

Notice of Development of Rulemaking

DEPARTMENT OF VETERANS' AFFAIRS

RULE NOS.: RULE TITLES:

55-12.006 Residents' Contribution to Cost of Care

55-12.007 Order and Discipline in the Home

PURPOSE AND EFFECT: Purpose of rules is to provide details regarding the interpretation of Section 296.37, FS, regarding residents' contributions to support costs of healthcare services for the Florida Department of Veterans' Affairs operating six State Veterans' Nursing Homes, and a Domiciliary. The Department will soon add two new homes to its statewide locations.

SUBJECT AREA TO BE ADDRESSED: Details of resident contributions; cost of care and how it is calculated; and as order and disciplinary matters enforced by the Nursing Home Administrators will be addressed.

RULEMAKING AUTHORITY: Section 292.05(3), FS

LAW IMPLEMENTED: Chapter 296, Part II, FS

A RULE DEVELOPMENT WORKSHOP WILL BE HELD AT THE DATE, TIME AND PLACE SHOWN BELOW:

DATE AND TIME: December 6, 2021, 1:00 p.m.

PLACE: Join the meeting using one of these options:

1) from your computer, tablet or smartphone.

<https://global.gotomeeting.com/join/610167893>

2) You can also dial in using your phone.

(For supported devices, tap a one-touch number below to join instantly.)

United States (Toll Free): 1 877 309 2073

- One-touch: tel:+18773092073,,610167893#

United States: +1 (571) 317-3129

- One-touch: tel:+15713173129,,610167893#

Access Code: 610-167-893

3) In Person, Mary Grizzle Building, Room 342, 11351 Ulmerton Road, Largo, FL 33778

Pursuant to the provisions of the Americans with Disabilities Act, any person requiring special accommodations to participate in this workshop/meeting is asked to advise the agency at least 7 days before the workshop/meeting by contacting: AgencyClerk@FDVA.STATE.FL.US If you are hearing or speech impaired, please contact the agency using the Florida Relay Service, 1(800)955-8771 (TDD) or 1(800)955-8770 (Voice).

THE PERSON TO BE CONTACTED REGARDING THE PROPOSED RULE DEVELOPMENT AND A COPY OF THE PRELIMINARY DRAFT, IF AVAILABLE, IS: Vicki Goonen, Agency Clerk, AgencyClerk@FDVA.STATE.FL.US/ or (727)518-3202, extension 5639

THE PRELIMINARY TEXT OF THE PROPOSED RULE DEVELOPMENT IS:

55-12.006 Residents' Contribution to Cost of Care.

(1) Every resident who receives income from any source, ~~including pension, compensation or gratuity from the United States government of more than \$35.00 per month,~~ shall contribute to his or her cost of care while a resident of the home in accordance with with Section 296.37, F.S. to the fullest extent possible., under the parameters set forth by the Florida Legislature.

(a) Income from any source is income over which the resident has control and can exercise discretion. It is gross income not including~~does not include~~ taxes or other expenses necessary for the production of the income.

(b) Pension, compensation or gratuity from the United States Government is the amount paid to the resident as a single person. Additional amounts paid for the support of a spouse or other dependents are not considered.

(c) A resident's income shall be calculated to include all income from any source, plus any pension, compensation or gratuity from the United States Government, in accordance with with Section 296.37, F.S. minus \$35.00. Upon the recommendation of the Administrator, and with the approval of the Director, a resident will be allowed to retain some additional amount on a temporary basis, when necessary due to exceptional or unusual personal health needs of the resident.

(2) The Administrator shall determine the amount of the required contribution of each resident of the home based on the daily cost of care in the home.

(a) The daily cost of care is calculated by dividing the total operating budget of the home for the period for which the calculation is being made by the estimated total number of days in the period that residents will occupy beds in the home (average daily census).

(b) The daily cost of care will be calculated annually based on the 12 month state fiscal year (July 1 through June 30), except that if the average daily census changes by 10%, up or down, for the immediately preceding 3 calendar month period, the Administrator may recalculate the daily cost of care based on the revised daily census figure.

(c) The residents required contribution shall be adjusted, up or down, on the first day of the month following the month in which the recalculation of the daily cost of care occurs.

(3) The United States Department of Veterans Affairs (VA)-~~VA~~ contribution is the amount of VA per diem payment to the home for those residents determined by the VA to be eligible to receive such assistance.

(4)(a) The required contribution for a resident who is eligible for the VA contribution is the daily cost of care as calculated under paragraph (2)(a), herein, not to exceed the amount of the resident's income as calculated under paragraph (1)(c), herein.

(b) The required contribution for a resident who is not eligible for the VA contribution is the daily cost of care as calculated under paragraph (2)(a), herein.

(5) Upon admission the resident shall pay in full, in advance, the pro-rata share of the resident's contribution for the remainder of the calendar month during which the resident is admitted.

(6) Each resident shall pay the full amount of the resident's contribution for each calendar month, in advance, by the fifth business day of the month. In the event the resident is discharged for any reason before the end of the month, a pro-rata portion of the resident's contribution for the month shall be refunded to the resident.

(7) Failure to pay the required contribution will be cause for the Administrator, subject to the approval of the Director, to dismiss the resident from the home.

(8) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 296.34(3) FS. Law Implemented 296.37 FS. History—New 5-23-93, Amended 12-27-98, 7-26-00, 6-10-08, 00-00-00.

55-12.007 Order and Discipline in the Home.

(1) Resident of the home shall cooperate fully in the preservation of order and discipline in the home.

(a) Residents shall observe good health habits and personal hygiene.

1. Smoking inside the home is prohibited. Areas may be designated outside the home for such use.

2. The use of drugs or any controlled substance in the home is prohibited except as provided in subparagraph 3., herein. Alcohol may be consumed by a resident as ordered by the resident's physician.

3. Prescription drugs will be controlled by the home, to be administered as ordered by the resident's physician. Residents may self-administer prescription or over the counter drugs as ordered by the resident's physician where the Interdisciplinary Care Plan of the resident indicates this practice to be safe.

4. Resident's shall submit to such physical or mental examinations and shall cooperate in such health or rehabilitative programs as may be ordered by the resident's physician or the Medical Director.

(b) Residents shall conduct themselves in a way that does not endanger the safety or comfort of other residents of the home.

1. Residents shall not bring anything into the home that endangers the safety or comfort of other residents.

2. Residents shall not have personal items in their possession that would constitute a fire or safety hazard.

3. Residents shall maintain a courteous relationship toward other residents and staff of the home. Abusive, profane or obscene language shall not be used.

4. Residents shall dress appropriately for the particular activity that they may be engaged in from time to time.

5. Residents shall respect the property of other persons and the facilities of the home.

6. Illegal gambling shall not be permitted in the home.

(c) Visiting hours, area of visitation, and conduct of residents and visitors during visits shall not interfere with the comfort and well-being of other residents.

(d)1. A resident may leave the home for up to 96 hours where such absence is approved in the resident's

Interdisciplinary Care Plan. The resident is required to make the full contribution to the cost of care while absent.

2. A resident who leaves against medical advice shall not be eligible to return unless approved by the resident's physician and the Administrator.

(e) No resident shall engage in illegal conduct.

(2) The Administrator, subject to the approval of the Director, is empowered by Section 296.34(5), F.S., to dismiss a resident of the home for any infraction of these rules.

(3) Where the Administrator determines that a resident has caused physical damage to the home, or its furnishings and equipment, either negligently or intentionally, the Administrator shall determine the cost of repairs or replacement, and take action to recover such costs. The Administrator shall recover such repair or replacement cost by:

(a) Increasing the resident's co-payment.

(b) Using funds of the resident that are on deposit in the Resident's Deposit Trust Fund.

(c) Holding personal property or funds of the resident being held by the home for safekeeping as security for the cost of repairs or replacement.

(4) This rule will expire five (5) years from the effective date, unless readopted.

Rulemaking Authority 296.34(3) FS. Law Implemented 296.34 FS. History—New 5-23-93, Amended 12-27-98, 6-10-08, 00-00-00.