

TITLE 770. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS

CHAPTER 1. ADMINISTRATIVE OPERATIONS

[Authority: 75 O.S., § 302(A)(1); 72 O.S., § 63.1]
[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

770:1-1-1. Purpose

The purpose of this Chapter is to comply with the requirements of the Administrative Procedures Act, 75 O.S., Sections 302, 305 and 307; to publish the organization of the Oklahoma Veterans Commission, the responsibility and authority by law placed on the Commission; and to clarify, identify and set forth the overall objectives of the veterans program in Oklahoma under existing law.

[Source: Amended at 30 Ok Reg 1482, eff 6-27-13; Amended at 32 Ok Reg 2313, eff 9-11-15]

770:1-1-2. Request for interpretation of rules

Any person who may be affected by the existence of application of any of the rules of the Oklahoma Department of Veterans Affairs may request in writing an interpretation of the ruling regarding the application of such rule to the facts furnished with the inquiry. Any such request shall state fully the facts concerning which the rule may apply, and the particular rule about which the question exists. The request or inquiry will be added to the agenda for the next scheduled Commission meeting and may, if necessary, be continued for further consideration to additional meetings. The Commission's interpretation of the rule will be furnished in writing to the person making the request within a reasonable time thereafter.

[Source: Added at 30 Ok Reg 1482, eff 6-27-13]

770:1-1-3. Compliance with Title 38 of the Code of Federal Regulations

The Oklahoma Department of Veterans Affairs will comply with all regulations of the U.S. Department of Veterans Affairs, under Title 38, Part 51, Per Diem for Nursing Home Care of Veterans in State Homes, including, but not limited to, a statement of resident's rights; admission, transfer and discharge rights; and resident behavior and facility practices. The Executive Director will develop policies and procedures to ensure compliance.

[Source: Added at 30 Ok Reg 1482, eff 6-27-13]

SUBCHAPTER 3. ORGANIZATIONAL STRUCTURE

770:1-3-1. Program description

The present program for Oklahoma veterans is:

(1) To provide medical, nursing and domiciliary care (if available) for those veterans when needed. The Centers to accomplish this are:

- (A) Ardmore
- (B) Claremore
- (C) Clinton (domiciliary)
- (D) Lawton
- (E) Norman

(F) Sulphur

(G) Talihina

(2) To provide financial assistance in emergencies to disabled or destitute veterans and to their spouses, surviving spouses, orphans and needy children. This is accomplished through Emergency Aid.

(3) To provide as complete rehabilitation as possible to disabled veterans and dependents:

(A) Claims and counseling services through:

(i) Claims Office, Muskogee, Oklahoma

(ii) Hospital Office, Muskogee, Oklahoma

(iii) Hospital Office, Oklahoma City, Oklahoma

(iv) Claims Office, Lawton, Oklahoma

(v) Clinic Office, Tulsa, Oklahoma

(vi) Itinerant Field Service Offices

(vii) Referral service to other agencies

(viii) Claims office at each center

(B) Education and training through schools, apprenticeship and on-job training establishments to be approved by the State Accrediting Agency.

[Source: Amended at 28 Ok Reg 679, eff 5-12-11; Amended at 30 Ok Reg 1482, eff 6-27-13]

770:1-3-2. Program administration

(a) The Oklahoma Veterans Commission is the successor to the War Veterans Commission and the Soldiers Relief Commission and was created by House Bill 247 of the Twenty-First Session of the Oklahoma Legislature in 1947. The Commission consists of nine members appointed by the Governor, with the advice and consent of the Senate, from lists of five names submitted by the American Legion, the Veterans of Foreign wars, the Disabled American Veterans, the Paralyzed Veterans of America, the Military Order of the Purple Heart, and the National Guard Association of Oklahoma. One member is selected from each of these groups and three members at large will be appointed, one of whom may be a nonveteran with a family member residing in a state veteran center. All appointments will be made for a three year term.

(b) The Oklahoma Veterans Commission is the controlling board for the Oklahoma Department of Veterans Affairs, Oklahoma Veterans Centers at Ardmore, Claremore, Clinton, Lawton/Ft. Sill, Norman, Sulphur and Talihina and is responsible to the Governor for carrying out the laws enacted by the Oklahoma Legislature and for administering the veterans program in Oklahoma. The Commission has the authority to appoint the necessary personnel to administer the program. The Commission acts as the funding agency for the State Accrediting Agency.

(c) The Oklahoma Veterans Commission has authorized and charged the Director with the responsibility of administering the program.

[Source: Amended at 28 Ok Reg 1872, eff 6-25-11; Amended at 32 Ok Reg 2313, eff 9-11-15]

SUBCHAPTER 5. OPEN RECORDS ACT

770:1-5-1. Program description, compliance standard and basis for exemptions

(a) Section 24A.4 of Title 51 of the Oklahoma Statutes, **Oklahoma Open Records Act** specifically states that "in addition to other records which are kept or

maintained, every public body and public official has a specific duty to keep and maintain complete records of the receipt and expenditure of any public funds reflecting all financial and business transactions relating thereto, except that such records may be disposed of as provided by law." [51 O.S. §24A.4]

(b) The Records Disposition Schedule for the Oklahoma Department of Veterans Affairs, (a copy of the Schedule is on file in the Central Office of the Department) lists and provides authority for the disposition of all records of the Department. No record as defined by Section 24A.3 (1) of Title 51 shall be disposed of in any manner other than that authorized by said Schedule.

(c) It is the policy of the Oklahoma Veterans Commission as the controlling board for the Oklahoma Department of Veterans Affairs that no person shall be denied access to a record of the Department and that Title 51, Chapter 1 of the Oklahoma Statutes shall be complied with in accordance with the procedures set out in the rules of this Chapter.

(d) If any provision of this procedure or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

(e) All records of the Oklahoma Department of Veterans Affairs shall be open to any person for inspection, copying, and/or mechanical reproduction during regular business hours with the exception of those records identified in this Subchapter.

Generally, exempt records can be classified as follows:

(1) Records specifically required by law to be kept confidential including:

(A) records not discoverable under state law such as material prepared in anticipation of litigation or trial; or

(B) records protected by a state evidentiary privilege such as the attorney-client and the identity of informer privileges; or

(C) records of what transpired during meetings of a public body lawfully closed to the public such as executive sessions authorized under the Oklahoma Open Meeting Act.

(2) Any reasonably segregable portion of a record containing exempt material shall be provided after deletion of the exempt portions.

[Source: Amended at 30 Ok Reg 1482, eff 6-27-13; Amended at 32 Ok Reg 2313, eff 9-11-15]

770:1-5-2. Exemptions from Act

In addition to records specifically excluded under the Oklahoma Open Records Act, the following records are also exempt under federal rules and statutes:

(1) Office copy of claims files of veterans or their dependents, maintained for the purpose of providing continuity and follow-up information to be used in developing the claim and for providing the claimant information at later dates are confidential. Statutory exemptions are as follows:

(A) The Privacy Act of 1974 (PL 93-579)

(B) Title 38, United States Code, Section 3301; 3302

(C) Veterans Administration Regulations 500-527 - promulgated under the provisions of Title 38, United States Code, Section 3301

(f)

(D) Letter of Accreditation from the Veterans Administration to Service Organizations and to individual service officer citing that service officer must observe the limitations imposed by Veterans Administration regulations.

(2) Confidential records compose that part of the file which contains information obtained from the Veterans Administration, Social Security and Department of Defense files to include:

- (A) Separation/Discharge Papers
- (B) Medical Records
- (C) Monetary Award Letters - (amounts paid from public funds may be revealed)
- (D) Telegrams or letters from the War Department, Army, Navy, Air Force, Marine Corps, Red Cross as pertains to Prisoner of War or Missing Status. The statutory exemption is as follows:

- (i) The Privacy Act of 1974
- (ii) Veterans Administration Regulation 513.

(3) Confidential records compose that part of the file which contains information obtained from the Veterans Administration, Social Security and Department of Defense files and includes:

- (A) Separation/Discharge Papers
- (B) Medical Records
- (C) Monetary Award Letters - (amounts paid from public funds may be revealed). The statutory exemption is as follows:

- (i) The Privacy Act of 1974
- (ii) Veterans Administration Regulation 513.

(4) Medical and psychiatric record exemptions are addressed under State and Federal laws. Statutes prohibiting release of medical and psychiatric documents currently existing or legally adopted subsequent to these procedures shall apply. Additionally, veterans' medical records are covered specifically in The Privacy Act of 1974 and Veterans Administration Regulations

(5) Certain records and information relating to competitive bidding, computer programs or software which may or may not be applicable in the future, which, if disclosed, would give an unfair advantage to competitors or bidders, may be kept confidential; however, agency employees will remain cognizant of their responsibility to comply with 51 §24A.10.

(6) Information relating to library, archive, or museum materials donated to public bodies "to the extent of any limitations imposed as a condition of the donation or any information which would reveal the identity of an individual who lawfully makes a donation to or on behalf of a public body including, but not limited to, donations made through a foundation operated in compliance with Sections 5-145 and 4306 of Title 70 of the Oklahoma Statutes" [51 O.S. §24A.11(A)] may be kept confidential.

(7) "Except for the fact that a communication has been received and that it is or is not a complaint, a public official may keep confidential personal communications received by the public official from a person exercising rights secured by the Constitution of the State of Oklahoma or the Constitution of the United States. The public official's written response to this personal communication may be kept confidential only to the extent necessary to protect the identity of the person exercising the right." [51 O.S. §24A. 14]

[Source: Amended at 30 Ok Reg 2120, eff 6-3-13 (emergency); Amended at 31 Ok Reg 2473, eff 9-12-14]

770:1-5-3. Photocopy charges

- (a) 51 O.S.Supp. 1985, Section 24A.5(3) provides authority for recovery of reasonable, direct costs of document copying, and/or mechanical reproduction unless the request is solely for commercial purpose or clearly would cause excessive disruption of the public body's essential functions; then the public body may charge a reasonable fee to recover the direct cost of document search.
- (b) A charge of ten cents (\$0.10) per copy shall be assessed for the direct cost of document copying (books, paper) in addition to any other fees provided for in OAC 770:1-5-4.
- (c) A charge of the actual cost of the microfilm, disk, record, sound recording, film recording or video record will be assessed in addition to any other fees provided for in OAC 770:1-5-4.
- (d) A charge of the actual cost of the computer tape plus \$17.50 per minute processing time with a one minute minimum will be assessed for computer tape reproduction, in addition to any other fees provided for in OAC 770:1-5-4.

770:1-5-4. Search fees

- (a) A charge of \$25.00 per hour shall be made for document search with a minimum of one hour charge. Document search fees shall be assessed only as authorized in OAC 770:1-5-3.
- (b) Requests for records requiring less than one hour will be responded to in not more than five (5) working days from the date of the request.
- (c) The Department of Veterans Affairs shall post the fee scheduled in the Central Office of the Department and with the Oklahoma County Clerk. Additional copies of the fee schedule shall be deposited with the County Clerk in each county wherein there is located an Oklahoma Veterans Center and with the office of the Administrator of said Centers.
- (d) No search fee shall be charged "when the release of said documents is in the public interest, including, but not limited to, release to the news media, scholars, authors and taxpayers seeking to determine whether those entrusted with the affairs of the government are honestly, faithfully, and competently performing their duties as public servants. Said fees shall not be used for the purpose of discouraging requests for information or as obstacles to disclosure of requested information." [51 O.S.Supp. 1985, Section 24A.5(3)]

770:1-5-5. Access to records

- (a) Records may be inspected, copied and/or mechanically reproduced during regular business hours from 8:00 a.m. to 4:30 p.m. at the following locations:
- (1) Central Office, 2311 N. Central Ave., P.O. Box 53067, Oklahoma City, Oklahoma 73152, (405) 521-3684
 - (2) Oklahoma Veterans Center, Ardmore Division, 1015 S. Commerce, P.O. Box 489, Ardmore, Oklahoma 73401, (580) 223-2266
 - (3) Oklahoma Veterans Center, Claremore Division, 3001 W. Blue Starr Dr., P.O. Box 988, Claremore, Oklahoma 74018, (918) 342-5432
 - (4) Oklahoma Veterans Center, Clinton Division, 1701 S. 4th St., P.O. Box 1209, Clinton, Oklahoma 73601, (580) 331-2200
 - (5) Oklahoma Veterans Center, Lawton/Ft. Sill Division, 501 SE Flower Mound Rd., P.O. Box 849, Lawton, Oklahoma 73502, (580) 351-6511
 - (6) Oklahoma Veterans Center, Norman Division, 1776 E. Robinson, P.O. Box 1668, Norman, Oklahoma 73070, (405) 360-5600
 - (7) Oklahoma Veterans Center, Sulphur Division, 304 E. Fairlane, Sulphur, Oklahoma 73086, (580) 622-2144

(8) Oklahoma Veterans Center, Talihina Division, 10014 SE 1138th Ave.,
P.O. Box 1168, Talihina, Oklahoma 74571, (918) 567-2251

(9) Muskogee Claims and Benefits Office, 125 South Main, Room 1B38,
Muskogee, Oklahoma 74401, (918) 781-7766

(b) The following individuals are authorized to release documents. At least one such person shall be available at all times to release records during regular business hours as specified in (a) of this section.

(1) Central Office Division:

- (A) Executive Director
- (B) Deputy Director
- (C) Administrative Programs Officer
- (D) Human Resources Programs Director
- (E) Chief Financial Officer

(2) Oklahoma Veterans Center, Ardmore Division:

- (A) Administrator
- (B) Assistant Administrator
- (C) Administrative Programs Officer
- (D) Human Resources Programs Manager
- (E) Business Manager

(3) Oklahoma Veterans Center, Claremore Division:

- (A) Administrator
- (B) Assistant Administrator
- (C) Administrative Programs Officer
- (D) Human Resources Programs Manager
- (E) Business Manager

(4) Oklahoma Veterans Center, Clinton Division:

- (A) Administrator
- (B) Assistant Administrator
- (C) Administrative Programs Officer
- (D) Human Resources Programs Manager
- (E) Business Manager

(5) Oklahoma Veterans Center, Lawton/Ft. Sill Division:

- (A) Administrator
- (B) Assistant Administrator
- (C) Administrative Programs Officer
- (D) Human Resources Programs Manager
- (E) Business Manager

(6) Oklahoma Veterans Center, Norman Division:

- (A) Administrator
- (B) Assistant Administrator
- (C) Administrative Programs Officer
- (D) Human Resources Programs Manager
- (E) Business Manager

(7) Oklahoma Veterans Center, Sulphur Division:

- (A) Administrator
- (B) Assistant Administrator
- (C) Administrative Programs Officer
- (D) Human Resources Programs Manager
- (E) Business Manager

(8) Oklahoma Veterans Center, Talihina Division:

- (A) Administrator

- (B) Assistant Administrator
- (C) Administrative Programs Officer
- (D) Human Resources Programs Manager
- (E) Business Manager
- (9) Muskogee Claims and Benefits Office:
 - (A) Manager
 - (B) Assistant Manager
 - (C) Administrative Programs Officer

[Source: Amended at 28 Ok Reg 679, eff 5-12-11]

SUBCHAPTER 7. QUALITY WORKFORCE FOR OKLAHOMA'S HEROES

770:1-7-1. Eligibility

The Quality Workforce for Oklahoma's Heroes applies to fulltime employees of the Oklahoma Department of Veterans Affairs, as defined below:

- (1) Must be a current, full-time ODVA employee with at least 12 months continuous employment with the agency;
- (2) Must have achieved an overall rating of "meets" or "exceeds" standards on his or her most recent performance evaluation;
- (3) Meets the standards of the program as defined within this section; and
- (4) Have no pending or formal disciplinary actions in his or her permanent personnel file within the last year from date of application to the program.

[Source: Added at 31 Ok Reg 333, eff 12-3-13 (emergency); Added at 31 Ok Reg 2473, eff 9-12-14]

770:1-7-2. Qualification and application procedures

Applicants for the Quality Workforce for Oklahoma's Heroes shall provide the following information to the Oklahoma Department of Veterans Affairs Education Review Team for review and determination of eligibility:

- (1) A completed application form as prescribed by the Executive Director;
- (2) The application must be received prior to the start of the course/program;
- (3) The employee must have applied for, and been accepted into, the program by the institution providing the education or training; and
- (4) The employee must provide documentation from the education institution for the course(s) or program in which the employee is enrolled;

[Source: Added at 31 Ok Reg 333, eff 12-3-13 (emergency); Added at 31 Ok Reg 2473, eff 9-12-14]

770:1-7-3. Benefits

- (a) Funds of the ODVA may be used to pay salaries, tuition expenses, or fees for employees enrolled in an education or training program leading to quality care of residents and/or to maintain licensure of the Centers.
- (b) Employees may be in a work status while attending these training and education programs.
- (c) An individual employee is limited to total education and training benefits of \$5,250.00 in any one calendar year. The calendar year is determined by the payment date for the benefit.

[Source: Added at 31 Ok Reg 333, eff 12-3-13 (emergency); Added at 31 Ok Reg 2473, eff 9-12-14]

770:1-7-4. Conditions for receipt of benefits

- (a) The employee receiving benefits under this Subchapter shall execute a promissory note to the ODVA (who completes the promissory note and tracks it) to repay the amount of tuition and/or fees paid by the ODVA to the employee or on behalf of the employee if the employee leaves the employment of the ODVA for any reason, except for employees who volunteer or are drafted into active military service.
- (b) If the employee participated in the education and training program during working hours, the cost of any pay paid to the employee while attending the course will be included in the total amount of the promissory note.
- (c) The amount of the promissory note shall be reduced at a rate of \$13.00 per calendar day beginning the first day following graduation or completion from the education or training program.
- (d) Should the employee fail to make satisfactory progress, as defined by the ODVA, in the education or training program, or be terminated from the education or training program for any reason, the promissory note shall be reduced at a rate of \$13.00 per calendar day beginning the first day following termination from the education or training program.
- (e) Should the employee leave employment with the ODVA for any reason, except for employees who have volunteered or have been drafted into active military service, the obligation to the ODVA becomes due and payable immediately.
- (f) Violation of the terms of the promissory note shall give rise to a cause of action and suit may be commenced by the ODVA for and on behalf of the State of Oklahoma for restitution of any and all sums plus interest at the statutory rate, costs, and reasonable attorney fees.

[Source: Added at 31 Ok Reg 333, eff 12-3-13 (emergency); Added at 31 Ok Reg 2473, eff 9-12-14]

770:1-7-5. Standards

The ODVA shall insure the employee:

- (1) Makes satisfactory scholastic progress toward the program of education or training until completion of all program requirements;
- (2) Maintains a grade point average required for satisfactory academic progress in the program of education or training, as defined by the institution providing the education or training; and
- (3) Meets ODVA attendance time and attendance rules if the employee attends the training class during working hours.

[Source: Added at 31 Ok Reg 333, eff 12-3-13 (emergency); Added at 31 Ok Reg 2473, eff 9-12-14]

770:1-7-6. Eligible Institutions

- (a) The ODVA will contract for enrollment in an education and training program only at public schools and institutions accredited by a national accrediting agency recognized by the U.S. Department of Education, or programs offered by licensing or certification entity's.
- (b) The ODVA will contract with eligible institutions for education and training programs only for employees that have submitted applications as defined in this Subchapter and have been approved by the Executive Director.
- (c) The ODVA will pay licensure and certification fees only for those employees whose positions with the ODVA require such a license or certification, or as the education or training program requires.

[Source: Added at 31 Ok Reg 333, eff 12-3-13 (emergency); Added at 31 Ok Reg 2473, eff 9-12-14]

770:1-7-7. Other

The total amount available under this Subchapter shall not exceed funds set aside for this purpose in the administrative budget of the ODVA, as approved by the Executive Director and the Commission each year.

[Source: Added at 31 Ok Reg 333, eff 12-3-13 (emergency); Added at 31 Ok Reg 2473, eff 9-12-14]

APPENDIX A. OKLAHOMA DEPARTMENT OF VETERANS AFFAIRS ORGANIZATIONAL STRUCTURE [REVOKED]

[Source: Revoked at 28 Ok Reg 1872, eff 6-25-11]

CHAPTER 10. CENTER DIVISION PROGRAM

[Authority: 72 O.S., §§ 63.1 and 225]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

770:10-1-1. Purpose

The purpose of the rules of this Chapter is to set forth the eligibility requirements, admission priorities and procedures, and care and maintenance charges, and to implement a policy concerning patients personal accounts, specifically to determine a maximum amount to be held for the patient in said account, and to conform to and comply with applicable state statutes concerning the release or disbursement of a deceased patient's assets at all Oklahoma Veterans Centers.

[Source: Amended at 28 Ok Reg 681, eff 5-12-11]

770:10-1-2. Definitions

The following words and terms, when used in the Chapter shall have the following meaning unless the context clearly indicates otherwise:

"Care and treatment team" means a multidisciplinary group of clinical personnel that have direct involvement in the patient care and planning program, consisting of, but not necessarily limited to the following: Medical Director, Attending Physician, Registered Nurse Supervisor, Charge Nurse from the Ward, and Social Service Worker.

"Long-term care" means patients, who upon completing an acute treatment program, have not responded sufficiently as to where release from hospitalization could be realistically planned within a reasonable period of time (6 months). Continued hospitalization is then prescribed for an undetermined duration and extended until such time recovery occurs.

[Source: Amended at 28 Ok Reg 681, eff 5-12-11]

770:10-1-3. Eligibility requirements

To be eligible for admission to an Oklahoma Veterans Center, an individual must be certified by the United States Department of Veterans Affairs for receipt of per diem payment.

- (1) Veterans must have served at least ninety (90) days on active duty, except where discharged due to or as a result of a service connected disability.

(2) A veteran must be disabled by age, disease or other reason to be eligible for admission, to a degree that requires intermediate or skilled type nursing care.

[Source: Amended at 28 Ok Reg 681, eff 5-12-11; Amended at 30 Ok Reg 1483, eff 6-27-13; Amended at 32 Ok Reg 2315, eff 9-11-15]

770:10-1-4. Admission priorities and procedures

(a) It is the intent of the Oklahoma Veterans Commission to establish a fair and equitable system and one that allows for the flexibility necessary in the operation of long-term nursing care facilities whereby eligible veterans may be placed on waiting lists for admission to the Oklahoma Veterans Centers operated by the Oklahoma Department of Veterans Affairs.

(b) Priorities for placement are as follows:

(1) Eligible World War II veterans seeking admission will be placed at the top of the waiting list and will be admitted to the first available bed capable of providing the level of care they require. When there are no longer living World War II veterans seeking admission, veterans of the next oldest wartime period will be placed at the top of the waiting list and will be admitted to the first available bed capable of providing the level of care they require and so on through established wartime periods.

(2) Eligible Ex-Prisoners of War will be placed at the top of the waiting list if there are no eligible veterans on the waiting list in category (1) above, and will be admitted to the first available bed capable of providing the level of care they require.

(3) Eligible wartime veterans will be placed at the top of the waiting list if there are no eligible veterans on the waiting list in categories (1) and (2) above, and will be admitted to the first available bed capable of providing the level of care they require, in the following order based on the date of receipt of the application:

(A) Eligible wartime veterans with service connected ratings of 70% to 100% by the United States Department of Veterans Affairs.

(B) All other wartime veterans with service connected ratings from 0% to 60% by the United States Department of Veterans Affairs.

(C) All other eligible wartime veterans not specified in earlier categories will be placed on the waiting list in chronological order based on the date of receipt of the application.

(4) All other eligible veterans, including those with no wartime service, will be placed at the top of the waiting list if there are no eligible veterans on the waiting list in categories (1) through (3) above, and will be admitted to the first available bed capable of providing the level of care they require, in the following order based on the date of receipt of the application:

(A) All other eligible veterans with service connected ratings of 70% to 100% by the United States Department of Veterans Affairs.

(B) All other eligible veterans with service connected ratings from 0% to 60% by the United States Department of Veterans Affairs.

(C) All eligible veterans not specified in earlier categories will be placed on the waiting list in chronological order based on the date of receipt of the application.

(5) If more than one application is received on the same day, the Medical Director will determine their sequential order on the list according to medical need. The veterans will be called from this list and will be admitted

to the first available bed capable of providing the level of care they require.
(c) The admission priorities as set forth in (b) of this Section are to be adhered to as closely as possible; however, the Administrator of each Veterans Center must maintain the flexibility of being allowed to deviate from the waiting list when medical or humanitarian need dictates.

(d) Applications for admission are provided by writing or calling the Oklahoma Department of Veterans Affairs Center as follows:

- (1) Ardmore - Administrator, Oklahoma Veterans Center Box 489, Ardmore, Oklahoma 73402 Telephone: Area Code (580) 223-2266
- (2) Claremore - Administrator, Oklahoma Veterans Center P. O. Box 988, Claremore, Oklahoma 74018 Telephone: Area Code (918) 342-5432
- (3) Clinton - Administrator, Oklahoma Veterans Center Box 1209, Clinton, Oklahoma 73601 Telephone: Area Code (580) 331-2200
- (4) Lawton/Ft. Sill Division - Administrator, Oklahoma Veterans Center P. O. Box 849, Lawton, Oklahoma 73502 Telephone: Area Code (580) 351-6511
- (5) Norman - Administrator, Oklahoma Veterans Center Box 1668, Norman, Oklahoma 73070 Telephone: Area Code (405) 360-5600
- (6) Sulphur - Administrator, Oklahoma Veterans Center 304 E. Fairlane, Sulphur, Oklahoma 73086 Telephone: Area Code (580) 622-2144
- (7) Talihina - Administrator, Oklahoma Veterans Center P. O. Box 1168, Talihina, Oklahoma 74571 Telephone: Area Code (918) 567-2251
- (8) Oklahoma City Central Office - P.O. Box 53067, Oklahoma City, Oklahoma 73152 Telephone: Area Code (405) 521-3684
- (9) Other applications for admission can be obtained at USDVA Medical Centers in Muskogee and Oklahoma City and through Oklahoma Department of Veterans Affairs Service Officers.

(e) Spouses and surviving spouses may be admitted on exhaustion of placement of all eligible veterans.

[Source: Amended at 27 Ok Reg 2803, eff 9-15-10; Amended at 28 Ok Reg 681, eff 5-12-11; Amended at 30 Ok Reg 1483, eff 6-27-13; Amended at 32 Ok Reg 2315, eff 9-11-15]

770:10-1-5. Special rules for neuropsychiatric care patients [REVOKED]

[Source: Revoked at 28 Ok Reg 681, eff 5-12-11]

770:10-1-6. Special requirements for admission of neuropsychiatric care patients [REVOKED]

[Source: Revoked at 28 Ok Reg 681, eff 5-12-11]

770:10-1-7. Special requirements for discharge of neuropsychiatric care patients [REVOKED]

[Source: Revoked at 28 Ok Reg 681, eff 5-12-11]

SUBCHAPTER 3. MAINTENANCE CHARGES, PATIENT FUNDS AND ASSETS

770:10-3-1. Care and maintenance charges

(a) Residents of all Oklahoma Veterans Centers shall be assessed a care and maintenance charge based upon the level of care and treatment provided to them and grant assistance or other payments received on the resident's behalf.

(b) The claim of the State for such care and treatment shall constitute a valid indebtedness against any such resident and his estate and shall not be barred by any statute of limitations. At the death of the resident, this claim shall be allowed and paid as other lawful claims against the estate. Failure to pay care and maintenance charges assessed is basis for discharge.

(c) Nursing care shall include room and board in the nursing care of the Veterans Center and the full range of medical and nursing services offered in-house at the Center. Medical and nursing services shall minimally include: staff physician services, nursing care, all required medications and their administration, all necessary x-ray and laboratory services which are performed in-house by the Center and all required therapy services performed in-house by the Center. Nursing care does not include those medical or other services not included above which a resident requires or receives outside those provided within and by the Center, personal discretionary use items such as tobacco or the purchase of street clothes. Services provided by and through contractors or other third parties may be excluded as not performed by the Center regardless of the location of services.

(d) Care and maintenance charges begin on the day of admission and cease on the day of discharge. Care and maintenance charges for partial months of residency are pro-rated, except in the event of a resident's expiration at the Center. If the resident expires at the Center, the care and maintenance charge ends on the first day of the month in which an Oklahoma Veterans Center resident expires.

(e) Care and maintenance charges are due and payable on the first of each month for services received in the preceding month. Absent exigent circumstances as approved by the Central Office, electronic payment shall be required to satisfy monthly care and maintenance charges.

(f) Payments by debit card, credit card, and other means of electronic funds transfer shall be subject to the following terms:

(1) "**Nationally recognized**" credit card means any instrument or device, whether known as a credit card, credit plate, charge plate, debit card, or by any other name, issued with or without fee by an issuer for the use of the cardholder in lieu of a check, as defined by 12A Oklahoma Statute § 3-104(f), in obtaining goods, services or anything else of value or for the use of the cardholder in obtaining such goods, services, or anything else of value on credit and which, in either case, is accepted by over one thousand merchants in this state. The Oklahoma Department of Veterans Affairs shall determine which nationally recognized credit cards will be accepted for any payments due and owing to the Department.

(2) Implementation of payment by nationally recognized credit card and other means of electronic funds transfer will be phased in over a period of time as determined by the Department.

(3) The Oklahoma Department of Veterans Affairs will verify that sufficient credit is available before acceptance of credit card to insure that no loss of state revenue will occur by the use of such card.

(A) If a person is at a designated receiving point and credit is not available, the person then has the opportunity to pay by other methods accepted by the Department.

(B) If a person mails in the credit card information and credit is not available, the transaction will re-processed in accordance with any authorization executed by the cardholder. Until payment is completed, the transaction will be classified as one with no remittance and a bill will be forthcoming.

(4) The Oklahoma Department of Veterans Affairs may add an amount up to that equal to the amount of the processing, service, or convenience charges incurred, not to exceed four percent (4%) of the amount of such payment as a service charge for the acceptance of such nationally recognized card.

(5) Persons wishing to pay by credit card must be willing to submit normally required credit card information to the Department. This includes, but is not limited to: card type (VISA, etc.), card number, card expiration date, card holder name as shown, and three digit verification, security, or personal identification number (PIN). The Department assumes no liability for unauthorized use of this information.

(6) "**Electronic funds transfer**" means any transfer of funds, other than a transaction originated by check, draft, or similar paper instrument, which is initiated through an electronic terminal, telephonic instrument, or computer or magnetic tape so as to order, instruct, or authorize a financial institution to debit or credit an account.

(7) "**Electronic terminal**" means an electronic device, other than a telephone operated by a person, through which a person may initiate an electronic funds transfer.

(8) "**Financial institution**" means a State or National bank, a State or Federal savings and loan association, a mutual savings bank, a State or Federal credit union, or any other person who, directly or indirectly, holds an account belonging to another person.

(9) "**State**" means any State, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing.

(g) Care and maintenance charges shall be computed to maximize pensions, compensation, and aid and attendance benefits from the United States Department of Veterans Affairs and any other federal or state assistance or payments to which the resident is entitled. Existing and prospective residents shall make application for all available benefits and assistance from federal and state government sources. Failure to do so shall result in denial of admission, discharge, or assessment of the monthly care and maintenance charge as the full cost of care, less per diem payments received from the United States Department of Veterans Affairs.

(h) Each resident shall be expected to pay each month from his or her assets, resources, or income, amounts billed for care and maintenance by an Oklahoma Veterans Center. A resident shall apply for assistance or benefits through Medicaid, if his or her available resources are insufficient to pay the entire cost of care or maintenance on a current basis, and the Center is eligible for Medicaid reimbursements.

(i) The full cost of care cited in establishment of the maintenance charge may be:

(1) a uniform rate for two or more Oklahoma Veterans Centers, which does not exceed the average cost of care across all Oklahoma Veterans Centers, or

(2) a Center specific rate that is calculated for a particular Center by using financial data for the cost of care at that Oklahoma Veterans Center.

(j) Effective on and after the date of certification of an Oklahoma Veterans Center to receive Medicaid payments, the maintenance charge assessed to each newly admitted or re-admitted resident to a Medicaid certified Center shall be calculated based on the full cost of care, less per diem payments received from the United States Department of Veterans Affairs. Maintenance charges may be assessed based

on a daily or monthly rate. Further adjustments to maintenance charges may be made to conform to requirements for receipt of payments of per diem from the United States Department of Veterans Affairs, Medicare payments, or Medicaid payments.

(k) Monthly maintenance charges for a resident whose most recent admission occurs prior to September 14, 2018 shall be calculated as follows:

(1) Computation of monthly maintenance charges shall be based on countable income, provided that the maintenance charge shall not exceed the full cost of care minus any per diem payment received from the United States Department of Veterans Affairs.

(A) The charge for nursing care to residents who contribute to the support of legal dependents shall be fifty percent (50%) of countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums paid or payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income which may be allocated from the income counted as available to the resident and need not be charged against the income allocated to the non-resident spouse.

(B) The charge for nursing care to residents who do not contribute to the support of legal dependents shall be eighty-five percent (85%) of countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums paid or payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income.

(C) When two residents are married and both reside at a Veterans Center, the maintenance charge for each will be assessed at 50% of the combined countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums paid or payable. Notwithstanding any other language under this rule, when two residents are married to each other and both reside at the Center, each may retain not less than \$150.00 per month of total monthly income.

(2) When the care and maintenance charge assessed any resident does not result in compliance with all statutory requirements, the percentage of charge against income will be increased or decreased accordingly for compliance.

(l) Monthly maintenance charges for a resident whose most recent admission occurs on or after September 14, 2018 but prior to the date of certification of the Center to receive Medicaid payments shall be calculated as follows:

(1) Except as specifically authorized herein, the monthly maintenance charge for residents of the Oklahoma Veterans Centers shall be the full cost of care, less per diem payments received from the United States Department of Veterans Affairs.

(2) Residents awarded pension as defined by 38 CFR with aid and attendance pursuant to 38 CFR §3.352 from the United States Department of Veterans Affairs shall pay a monthly maintenance charge that is the least of:

(A) Full cost of care, less per diem payments received from the United States Department of Veterans Affairs; or

(B) Eighty-five (85%) percent of countable income subject to reduction for health insurance premiums and irrevocable burial policy premium paid upon substantiation of coverage in force and premiums payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income; or

(C) If contributing to support for legal dependents, fifty percent (50%) of countable income subject to reduction for health insurance premiums and irrevocable burial policy premiums or payable. Notwithstanding any other language under this rule, a resident shall retain not less than \$150.00 per month of total monthly income which may be allocated from the income counted as available to the resident and need not be charged against the income allocated to the non-resident spouse.

(3) Admission of a surviving spouse, widow widower, or a Veteran that does not meet the United States Department of Veterans Affairs criteria as serving during a period of war as referenced in 38 U.S.C., Section 1521, may be conditioned upon ability to pay.

(4) When the care and maintenance charge assessed any resident does not result in compliance with all statutory requirements, the percentage of charge against income will be increased or decreased accordingly for compliance.

(m) The following shall govern evaluation of countable income under paragraphs (k) and (l), above:

(1) Income will be rounded to the nearest whole dollar when computing care and maintenance charges.

(2) Countable income shall include income of the resident, plus that of resident's legal dependents (if any) in the following categories:

(A) Gross income, as defined by 26 U.S.C. §61,

(B) Income earned internationally for the accounting period evaluated, whether or not reportable for income tax purposes.

(C) To the extent not included in subparagraph (m)(2)(A), all compensation, disability, and other amounts payable from private, state or federal benefit programs or grants, including but not limited to social security, department of agriculture, veterans affairs, or Native American tribes or related entities.

(D) Attributable aid and attendance, which shall consist of the difference between a partial award of aid and attendance and the maximum aid and attendance awardable through the United States Department of Veterans Affairs.

(E) Payments in compensation or reimbursement to or on behalf of a resident as the insured under long-term care insurance policies.

(3) Income or benefits paid shall be included without reduction for offsets, recoupment, judgments, past overpayments, debt repayment, automatic deductions, or withholding.

(4) Countable income shall exclude income earned by active employment of a working spouse or other legal dependent.

(n) The following are applicable only to calculation of maintenance charges under paragraphs (k) and (l) above:

(1) Dependents, for purposes of this rule and subsequent chapters, shall be legal spouse and minor children under the age of eighteen (18) or disabled

children who became disabled prior to their eighteenth birthday or legal children through the age of twenty-one (21) years who are enrolled in school full-time.

(2) Health insurance premiums shall include premiums paid for general health, hospitalization, dental, vision, and prescription coverages for the resident, including but not limited to Medicare supplements. Health insurance premiums shall also include one half (1/2) of premiums paid for the same coverages if the resident and one or more other family members share benefits as co-insureds on joint or family coverage. Copays or deductibles shall not be considered premiums paid.

(3) Irrevocable burial policy premiums, as used in this rule, shall include premiums paid for irrevocable burial policies that provide for the funeral, burial, or final disposition of a resident with a death benefit not to exceed Ten Thousand Dollars (\$10,000.00).

(4) The reduction in care and maintenance charges for health insurance premiums and irrevocable burial policy premiums, when applicable, shall not be available retroactively, and shall apply prospectively from the date of receipt of documentation substantiating insurance coverage and premiums payable. Annual documentation substantiating coverage and premiums shall be required and if not furnished reductions may be discontinued until such time as documentation is received.

(o) Any resident, his/her guardian, spouse, or legally appointed agent, who knowingly withholds or falsifies income, expense, or resource data or who withholds payment of assessed care and maintenance charges may subject the resident to discharge and forfeiture of state or federal benefits and may subject the resident, or other parties responsible, to legal action related to the recovery of valid indebtedness to the State of Oklahoma. Failure to timely or accurately report income or misrepresentation of income may also result in one or more of the following: assessment of maintenance charges at the full cost of care, loss of full or partial benefit from state or federal sources, recoupment actions, or offset against future benefits.

(p) Residents on leave from a Center for outside hospitalization or medical care shall not be charged for care and maintenance after their fourth (4th) day of absence. Residents may be discharged during absences for hospitalization and readmitted in accordance with applicable regulatory priorities, in accordance with agency policy after exhaustion of days authorized for payment of per diem by the United States Department of Veterans Affairs.

(q) Residents on leave from a Center for personal reasons of their own volition shall continue to be charged for care and maintenance for such period of their leave that their bed is being held open for them. Charges billable under this paragraph shall not be constrained by the income limitations on maintenance charges set forth in paragraphs (k) and (l) above. In the event that a resident incurs voluntary absences that exceed annual therapy days authorized for payment of per diem by the United States Department of Veterans Affairs, the Center shall:

- (1) Reflect any and all loss of per diem payments by billing the resident in the amount of the forfeited per diem on the resident's monthly statement, or
- (2) Discharge and re-admit the resident in accordance with the Center's admission priorities, including but not limited to classification as discharge against medical advice, if applicable.

(r) Any resident of an Oklahoma Veterans Center or his/her guardian may seek a reduction or waiver of care and maintenance charges for (1) financial hardship

resulting from unreimbursed unusual medical expenses of the veteran resident, spouse or legal dependents or (2) financial hardship on residents with dependent children. Requests for reduction or waiver of care and maintenance charges for other reasons will not be considered. Dependents, for purposes of this section, shall be defined as set forth in subparagraph (n)(1), above. The procedure and process for the filing and adjudication of appeals for reduction or waiver of care and maintenance charges is as follows:

- (1) The request for reduction or waiver shall be made in writing to the Administrator of the Center where the veteran is a resident, by the veteran, a responsible family member of the veteran, and/or the veteran's guardian.
- (2) The appealing party shall complete the appropriate Department forms, supply the Center Administrator with pertinent financial data and shall sign said form attesting to the accuracy of the information recorded thereon.
- (3) The Administrator shall submit a letter to the Executive Director of the Oklahoma Department of Veterans Affairs notifying him or her of the appeal request and stating the Administrator's recommendation in the matter. Additionally, the Administrator shall attach copies of all information which describe the appealing party's financial status.
- (4) The Executive Director will determine whether the appeals requests are in conformity with policy for presentation to the Oklahoma Veterans Commission and shall make a recommendation on the appeal request and forward the request to the Commission.
- (5) The Commission shall consider all appeals information as presented by the Executive Director and then shall render a decision on said appeals by a majority vote.
- (6) The Executive Director shall notify the appealing parties of the Commission's decisions on their appeals through the appropriate Center Administrator within five (5) working days following the Commission action, along with any appeal procedures.
- (7) Adverse decisions may be appealed to an independent Administrative Hearing Officer with the Oklahoma Department of Health. The decision of the Administrative Hearing Officer will be final.

[Source: Amended at 18 Ok Reg 1796, eff 5-25-01; Amended at 31 Ok Reg 2476, eff 9-12-14; Amended at 32 Ok Reg 2315, eff 9-11-15; Amended at 35 Ok Reg 2167, eff 9-14-18; Amended at 36 Ok Reg 1268, eff 8-15-19]

770:10-3-2. Patient funds

- (a) It shall be the policy of the Oklahoma Veterans Centers to maintain special accounts (patients personal funds) for the patients. Said accounts will be maintained solely for the convenience of the patient. The Oklahoma Veterans Centers should not be construed as serving in a fiduciary capacity over these accounts.
- (b) No patient shall be required to maintain a patients funds account; however, if the patient wishes to use this service, he/she will be allowed to keep an amount not to exceed \$2,500.00 in their account.
- (c) In the event the dollar amount exceeds the maximum allowable in the account, the following action will be taken:
 - (1) Competent patients: The patient will be contacted by the finance office advising them of the excess and instructing that they transfer the excess within two (2) weeks.
 - (2) Incompetent patients with guardians or payees: The guardian/payee will be notified by letter advising them of the excess and instructing them to

make arrangements for transfer of the excess funds within one (1) month.

[Source: Amended at 30 Ok Reg 1483, eff 6-27-13]

770:10-3-3. Disbursement of deceased patients' assets

(a) The Oklahoma Veterans Centers, subdivision of the Oklahoma Department of Veterans Affairs, shall release deceased patients' personal effects and funds only after proper legal instruments have been presented to the Oklahoma Veterans Center concerned.

(b) Upon presentation of said legal instruments, an accounting of the deceased patients' funds will be made to the executor, administrator or personal representative. If the deceased patient owes any monies to the Oklahoma Veterans Center, a billing will be presented to the executor, administrator or personal representative and copies to the court having jurisdiction.

(c) Nothing in this policy shall preclude an Oklahoma Veterans Center from providing clothing necessary for burial of a veteran to the person or persons responsible for finalizing burial arrangements.

(d) During the admission process, this procedure will be fully explained to the patient, their spouse and/or persons named as the patients' designee.

[Source: Amended at 30 Ok Reg 1483, eff 6-27-13]

SUBCHAPTER 5. RESIDENT RIGHTS AND RESPONSIBILITIES

770:10-5-1. Purpose

It is the intent of the Oklahoma Department of Veterans Affairs to be in compliance with the requirements of the Oklahoma Nursing Home Care Act, Title 63 O.S. §§ 1-1900 *et seq.*, the regulations of the Oklahoma State Department of Health implementing this Act as they apply to State Veterans Centers under the jurisdiction of the Oklahoma Department of Veterans Affairs, and with any requirements of 38 C.F.R. § 51.80.

[Source: Added at 31 Ok Reg 2476, eff 9-12-14]

770:10-5-2. Residents' rights and responsibilities

Each resident or resident's representative shall receive a copy of the resident statutory rights at the time of admission. A copy of the resident rights shall be posted in an easily accessible, conspicuous place in the facility. The facility shall ensure that its staff is familiar with, and observes, the resident rights.

[Source: Added at 31 Ok Reg 2476, eff 9-12-14]

770:10-5-3. Involuntary transfer or discharge of resident - grounds

(a) Pursuant to 38 C.F.R. §51.80, a resident may be transferred or discharged from a Center for the following reasons:

(1) The transfer or discharge is necessary for the resident's welfare and the resident's needs cannot be met in the Center, as documented by the attending physician, in consultation with the medical director if the medical director and attending physician are not the same person.

(2) The transfer or discharge is appropriate because the resident's health has improved sufficiently so the resident no longer needs the services provided by the Center, as documented by the attending physician, in consultation with the medical director if the medical director and attending physician are not the same person.

- (3) The health and/or safety of the resident or the safety of other residents is endangered, as documented by the clinical record. The Center shall show through medical records that:
- (A) the resident has had a comprehensive assessment by an interdisciplinary team and alternative measures have been attempted unsuccessfully; or
 - (B) the resident is a danger to himself, herself or other resident as documented by the medical record and the Center is not capable of managing that resident.
- (4) The non-payment of charges for the resident's care, as documented by the Center's business records for services for more than thirty (30) days.
- (b) Prior to discharge, the Center Administrator must do the following:
- (1) Provide written notice to the resident and, if known, a family member or legal representative of the resident, or an advocate for the resident if no legal representative exists, of the transfer or discharge and the reasons for the move, and in a language and manner they understand.
 - (2) Record the reasons in the resident's clinical record.
 - (3) Provide a copy of the notice to the Executive Director of the Oklahoma Department of Veterans Affairs, the Oklahoma long-term care ombudsman, and the Oklahoma State Department of Health.
- (c) The notice of transfer or discharge must be given at least thirty (30) days before the resident is transferred or discharged, except notice may be made as soon as practicable before transfer or discharge for the following reasons:
- (1) An emergency transfer is mandated by the resident's health care needs and is in accordance with the attending physician's written orders and medical justification; or
 - (2) The transfer or discharge is necessary for the physical safety or health of other residents, as documented in the clinical record.
 - (3) The resident's health improves sufficiently so the resident no longer needs the services provided by the facility, as documented in the clinical record.
- (d) The facility shall not use a discharge to a hospital as a reason for failing to re-admit a resident after release from the hospital to the first available bed. Such action shall be considered to be an involuntary discharge subject to all the requirements of this section.
- (e) The written notice must include the following:
- (1) A full explanation for transfer or discharge;
 - (2) The date of the notice;
 - (3) The date notice was given to the resident, a family member or legal representative of the resident, or an advocate for the resident if no legal representative exists;
 - (4) The date by which the resident must leave the facility; and
 - (5) Information that a family member or legal representative of the resident, or an advocate for the resident if no legal representative exists, may file within ten (10) days of notice a written request for a hearing with the Oklahoma State Health Department by sending a letter to the Hearing Clerk, Oklahoma State Department of Health, 1000 N. E. Tenth Street, Oklahoma City, OK 73117.

[Source: Added at 31 Ok Reg 2476, eff 9-12-14]

770:10-5-4. Appeal process for residents objecting to discharge

- (a) If a written request for a hearing is properly filed, the Oklahoma State Department of Health shall convene a hearing within ten (10) working days of receipt of the request.
- (b) The request may be in the form of a letter or a formal request for hearing from the resident or resident's representative. In the event that the resident is unable to write, a verbal request made to the hearing clerk shall be sufficient. The Oklahoma State Department of Health shall reduce the verbal request to writing and send a copy to the resident. The request should state the reason for the discharge and attach a copy of the letter to the Center and to the Executive Director of the Oklahoma Department of Veterans Affairs.
- (c) During the pendency of the hearing, the facility shall not discharge the resident unless the discharge was required by an emergency situation.
- (d) If the resident relocates from the facility but wants to be readmitted, the hearing may proceed and the facility shall be required to readmit the resident to the first available bed if the discharge is found not to meet the requirements of the Nursing Home Care Act, state and federal laws applicable to the Oklahoma Department of Veterans Affairs facilities, these regulations and regulations of the Oklahoma State Department of Health, found in OAC 310:675.
- (e) The Oklahoma State Department of Health shall provide the Administrative Law Judge and the space for the hearing. The parties, including the resident, and the Oklahoma Department of Veterans Affairs, may be represented by counsel or may represent themselves.
- (f) The hearing shall be conducted at the Oklahoma State Department of Health building unless there is a request for the hearing to be held at the facility or at another place. Providing the hearing room in such a case shall be the responsibility of the parties. The Department of Health shall maintain a record on the case as it does for any other individual proceeding.
- (g) The hearing shall be conducted in accordance with the Oklahoma State Department of Health's procedures, found in Chapter 2 of Title 310 of the Oklahoma Administrative Code. The Administrative Law Judge's order shall include findings of fact, conclusions of law, and an order as to whether or not the transfer or discharge was according to law and shall also comply with any federal certification standards. The more restrictive rule toward the facility shall be applied.
- (h) If the Administrative Law Judge finds that the discharge was not according to law, the Department of Health shall review, investigate and issue deficiencies as appropriate.
- (i) If the discharge is according to law, the order shall give the facility the right to discharge the resident.
- (j) The scope of the hearing may include:
- (1) Inadequate notice;
 - (2) Discharge based on reason not stated in the law;
 - (3) Sufficiency of the evidence to support the involuntary discharge; or
 - (4) The finding of emergency.
- (k) The Administrative Law Judge shall render a written decision within ten (10) working days of the close of the record.
- (l) If the Administrative Law Judge sustains the facility, the facility may proceed with the discharge. If the Administrative Law Judge finds in favor of the resident, the facility shall withdraw its notice of intent to transfer or discharge the resident. The decision of the Administrative Law Judge shall be final and binding on all parties unless appealed under the Administrative Procedures Act.

[Source: Added at 31 Ok Reg 2476, eff 9-12-14]

770:10-5-5. Room relocation

If a facility wants to relocate a resident from one room to another, the facility shall give the resident at least forty-eight (48) hours written notice. The notice shall include any costs for transferring the resident's telephone or other utilities, if applicable. If the resident or a family member or legal representative of the resident, or an advocate for the resident if no legal representative exists, agrees in writing to the relocation, the relocation may take place in less than 48 hours. No hearing is required if the resident requests or agrees to relocation from one room to another.

[Source: Added at 31 Ok Reg 2476, eff 9-12-14]

770:10-5-6. Complaints

Each Center shall make available to each resident or a family member or legal representative of the resident, or an advocate for the resident if no legal representative exists, a copy of the Center's complaint procedure. The Center shall ensure that all employees comply with the complaint procedure. The complaint procedure shall include at least the following requirements and shall be posted in a conspicuous place outside the administrator's office:

- (1) The names, addresses, and telephone numbers of facility staff persons designated to receive complaints for the facility, along with the name, address, and telephone number for the central office of the Oklahoma Department of Veterans Affairs, the Oklahoma State Department of Health, and the Oklahoma long-term care ombudsman.
- (2) Notice that a good faith complaint made against the Center shall not result in reprisal against the person making the complaint; and
- (3) Notice that any person with a complaint is encouraged to attempt to resolve the complaint with the Center's designated complaint staff, but that the person may submit a complaint to the central office of the Oklahoma Department of Veterans Affairs, the Oklahoma State Department of Health or the Oklahoma long-term care ombudsman without prior notice to the Center.
- (4) If a resident, a family member or legal representative of the resident, or an advocate for the resident if no legal representative exists, or a Center employee submits to the administrator or designated complaint staff a written complaint concerning resident abuse, neglect or misappropriation of resident's property, the Center shall comply with the Protective Services for Vulnerable Adults Act, Title 43A O.S. Sections 10-101 through 10-110.

[Source: Added at 31 Ok Reg 2476, eff 9-12-14]

770:10-5-7. Complaints to the central office of the Oklahoma Department of Veterans Affairs

The following applies to complaints filed with the ODVA:

- (1) The ODVA shall provide to each Center a notice identifying the telephone number and location where complaints may be submitted. The Center shall post such notice in a conspicuous place outside the administrator's office area.
- (2) Any person may submit a complaint to the ODVA in writing, by phone, or personally. The ODVA shall reduce to writing a verbal complaint

received by phone or in person.

(3) If the complainant is a Center resident, the resident's representative, or a current employee of the facility, the ODVA shall keep the complainant's identity confidential. For other complaints the ODVA shall ask the complainant's preference regarding confidentiality.

(4) The ODVA shall receive and triage complaints and the complaints shall be classified and investigated according to the following priorities:

(A) A complaint alleging a situation in which the facility's noncompliance with state or federal requirements relating to nursing facilities has caused or is likely to cause serious injury, harm, impairment or death to a resident shall be classified as immediate jeopardy and shall be investigated by the ODVA within two (2) working days;

(B) A complaint alleging minimal harm or more than minimal harm to a resident but less than an immediate jeopardy situation shall be classified as actual harm and shall be investigated by the ODVA within ten (10) working days;

(C) A complaint alleging other than immediate jeopardy or actual harm to a resident but that represents a repeated or ongoing violation shall be classified as a continuing complaint and investigated within twenty-five (25) days; and

(D) A complaint alleging other than immediate jeopardy or actual harm to a resident shall be classified as a primary complaint and shall be investigated within thirty (30) days.

(5) In addition to scheduling investigations as provided above, the ODVA shall take necessary immediate action to remedy a situation that alleges a violation of any federal or state law or regulation, if that situation represents a serious threat to the health, safety and welfare of a resident.

(6) Investigations will be conducted in accordance with the policies, procedures, and regulations of the Oklahoma State Department of Health and the U.S. Department of Veterans Affairs.

[Source: Added at 31 Ok Reg 2476, eff 9-12-14]

CHAPTER 15. CLAIMS AND BENEFITS DIVISION PROGRAM

[Authority: 72 O.S., § 63.1]

[Source: Codified 12-31-91]

SUBCHAPTER 1. GENERAL PROVISIONS

770:15-1-1. Purpose

The purpose of this Chapter is to:

(1) Effect new policy and procedure in the Claims Office as it pertains to the Hospital Officers and Veterans Service Officers regarding claims work, and set forth a basic guide for the Claims and Hospital Officers to observe in the performance of their duties.

(2) Establish a clear-cut policy for the Veterans Service Officers and other personnel to follow when there is a tornado, flood or other disaster where this department may render financial or other assistance.

(3) Clarify the question of eligibility requirements for a veteran to receive a free hunting and fishing license.

- (4) Set forth the basic policy on securing documents to support a veterans claim with the Veterans Administration.
- (5) Promulgate the rules and procedures of the Oklahoma Veterans Commission under the authority of 72 O.S§67.13 for administering the emergency financial aid program by the Department of Veterans Affairs and establish a policy on minimum amount of time and type of discharges from the military service.

[Source: Amended at 30 Ok Reg 1485, eff 6-27-13; Amended at 32 Ok Reg 2318, eff 9-11-15]

SUBCHAPTER 3. CLAIMS SERVICES

770:15-3-1. Policies and procedures for Claims Officers, Hospital Officers and Veterans Service Officers

- (a) The following procedure requires action by the Claims Officers, Hospital Officers and Veterans Service Officers as indicated below:
 - (1) When submitting new claims or reopening claims, acknowledgment will be sent only to the party submitting the claim.
 - (2) They will, however, write to a veteran if they are unable to secure a document and request that he either supply the document or submit the correct information in order to obtain it.
 - (3) The schedule of events in the processing of a claim should be explained. He should be advised where and who he can contact when reporting for examination and who to contact in order to obtain information concerning his claim.
- (b) The Department of Veterans Affairs is accredited by the Veterans Administration; however, it has never been the policy of this department to accept power of attorney in name of the State, but rather to work through the veterans organizations. The Claims Officers in the Regional Office are accredited by most of the national service organizations. These officers assist veterans and dependents with their claims before the Veterans Administration in the same manner as the Claims Officers of the veterans organizations. The Department of Veterans Affairs Claims Officers follow, within their guidelines, the procedures and policies of the veterans organizations, both the State and national offices. The Department of Veterans Affairs has two Claims Officers in the V. A. R. O., Muskogee.
- (c) The Claims Officers will observe the following basic policies:
 - (1) Follow the policies and procedures of the veterans organizations pertaining to claims work where they are not in conflict with the policies of this department.
 - (2) Refer those cases needing rehabilitation to the proper agencies.
- (d) The Department of Veterans Affairs maintains one Hospital Officer in each of the Veterans Administration Hospitals in Oklahoma. These Hospital Officers are accredited by the American Legion and/or Veterans of Foreign Wars to represent veterans and dependents with their claims before the Veterans Administration.
- (e) If deemed proper, efforts will be made to render financial assistance through various agencies.
- (f) Proper counseling will be given the veteran and if found in need of rehabilitation, his case will be referred to the proper authorities and agencies.
- (g) When called upon by service organization officials, Veterans Service Officers, doctors and other people, will assist in obtaining admission to V. A. Hospitals, federal domiciliaries and Centers under control of the Oklahoma Veterans Commission.

(h) Proper counseling will be done by the Hospital Officer and when necessary, proper claims filed for any benefits for which they may be entitled.

[Source: Amended at 32 Ok Reg 2318, eff 9-11-15]

770:15-3-2. Disaster assistance

(a) The following procedure will be observed by the Veterans Service Officers in whose territory a disaster occurs and is so declared by the President or branch of the federal government or the Governor of the State of Oklahoma as being a major disaster area.

(1) Advise the local officials and individual veterans that this department will work with other sources from various agencies to render financial assistance. This department can give assistance in conjunction with resources from various agencies and service organizations, but a qualifying veteran is not required to wait until all other resources from various agencies have been completed. The Department of Veterans Affairs will render financial assistance in keeping with the rules and policies of the Oklahoma Veterans Commission on the expenditure of child welfare and emergency aid funds.

(2) Advise the local veteran service organization officials and veterans as much as possible on help that can be secured through the American Red Cross. When the disasters are over, financial assistance may be rendered by the Department of Veterans Affairs in the normal manner with applications and upon recommendations of the local veteran service organization. Veterans Service Officers will render every assistance possible to local officials by assisting in completing the application forms except the investigation and recommendation, which is to be handled and made by the local officials.

(b) The Managers and other officials of the Centers will render every assistance possible in the event of local disasters in their communities. Likewise, the Claims Officers and Hospital Officers will assist in the event disasters occur in their towns.

[Source: Amended at 30 Ok Reg 1485, eff 6-27-13; Amended at 32 Ok Reg 2318, eff 9-11-15]

770:15-3-3. Hunting and fishing licenses

Hunting and fishing licenses will be issued by the Headquarters Office or the Claims Office only. Applications received by the field staff or hospital officers will be forwarded to the Claims Office for action. Each eligible veteran should be informed that the license issued by this department does not apply to special licenses or permits such as a duck stamp or commercial fishing license. To be valid, each permit issued must have the official seal of the War Veterans Commission of Oklahoma affixed to it. 29 O. S. §4-110(B)(3)-(4) provides that any legal resident of the State over the age of sixty-five (65) years and all disabled veterans of sixty percent (60%) disability or more who are legal residents of the State shall be exempt from the license requirements of the Act.

[Source: Amended at 30 Ok Reg 1485, eff 6-27-13]

770:15-3-4. Supporting documents

(a) Under the regulations of the Veterans Administration, if there is no conflicting evidence regarding the marital status of a claimant, marriage licenses and birth certificates need not be secured as supporting documents. If there is conflicting evidence, necessary documents should be secured to establish the relationship.

- (b) The following is the procedure that will be observed:
- (1) Veterans Service Officers will not secure documents to clarify the marital status of cases but continue on releases to the Claims Office the notation, "Please secure all necessary supporting documents."
 - (2) The Hospital Offices may secure the necessary documents if in the opinion of the Hospital Officer an emergency exists and it would expedite the case to secure them at the Hospital Office level. In either event, the Hospital Officers on releases to the Claims Office will advise either of the following:
 - (A) "Please secure all necessary supporting documents", or,
 - (B) "The following documents have been requested from this office", listing each.
 - (3) It will be the responsibility of the Claims Officers to secure the necessary supporting documents to clarify the marital status of cases, taking note of (b) (2) of this section.
 - (4) The Veterans Service Officers and Hospital Officers, where possible, will secure the original or copy of the DD 214 when filing an original claim.

SUBCHAPTER 5. EMERGENCY FINANCIAL ASSISTANCE

770:15-5-1. Eligibility for financial assistance

- (a) To be eligible for emergency financial assistance through the Oklahoma Department of Veterans Affairs, a veteran must be honorably discharged and otherwise meet the following, pursuant to 72 O.S. § 67.13:
- (1) Meet the definition of a Veteran as defined in 72 O.S. §2.
 - (2) Have one (1) year residence in the State of Oklahoma immediately prior to date of application for emergency aid.
- (b) Other than death cases, a medical statement showing the veteran's inability to work is required for payment of emergency aid. No medical statement is required for emergencies involving disasters such as fire, flood or storm damage to the home.
- (c) The spouse or surviving spouse of an eligible veteran may also be eligible for emergency financial assistance. The spouse or surviving spouse must have one (1) year residence in the State of Oklahoma prior to date of application for emergency aid.

[Source: Amended at 30 Ok Reg 1485, eff 6-27-13; Amended at 32 Ok Reg 2318, eff 9-11-15]

770:15-5-2. Procedures for processing claims

- (a) The local posts of the veterans organizations and/or national service organization representatives are the administering agencies of the funds.
- (b) The Oklahoma War Veterans Commission requires from the posts:
- (1) Service Officer position bonded to the Department of Veterans Affairs (Minimum Amount - \$1,000).
 - (2) The service organization Department of Oklahoma office or the national service organization representative may, in lieu of each post being bonded, deposit an amount in an escrow account to the Department of Veterans Affairs of \$1,000. In the event of a monetary discrepancy involving a claim, the amount in question will be paid to the Department of Veterans Affairs and an equal amount will be deposited in the escrow account by the state veterans organization concerned.

- (3) Accounting of the funds within ninety (9) days by the local veterans post service officer or the individual veteran or dependent will be suspended from receiving future grants.
 - (4) Additional applications will not be paid for the same claimant until accounting is made for the previous application though less than ninety days.
- (c) On receipt of the application, files are established and a determination made if the grant claim is sufficiently documented.
- (1) Requests for proof of service, medical statements, justification or investigation of the claim, etc., will be referred back to the post service officer who initiated the claim.
 - (2) The Department of Veterans Affairs will maintain bond files and handle accounting of funds, requiring needed receipts and appropriate documents from the post service officer.

770:15-5-3. Policies and basis for claims

- (a) \$1,000.00 is the maximum amount payable to a family in any one fiscal year.
- (b) Payments are made only in cases where there is a temporary emergency due to illness, disability, death or disaster. In the event of desertion, an affidavit from the spouse is required.
- (c) Unemployment is not a basis for payment of emergency aid funds. If the veteran has not been employed previous to the application for emergency aid and has been unemployable or retired, then illness or injury cannot be used as reason for the emergency.
- (d) The handling, allowing, disallowing and supervision of emergency aid funds are vested in the Headquarters office with the Executive Director. The decisions will be made by a panel of at least three members from the Central Office and/or Claims Office staff and recommendation made to the Executive Director for his or her final approval. The Executive Director, at his or her sole discretion, may present cases to the War Veterans Commission. Matters of policy are presented to the Commission.
- (e) In cases where the applicants misrepresent length of residence or income, the Executive Director makes a complete investigation of the case before payment is made. If there is fraud connected with the case, it is referred to the War Veterans Commission with a recommendation from the Executive Director. The War Veterans Commission may suspend future eligibility of the applicants and may refer unusual cases to the Attorney General for appropriate action.
- (f) Claimants who have applied for emergency aid more than once will have their files closely reviewed to determine if the claimant is attempting to obtain funds from the emergency aid program as a continuing source of yearly income. Apparent claims of this nature will be referred back to the post service officer for further investigation or will be denied if so determined by the reviewing panel or the Executive Director.
- (g) Emergency aid will not be granted where regular monetary benefits are received from the Department of Human Services, if Oklahoma Department of Veterans Affairs emergency aid would cause the Department of Human Services benefits to be discontinued.
- (h) Residence outside the state for purposes of Veterans Administration hospitalization or domiciliary care does not count against the veteran to meet the one year residence immediately prior to application. Cases of this nature will be handled on an individual basis. The intent should be the controlling factor in arriving at a determination of eligibility.

(i) In the event of a hardship created by an illness where the veteran is not employed (see (c) of this section); or by loss of a V.A., Social Security, retirement check, etc., the circumstances will be reviewed with consideration given to the humanitarian outcome if denied.

(j) The Oklahoma Department of Veterans Affairs will establish internal operating procedures for the expeditious processing of emergency aid claims.

(k) The procedures in (a) through (j) of this Section may include the development of forms, letters of instruction to veterans services organization post service officers, checklists for the use of review panels, and correspondence to claimants.

(l) The Department of Veterans Affairs will accept the discharge or statement of service in determining eligibility for financial assistance. Unless the veteran has a service connected disability as certified by the Veterans Administration or the appropriate branch of military service, he must have ninety days continuous service extending into or out of wartime in order to be eligible. Honorable discharges are accepted without question. For Bad Conduct, Undesirable and other types, the department will ask the Veterans Administration for a determination as to whether or not the veteran was discharged under other than dishonorable conditions.

[Source: Amended at 19 Ok Reg 250, eff 8-17-01 (emergency); Amended at 19 Ok Reg 2747, eff 7-11-02; Amended at 30 Ok Reg 1485, eff 6-27-13]

SUBCHAPTER 7. HONORABLE INTERMENT OF INDIGENT VETERANS PROGRAM

770:15-7-1. Purpose

The purpose of the *Honorable Interment of Indigent Veterans Program* is to provide assistance for the proper interment or cremation of honorably discharged indigent veterans of the United States Armed Forces. *The program shall provide for a burial grant for any indigent veteran or any person who qualifies for financial assistance as determined by the Oklahoma Department of Veterans Affairs* [Senate Bill No. 398, 2016].

[Source: Added at 34 Ok Reg 2127, eff 9-11-17]

770:15-7-2. Eligibility for Interment of Indigent Veterans Program

To be eligible for Honorable Interment Of Indigent Veterans Program through the Oklahoma Department of Veterans Affairs, a veteran must be honorably discharged and otherwise meet all the following, pursuant to 72 O.S. §2 and 72 O.S. §34.

(1) *The deceased shall be a veteran as defined by 38 U.S.C. 101(2)* [Senate Bill No. 398, 2016].

(A) *Who is eligible under 38 Code of Federal Regulation 38.620* [Senate Bill No. 398, 2016].

(B) *An Oklahoma resident who served in the National Guard or Reserve Component whose only service is active duty training or inactive duty for training but meets all other 38 Code of Federal Regulations 38.620 statutes* [Senate Bill No. 398, 2016].

(2) *The indigent veteran has been determined to be homeless as defined as follows: A homeless veteran is an individual without permanent housing who may live on the streets, stay in a shelter, mission, abandoned building or in any other unstable or non-permanent situation* [Senate Bill No. 398, 2016].

(3) *The Veteran shall have died in Oklahoma* [Senate Bill No. 398, 2016].

- (4) *The Veteran shall have been homeless and indigent at the time of death* [Senate Bill No. 398, 2016].
- (5) *The Veteran's estate did not possess money or other assets to pay for or defray funeral expenses* [Senate Bill No. 398, 2016].
- (6) *There is no other person obligated by law to pay for funeral expenses of the deceased* [Senate Bill No. 398, 2016].
- (7) *The veteran's remains have been interred or buried in Oklahoma* [Senate Bill No. 398, 2016].

[Source: Added at 34 Ok Reg 2127, eff 9-11-17]

770:15-7-3. Procedures for processing claims

(a) The Oklahoma Department of Veterans Affairs Executive Director or his or her designee require the following documentation / evidence in support of the claim for reimbursement:

- (1) Documentation showing the Veteran was homeless and indigent at the time of death.
- (2) Documentation or discharge records verifying the deceased veteran was eligible under 38 CFR 38.620 and a veteran as defined by 38 U.S.C. 101(2).
- (3) Documentation or discharge records verifying the deceased was an Oklahoma resident who served in the National Guard or Reserve Component meeting all other 38 CFR 38.620 statutes but does not meet 38 U.S.C. 101(2).
- (4) An Oklahoma Certificate of Death for the Veteran.
- (5) Documentation showing the Veteran's estate did not possess money or other assets to pay for or defray funeral expenses.
- (6) The applicant will attest that a due diligence search and inquiry have been completed and no other person(s) obligated by law to pay for funeral expenses of the deceased has been found.
- (7) Documentation showing the veteran's burial location/cemetery or placement of the veteran's cremains.
- (8) Documentation showing the veteran has a Memorial Headstone/Marker provided pursuant to 38 U.S. Code § 2306 or otherwise meeting the physical standards for size, composition, placement, and informational content as those available to qualifying veterans through the Department of Veterans Affairs.

(b) The Oklahoma Department of Veterans Affairs will accept for consideration documents/supporting evidence from:

- (1) Medical Examiner's and/or;
- (2) Federal, State, City, or County Law Enforcement agencies and/or;
- (3) County or City Offices responsible for the arrangement for the disposition of the indigent veteran and/or;
- (4) Funeral Director completion and signed affidavit or;
- (5) ODVA Form 505.

[Source: Added at 34 Ok Reg 2127, eff 9-11-17]

770:15-7-4. Policies and basis for claims

(a) The Executive Director of the Department of Veterans Affairs or his or her designee shall make final approval of Indigent Veteran Burial Applications.

- (1) The approving authority shall determine whether the deceased meets eligibility criteria and approve funds to defray burial costs on a reimbursement basis.

- (2) Maximum reimbursement shall not exceed Five Hundred Dollars (\$500.00) per indigent veteran.
- (3) Reimbursement will be paid from the Indigent Veteran Burial Revolving Fund.

- (b) If there are insufficient resources in the Indigent Veteran Burial Revolving Fund, payment will be made from the Oklahoma Department of Veterans Affairs Revolving Fund.
- (c) Once funds are available in the Indigent Veteran Burial Revolving Fund the Oklahoma Department of Veterans Affairs may be reimbursed for payments made from the Oklahoma Department of Veterans Affairs Revolving Fund.
- (d) The handling, allowing, disallowing and supervision of the Indigent Veteran Burial Revolving Fund is vested in the Headquarters office with the Executive Director.
- (e) Review of applications or claims shall be made by a panel of at least 3 members from the Central Office and/or Claims Office staff and recommendations made to the Executive Director for his or her final approval.
- (f) The Executive Director shall make a complete investigation of any reported or suspected misrepresentation of eligibility of the deceased. If there is fraud connected with the case, the ODVA Executive Director may deny payment on a current application, suspend future eligibility of the applicant, and may refer unusual cases to the Attorney General for appropriate action.
- (g) The Oklahoma Department of Veterans Affairs Executive Director or his or her designee will establish internal operating procedures for the expeditious processing of the claim.
- (h) The Department of Veterans Affairs will accept the discharge or statement of service in determining eligibility for the claim. Honorable discharges are accepted without question. For discharge characterizations other than Honorable, or other irregularities regarding CFR 38 statutes, ODVA will ask the Veterans Administration for a determination as to whether or not the veteran meets all the eligibility criteria for all benefits as it pertains to interment.
- (i) The procedures in (a) through (h) of this section may include the development of forms, letters of instruction, checklists for the use of review panels, and correspondence to claimants.

[Source: Added at 34 Ok Reg 2127, eff 9-11-17]