteran. A Home will not grant spouses admission for residential care or domiciliary care. (3-23-22)

**02. Idaho Residency.** The applicant must be a bona fide resident of the state of Idaho at the time of admission to a Home. (3-23-22)

**03. Incompetent Applicants.** Applicants and residents who are incompetent must provide copies of a legally sufficient guardianship or power of attorney. (3-23-22)

**04. Necessity of Services.** Applicants and residents must meet the requirements for the level of care for which they apply or are receiving. At the request of the Home, residents must provide recertification of their need for services from a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-23-22)

**a.** Nursing Care. To be eligible to receive nursing care in a Home, applicants must be referred by a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-23-22)

**b.** Residential and Domiciliary Care. Each applicant must submit to a physical examination performed by a licensed physician and meet the physical limitation requirements for residential care and domiciliary care.

Applicants and residents must be unable to earn a living and have no adequate means of support due to wounds, old age, or physical or mental disabilities. However, each residential care and domiciliary care resident must ambulate independently or with the aid of a wheelchair, walker, or similar device and be capable of performing at the time of admission, and for the duration of his residency, all of the following with minimal assistance: (3-23-22)

- i. Making his bed daily; (3-23-22)
- ii. Maintaining his room in a neat and orderly manner at all times; (3-23-22)
- iii. Keeping all clothing clean through proper laundering; (3-23-22)
- iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-23-22)
- v. Bathing or showering frequently; (3-23-22)
- vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-23-22)
- vii. Proceeding to and returning from the dining room and feeding himself; (3-23-22)
- viii. Securing medical attention on an ambulatory basis and managing medications; (3-23-22)
- ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-23-22)
- x. Making rational decisions as to his desire to remain or leave the Home. (3-23-22)

**05. Placement Restriction.** A Home shall not accept applicants or continue to extend care to residents for whom the facility does not have the capability or services to provide an appropriate level of care. (3-23-22)

**06. Financial Statement.** Each applicant must file a signed, dated statement with the Home Administrator containing a report of income from all sources and a report of all liquid assets which will be used to determine the amount of the maintenance charge which is required in accordance with Section 66-907, Idaho Code, and these rules. (3-23-22)

**07. Social Security Benefits.** If eligible for Social Security benefits, the applicants and residents and their spouses must apply for those benefits unless waived by the Home Administrator. (3-23-22)

**08. Medicare Coverage.** If eligible for Medicare, the applicants and residents must elect to participate, unless participation is waived by the Home Administrator. (3-23-22)

**09. Income Limitation.** (3-23-22)

**a. Nursing Care.** None. (3-23-22)

**b. Residential and Domiciliary Care.** An applicant whose total monthly net income, at the time of his application for residency, exceeds the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95588 divided by twelve (12) cannot be admitted unless granted a waiver by the Home Administrator. This waiver must include a statement from a VA Medical Center physician indicating the veteran is in "need of continuing medical care." (3-23-22)

**10. VA Pension -- Nursing Care.** Unless waived by the Home Administrator, a wartime veteran, as defined in 5 U.S.C. Section 2108, who is a nursing care applicant or resident must be eligible for, apply for, or be in receipt of a VA disability pension in accordance with Public Law 95588. Such waivers may be considered only when the applicant or resident has signed a statement that he is able to defray the necessary expenses of the medical care for which he is applying or receiving and arrangements are made to secure medical services not provided by the VA. (3-23-22)

**11. Agreements for Behavior and Care Needs.** The Homes may require that applicants or residents enter into agreements concerning the applicant or resident's behavior or care needs while residing in the Home. The resident's failure to perform these agreements is a basis for discharge from the Home. (3-23-22)

**12. Limit on Admission of Spouses.** Unless waived in writing by the Division Administrator, a Home shall not accept spouses for admission if the Home's residency is at ninety-five percent (95%) or more of capacity. Homes shall not admit a spouse if the number of spouses residing in the home will exceed twenty-five percent (25%) of the residents of the Home following admission of the applicant. (3-23-22)

**101. -- 149. (RESERVED)**

**150. APPLICATION PROCEDURE.**

**01. Submission of Application.** An application may be submitted to the administrative offices of a Home on a form from the Division. (3-23-22)

**02. Application Processing.** Completed applications will be processed no later than three (3) working days from receipt. (3-23-22)

**03. Waiting List.** An applicant who is approved for admission for whom a vacancy does not exist will be placed on a waiting list and accepted on a first come, first served basis dependent on the Home's ability to provide a level of care consistent with the needs of the applicant. The Home Administrator may award "priority status" to prospective Home residents resulting in their names being placed near the top of the Home waiting list, provided they have completed all preadmission requirements and meet one (1) or more of the following criteria: (3-23-22)

**a.** Veterans who served during any war or conflict officially engaged in by the government of the United States. (3-23-22)

**b.** Previous residents of Homes who have been discharged for therapeutic treatment or to live in a lesser level of care or in an independent setting and whose discharge plan indicates a readmission priority. (3-23-22)

**c.** Current Home residents who demonstrate a need for a level of care provided by a Home and who would benefit from maintaining a stable environment. (3-23-22)

**d.** Receive special consideration as per the request of the medical director because of his desire to provide a very specific continuum of care. (3-23-22)

**04. Provision If Application Rejected.** An applicant whose application has been rejected and who feels he meets the eligibility requirements can request a hearing in accordance with the procedures specified in Section 982, et seq., of these rules. (3-23-22)

**151. -- 199. (RESERVED)**

**200. DENIAL OF ADMISSION.**

Admission may be denied to an otherwise eligible applicant for any reason for which an admitted resident could be involuntarily discharged. (4-6-23)

**202. ACKNOWLEDGMENT OF CONDITIONS LEADING TO DISCHARGE.**

Upon admission to a Home, each resident will be advised in writing of the conditions under which immediate discharge will occur, as specified in Section 350 of these rules. Each resident must acknowledge receipt of this information by signature, and that acknowledgment will be a permanent part of each resident's file. (3-23-22)

**203. -- 299. (RESERVED)**

**300. CONDUCT OF RESIDENTS.**

Each resident must comply with applicable rules in this Chapter and with any order or directive of the Home Administrator. All complaints made by the residents concerning food, quarters, ill treatment, neglect, abusive

language, or other violations of any rule or standard applicable to the Home, or complaints against the operation of a Home may be made either verbally or in writing to the Home Administrator. (3-23-22)

**01. No Operation of Motor Vehicles by Nursing Care Residents.** The operation or storage of privately owned motor vehicles by nursing care residents is prohibited on Home property. (3-23-22)

**02. Operation of Motor Vehicles by Domiciliary and Residential Care Residents.** Each authorized domiciliary and residential care resident who drives a motor vehicle onto the grounds of a Home must adhere to the following: (3-23-22)

**a. Requirements:** (3-23-22)

i. Possess a valid driver's license; (3-23-22)

ii. Have a current motor vehicle registration; (3-23-22)

iii. Operator is insured against liability and property damage in accordance with Idaho law; and (3-23-22)

iv. Park only in assigned spaces. (3-23-22)

**b. Prohibitions.** Nonoperable motor vehicles and motor vehicle repairs are not permitted on the grounds of a Home. (3-23-22)

**03. Housekeeping.** (3-23-22)

**a.** Housekeeping services for nursing care residents shall be provided by the Home. (3-23-22)

**b.** Each residential and domiciliary care resident must adhere to the following requirements (residential care residents may need minimal assistance): (3-23-22)

i. Making his bed daily; (3-23-22)

ii. Maintaining his room in a neat and orderly manner at all times; and (3-23-22)

iii. Assuring that all clothing is appropriately marked, stored and kept clean through proper laundering. (3-23-22)

**c.** All residents are prohibited from: (3-23-22)

i. Washing clothes or other articles which present a health or safety hazard in resident rooms or bathrooms; (3-23-22)

ii. Using electrical devices, including televisions, radios, recorders, and shavers, until they have been certified by Home maintenance staff as being safe for use; (3-23-22)

iii. Entering the kitchen, laundry, shop or mechanical spaces without permission; and (3-23-22)

iv. Interfering or tampering with the heating, refrigeration or air conditioning systems, televisions, lighting, appliances, plumbing, or mechanical equipment at the Home without authorization. (3-23-22)

**04. Personal Conduct.** Each resident must adhere to the following: (3-23-22)

**a.** Requirements: (3-23-22)

i. Observing cleanliness in person, dress and in living habits; (3-23-22)



- ii. Bathing or showering frequently; (3-23-22)
- iii. Observing the smoking policies of a Home; and (3-23-22)
- iv. Residential and domiciliary care residents must retire to a recreation area or utilize an individual bed light if desiring to read between 10 p.m. and 6:30 a.m. during which time all room overhead lights are turned off. (3-23-22)
- b. Prohibitions:** (3-23-22)
  - i. Creating a disturbance or using intoxicating beverages or nonprescribed controlled substances in the buildings or on the grounds (unless prescribed by a physician); (3-23-22)
  - ii. Marking or writing on the walls of a building, or damaging the grounds or any other property; (3-23-22)
  - iii. Using profanity or exhibiting vulgar behavior in the Home or in any other public place; (3-23-22)
  - iv. Becoming involved in quarrels, persistent dissension or criticism of others; (3-23-22)
  - v. Lending money to, or borrowing money from, another resident or an employee of the Home; (3-23-22)
  - vi. Smoking in an unauthorized area; (3-23-22)
  - vii. Taking food (other than fresh fruit for consumption within a reasonable time period), condiments, dishes or utensils from the dining room; (3-23-22)
  - viii. Cooking or using heating devices in residents' rooms or other unauthorized areas; and (3-23-22)
  - ix. Storing flammable or combustible material including, but not limited to, gasoline, butane, solvents, and acetone on Home grounds. (3-23-22)

**301. -- 349. (RESERVED)**

**350. TRANSFER AND DISCHARGE OF RESIDENTS.**

A resident can be transferred or discharged, for a period to be determined by the Home Administrator, for the bases set forth in Section 350 of these rules. The Home Administrator will provide notice of transfer or discharge and the opportunity to appeal a transfer or discharge in accordance with Section 980 of these rules. (3-23-22)

**01. Emergency Discharge or Transfer.** Upon determination by the Home Administrator that an emergency exists, a resident may be immediately discharged or transferred. (3-23-22)

**02. General Discharge or Transfer.** If the Home Administrator determines that one (1) or more of the following is present or has occurred, the resident may be discharged or transferred from the Home: (3-23-22)

- a.** Possession of a lethal weapon of any kind by the resident on Division property; possession of wine, beer, or liquor by the resident on Division property; or possession of a controlled substance or medication by the resident, unless prescribed by the resident's physician; (3-23-22)
- b.** Excessive or habitual intoxication; (3-23-22)
- c.** Willfully destroys or wrongfully appropriates state or another person's property; (3-23-22)
- d.** Failure to comply with the rules of this Chapter or a written directive of the Home Administrator or the Division Administrator; (3-23-22)

- e. Financial conditions set forth in Section 950 of these rules are present; (3-23-22)
- f. Engages in a pattern of behavior that infringes upon the rights of another person; (3-23-22)
- g. Unauthorized absences from the Home in excess of those permitted by Section 352 of these rules; (3-23-22)
- h. Endangers the safety, wellbeing, or health of the resident or other persons or disrupts the peace of the home; (3-23-22)
- i. The resident is required by law to register as a sex offender. Should it be determined by the Home that it must provide resources in excess of those provided to other residents to ensure the safety of the resident or other persons; (3-23-22)
- j. The resident does not meet the requirements and limitations set forth in Section 100 of these rules. (3-23-22)

**03. Discharge or Transfer During Absence.** A resident who is absent from the Home may be discharged or transferred due to one (1) or more of the following: (3-23-22)

- a. The Home will not have the capability or services to provide an appropriate level of care to the resident upon the resident's return to the Home; (3-23-22)
- b. The resident has not returned to the Home from an absence prior to the expiration of the bed hold period established by a third party payer paying more than half of the resident's maintenance charges; (3-23-22)
- c. The resident ceases to pay the resident's maintenance charges or a bed hold charge applicable to an absence. (3-23-22)

**04. Voluntary Transfer or Discharge.** A resident may be transferred or discharged at any time upon voluntary consent of the resident. (3-23-22)

**351. (RESERVED)**

**352. UNAUTHORIZED ABSENCES -- RESIDENTIAL AND DOMICILIARY CARE.**

**01. Unauthorized Absences Prohibited.** For residential and domiciliary care residents, no more than three (3) unauthorized absences may be accumulated in a thirty (30) day period. If more than three (3) unauthorized absences are accumulated, the resident may be discharged for a period of thirty (30) days. (3-23-22)

**02. Yearly Maximum.** The maximum number of unauthorized absences allowable in a one (1) year period is twelve (12). Any resident who exceeds twelve (12) unauthorized absences in one (1) year may be discharged for a period of up to one (1) year. (3-23-22)

**03. Readmission Requirements.** Residents discharged for unauthorized absences must reapply for admission and are subject to the same restrictions and conditions as other applicants. (3-23-22)

**353. -- 850. (RESERVED)**

**851. AVAILABLE SERVICES.**

The Division will make available the following services. (3-23-22)

**01. Residential and Domiciliary Care.** The Division will make available the services listed below for residential and domiciliary care residents: (3-23-22)

- a. Barber/Beauty Shop. (3-23-22)

- b. Chaplain. (3-23-22)
- c. Dietary. (3-23-22)
- d. Laundry. (3-23-22)
- e. Nursing (limited). (3-23-22)
- f. Referral. (3-23-22)
- g. Social Work. (3-23-22)
- h. Therapeutic Recreation. (3-23-22)
- i. Limited Transportation. (3-23-22)

**02. Nursing Care.** In addition to the services listed in Subsection 851.01, the Division will make available the services listed below for nursing care residents: (3-23-22)

- a. Dental Hygiene. (3-23-22)
- b. Lab. (3-23-22)
- c. Nursing (Skilled). (3-23-22)
- d. Pharmaceutical. (3-23-22)
- e. Physical Therapy. (3-23-22)
- f. Physician. (3-23-22)
- g. Speech Therapy. (3-23-22)
- h. X-Ray. (3-23-22)

**852. -- 879. (RESERVED)**

**880. FINANCIAL CONDITION OF APPLICANTS/RESIDENTS.**

Each applicant/resident or his legal representative must submit a signed and dated financial statement to the Home Administrator on which his income and liquid assets from all sources are reported. The statement must also indicate whether the applicant/resident is responsible for the support of any legal dependent who should be considered in fixing the amount of monthly charges. If changes occur in the applicant's/resident's income or liquid assets, it is the applicant's/resident's responsibility to submit an accurate financial statement immediately. (3-23-22)

**01. Investigation of Financial Condition.** The Division is authorized to investigate the financial condition of applicants/residents to determine their ability to pay maintenance charges. An applicant/resident may need to provide a power of attorney or a release of information to the Home Administrator in order to assist in investigating his financial condition and to aid in securing any benefits for which he may be eligible. (3-23-22)

**02. Retroactive Income.** In the event an applicant/resident is awarded retroactive income from any source, he is responsible to report this award to the Home Administrator and to pay his maintenance charge retroactive to the effective date of income. (3-23-22)

**881. -- 914. (RESERVED)**

**915. MAINTENANCE CHARGES.**

Upon becoming a resident of a Home, each resident is liable for the payment of a maintenance charge as well as

expenses for supplies, medication, equipment, and services (other than basic services for the assigned level of care) that are not provided or paid for by VA, Medicaid, Medicare, or other insurance unless otherwise determined by the Home Administrator. Residents living in a Home for any part of a month must pay for each day, based on the actual number of days in the month, at that fraction of their total charge. Refusal or failure to pay the established maintenance charge or related expenses is cause for discharge from the Home. (3-23-22)

**01. Nursing Care Charges.** Charges shall be computed, based on payment source to include VA, Medicaid, Medicare, or full cost of care. (3-23-22)

**02. Residential and Domiciliary Care Charges.** Charges will be computed, based on the following factors: (3-23-22)

**a.** If the resident has an income, those items used to compute the charge will include: (3-23-22)

i. Social Security benefits; (3-23-22)

ii. Retirement benefits; (3-23-22)

iii. Income from annuities; (3-23-22)

iv. Insurance benefits; (3-23-22)

v. Rental from property; (3-23-22)

vi. Farm income; (3-23-22)

vii. VA pensions or compensations; (3-23-22)

viii. Tax refunds; and (3-23-22)

ix. Income from any and all other sources. (3-23-22)

**b.** If the resident is single, incompetent, and has liquid assets in excess of one thousand five hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than one thousand five hundred dollars (\$1,500). (3-23-22)

**c.** If the resident is single, competent, and has liquid assets in excess of fifteen hundred dollars (\$1,500), he will be assessed the current maximum charge until those assets are reduced to less than fifteen hundred dollars (\$1,500). (3-23-22)

**d.** Joint income will be used in computing charges for married persons. If the resident has dependents who rely upon him for financial support, the amount of liquid assets will not be drawn upon after they have declined to a level of five thousand dollars (\$5,000). (3-23-22)

**e.** Residential Care. After allowable deductions, a resident will be assessed a fee of seventy-five percent (75%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be seventy-five percent (75%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95 588 divided by twelve (12). (3-23-22)

**f.** Domiciliary Care. After allowable deductions, a resident will be assessed a fee of sixty percent (60%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be sixty percent (60%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95 588 divided by twelve (12). (3-23-22)

**03. Exclusions from Income or Payment for Residential and Domiciliary Care.** The only exclusions in computing monthly charges will be: (3-23-22)

**a.** Those funds which a resident receives from the sale of hobby/craft items constructed and sold as part of a Home occupational therapy program; or (3-23-22)

**b.** Those unusual expenses specified below, which are incurred after the resident's admission to a Home and are approved by the Home Administrator, up to a maximum monthly allowance which is established pursuant to Section 916 of these rules: (3-23-22)

i. Prosthetic, orthopedic, and paraplegic appliances; (3-23-22)

ii. Sensory aids; (3-23-22)

iii. Wheelchairs; (3-23-22)

iv. Therapy services; (3-23-22)

v. Hospital, medical, surgical expenses and bills for prescription drugs incurred and paid by the individual in the current month and documented by a paid receipt. (3-23-22)

**c.** Reasonable medical insurance premiums, as paid, with documentation of payment. Other insurance premiums are excluded from consideration; or (3-23-22)

**d.** An allowance established pursuant to Section 916 of these rules for retention by a resident for personal needs; (3-23-22)

**e.** That amount necessary for a resident of a Home to contribute to the support of a legal dependent where proof of actual payment is documented. A monthly allowance will be established for a spouse or additional dependents pursuant to Section 916 of these rules. (These allowances take into consideration housing and utility costs.) (3-23-22)

**04. Income Eligibility Limits.** (3-23-22)

**a.** Nursing Care. None. (3-23-22)

**b.** Residential and Domiciliary Care. A resident's total monthly net income, from all sources, may not exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) unless waived by the Home Administrator in accordance with Subsection 100.08 of these rules. (3-23-22)

**c.** While in residence at a Home, a domiciliary resident may seek outside employment and receive income so that his total monthly net income from all sources will exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) for a one-month transitional period. At the end of this one-month transitional period, the resident will be discharged. (3-23-22)

**05. Continued Eligibility.** (3-23-22)

**a.** Nursing Care. A resident may continue to be eligible for residency in a Home, regardless of income changes, if the conditions defined in Subsection 100.09 of these rules continue to be met. (3-23-22)

**b.** Residential and Domiciliary Care. If a resident's net monthly income exceeds the income eligibility limit after admission to the Home, the resident may appeal to the Home Administrator for a waiver of the income eligibility limit which may be granted for good cause. Consideration for good cause must include "need for continuing medical care" as documented by a VA Medical Center physician. (3-23-22)

**06. Payment Schedule.** Maintenance charges are due the first of each month and must be paid in full by the resident or guardian on or before the tenth day of the month. Payments may be made either by cash or by check, and a receipt will be issued. (3-23-22)

**07. Security Deposit.** A deposit of one hundred dollars (\$100) will be required by domiciliary and residential care residents upon admission to a Home, unless waived by the Home Administrator. This deposit will be held until the resident leaves. Any debts or liabilities on behalf of the resident will be offset against this deposit at that time. After payment of any debts or liabilities, the remaining balance of the deposit will be returned to the outgoing resident. (3-23-22)

**08. Leave of Absence or Hospitalization.** Residents receiving Medicaid, Medicare, or VA per diem will be charged for leave of absence or hospitalization in accordance with Medicaid, Medicare, and VA requirements. The Home will not reduce charges for leave of absence or hospitalization of residents not qualifying for Medicaid, Medicare, or VA payment for such absence and each day will count as if the resident were present at a Home. Unless waived by the Home Administrator or prohibited by law, the Home will charge residents receiving Medicaid, Medicare, or VA per diem the current VA per diem rate for each absent day of a leave of absence or hospitalization in excess of the period eligible for payment by Medicaid, Medicare, or the VA. (3-23-22)

**09. Medicaid Eligibility.** All nursing care residents, including re-admitted residents must either apply for or become eligible for Medicaid benefits, or must pay the maximum monthly charge as it may be established from time to time. Eligibility for Medicaid benefits is determined entirely by the Idaho Department of Health and Welfare and its agents. Residents who cannot, or choose not to, qualify for Medicaid are required to pay for services in full from other than Medicaid funds. Care and services for those residents who are Medicaid eligible will be billed to and paid by Medicaid. Residents eligible for Medicaid will be assessed a fee equal to the resident's liability as determined by Medicaid. (3-23-22)

#### **916. MONTHLY CHARGES AND ALLOWANCES.**

**01. Nursing Care.** Pursuant to Section 66-907, Idaho Code, maximum monthly charges are established by the Division Administrator with the advice of the Commission. A schedule of charges will be available in the business office of each Home. Charges will be reviewed from time to time by the Division Administrator and the Commission. (3-23-22)

**a. Changes to Charges.** Members of the public may comment on proposed changes at meetings of the Commission when changes are considered. (3-23-22)

**b. Notification and Posting.** When changes are made to charges, residents or their families or sponsors will receive written notification and changes will be posted in the business office of each Home a minimum of thirty (30) days prior to the effective date of the change. (3-23-22)

**02. Residential and Domiciliary Care.** Pursuant to Section 66-907, Idaho Code, maximum monthly charges and allowances are established by the Division Administrator with the advice of the Commission. A schedule of charges and allowances will be available in the business office of the Homes. Allowances will be reviewed from time to time by the Division Administrator and the Commission. (3-23-22)

**a. Changes to Charges and Allowances.** Pursuant to Paragraphs 915.02.e. and 915.02.f. of these rules, monthly charges for residential and domiciliary care will be adjusted automatically when a change is made to the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95588 divided by twelve (12). Relative to monthly allowances, members of the public may comment on proposed changes at meetings of the Commission when changes are considered. (3-23-22)

**b. Notification and Posting of Changes to Allowances.** When changes are made to allowances, residents or their families or sponsors will receive written notification, and changes will be posted in the business office of the Veterans Homes directly following notification pursuant to Public Law 95-588. (3-23-22)

#### **917. -- 949. (RESERVED)**

#### **950. FINANCIAL GROUNDS FOR REJECTION OR DISCHARGE.**

The following circumstances may be considered as grounds for rejection of an application for residency or for revocation of residency and subsequent discharge. (When an application is rejected or a resident discharged, the applicant/resident will be given notification of intended application rejection or discharge, in accordance with the

provisions in Section 982 of these rules.)

(3-23-22)

**01. Disposal of Assets.** If the Home Administrator determines that an applicant/resident has disposed of assets following or within sixty (60) months preceding initial application for residency, which would have the effect of reducing his maintenance charge, such action can lead to rejection of the application or discharge from a Home. (3-23-22)

**02. Failure to Pay Maintenance Charge.** Refusal or failure to pay the established maintenance charge can be cause for discharge from a Home. If the resident is so discharged, or leaves a Home voluntarily, the resident will not be eligible for readmission to a Home until all indebtedness to the Home is paid in full, or acceptable arrangements have been made with the Home Administrator for repayment. (3-23-22)

**03. Failure to Pay for Services.** (3-23-22)

**a.** Residents who are excluded from receiving free services from a VA Medical Center may elect to purchase such services through a sharing agreement or contract between a Home and a VA Medical Center or an outside provider when such sharing agreement or contract exists. In those cases where sharing agreement or contract costs are borne by a Home, the resident must reimburse the Home for the costs of services provided. (3-23-22)

**b.** Failure to reimburse a Home or a service provider within ten (10) days after receipt of a bill for services provided under a sharing agreement or contract may result in a resident's discharge from the Home. (3-23-22)

**951. -- 979. (RESERVED)**

**980. NOTICE OF RESIDENT TRANSFER OR DISCHARGE AND NOTICE OF DENIAL OF AN APPLICATION FOR RESIDENCY.**

The Home Administrator or his designee must notify the applicant or resident of any action to be taken regarding rejection of an application or involuntary transfer or discharge from a Home. The Home does not need to provide notice of voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (4-6-23)

**01. Form of Notice.** Notices of denial of application or ineligibility for residency; transfer; or discharge must be in writing. (4-6-23)

**02. Content of Notice of Transfer or Discharge.** The notice must state the following: (3-23-22)

**a.** The reason for the impending action and a reference to the pertinent rules under which the action is being brought or decision has been made; (3-23-22)

**b.** The effective date of the action; (3-23-22)

**c.** The location to which the resident is transferred or discharge, which is established for Nursing Care transfers and discharges only; (3-23-22)

**d.** The applicant's or resident's right to request a hearing according to the deadlines in Section 982 of these rules; and (4-6-23)

**e.** The procedure for requesting a hearing, as provided in Subsection 982.02 of these rules. (3-23-22)

**f.** The name, address, and telephone number of the State long term care ombudsman; (3-23-22)

**g.** The name, address, and telephone number of the State Disability Rights agency responsible for the protection and advocacy for those residents with developmental disabilities or mental illness. (3-23-22)

**03. Notification Deadlines.** Notice shall be provided to the applicant or resident according to the following deadlines: (4-6-23)

**a.** Denial of application or findings of ineligibility. Notice of a denial of application or findings of ineligibility for residency must be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (4-6-23)

**b.** Domiciliary Care. Discharge or transfer notices to residents receiving Domiciliary Care must be sent to the resident three (3) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. (4-6-23)

**c.** Residential Care. Discharge or transfer notices to residents receiving Residential Care must be sent to the resident fifteen (15) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. (4-6-23)

**d.** Nursing Care. Residents receiving Nursing Care must receive notice as follows: (4-6-23)

**i.** Notices of general discharge or transfer pursuant to Subsection 350.02 of these rules must be sent to the resident thirty (30) days prior to the intended effective date of the action. (3-23-22)

**ii.** Notices of emergency discharge or transfer pursuant to Subsection 350.01 of these rules must be sent to the resident as soon as practical. (3-23-22)

**iii.** Notices of discharge or transfer during absence pursuant to Subsection 350.03 of these rules must be sent to the resident within three (3) working days of the Home's determination to transfer or discharge. (4-6-23)

**iv.** Notice of discharge or transfer for unauthorized absences pursuant to Paragraph 350.02.g. of these rules must be sent to the resident within three (3) days of the last unauthorized absence establishing a basis for discharge. (4-6-23)

**981. APPEAL PROCEDURE.**

Upon notification to a resident of transfer or discharge from a Home by the Home Administrator, the resident may request a hearing in accordance with the provisions in Section 982, "Provisions for Contested Cases," of these rules. Any additional violation of Home rules by a resident while on notice of transfer or discharge will be treated independent of any pending appeal. (3-23-22)

**982. PROVISIONS FOR CONTESTED CASES.**

**01. Hearing Rights.** Residents and applicants have the following rights to a hearing: (3-23-22)

**a.** If a resident of a Home is notified of transfer or discharge, the resident will be afforded an opportunity for a hearing. A resident of a Home must attempt to resolve the bases stated on the notice of action through verbal discussions with the Home Administrator or his designee prior to submission of a written request for a hearing. A resident will not be afforded an opportunity for a hearing based upon a voluntary transfer or discharge under Subsection 350.04 of these rules. (3-23-22)

**b.** If an application for residency in a Home is rejected, the applicant may request a hearing. (3-23-22)

**02. Requesting a Hearing for Nursing Care.** A request for a hearing from a nursing care resident for residency in a Home must be submitted to the Idaho Department of Health and Welfare, P.O. Box 83720, Boise, Idaho 83720-0036. Requests for appeal should be received by the Idaho Department of Health and Welfare before thirty (30) days have passed in order to stop the discharge or transfer before it occurs. (4-6-23)

**03. Requesting a Hearing for Residential and Domiciliary Care.** (3-23-22)

**a.** A request for a hearing from a resident for residential and domiciliary care residency in a Home must be submitted through the Home Administrator to the Division Administrator for possible resolution or the scheduling of a hearing. A resident's request must contain a description of what effort he has taken to satisfy the requirements of Paragraph 982.01.a. of these rules. (3-23-22)



- b.** A request for a hearing must be in writing and signed by the applicant/resident. (3-23-22)
- c.** A request for a hearing must be submitted within three (3) days of receipt of the written notice of action or denial. (3-23-22)
- d.** Pending a hearing, benefits will be continued or held in abeyance as follows: (3-23-22)

  - i.** Benefits for domiciliary care, residential care, and nursing care residents will not be continued when the transfer or discharge is an emergency discharge under Subsection 350.01 of these rules or a discharge for unauthorized absences under Paragraph 350.02.g. of these rules. If the hearing request is made before the effective date of action and within three (3) days of receipt of the notice, no action will be taken by the Home Administrator on a general discharge under Subsection 350.02 of these rules, except Paragraph 350.02.g., or a transfer under Subsection 350.03 of these rules pending receipt of the final order. (3-23-22)
- e.** The Division Administrator will not accept a request for a hearing from a voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (3-23-22)

**04. Public Inspection.** All final decisions and orders of the Commission must be maintained by the Division Administrator and made available for public inspection after service on the parties. (3-23-22)

**983. -- 999. (RESERVED)**