

## **DEPARTMENT OF HUMAN SERVICES**

### **State and Veterans Nursing Homes**

## **RULE MANUAL VOLUME 11 STATE AND VETERANS NURSING HOMES**

### **12 CCR 2511-1**

*[Editor's Notes follow the text of the rules at the end of this CCR Document.]*

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#### **STATEMENT OF BASIS AND PURPOSE, FISCAL IMPACT AND SPECIFIC STATUTORY AUTHORITY OF REVISIONS MADE TO STAFF MANUAL VOLUME 11**

Revisions to Sections 11.100.01; 11.201.01 were emergency adoption of Executive Director rules at the 8/1/86 meeting, with an effective date of 8/1/86 (Documents 1 E.D., 2 E.D.). Statement of Basis and Purpose, Fiscal Impact and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of Section 11.251.01 was emergency adopted at the 3/6/87 State Board meeting, with an effective date of 3/6/87 (Document 2 E.D.). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of Section 11.251.01 was finally adopted emergency at the 4/3/87 State Board meeting, with an effective date of 3/6/87 (Document 1 E.D.). Statement of Basis and Purpose, Fiscal Impact, and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Addition of Sections 11.250.01 - 11.250.04 and 11.251.02 - 11.262.02 were finally adopted following publication at the 4/3/87 State Board meeting, with an effective date of 6/1/87 (Document 16) Statement of Basis and Purpose, Fiscal Impact and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to Sections 11.101.01 and 11.201.01 were final adoption following publication of Executive Director rules at the 5/1/87 State Board meeting, with an effective date of 7/1/87 (Documents 1 E.D. and 2 E.D.). Statement of Basis and Purpose, Fiscal Impact and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Revisions to Section 11.300 through 11.301 were final adoption following publication at the 9/11/87 State Board meeting, with an effective date of 11/1/87 (Document 7). Statement of Basis and Purpose, Fiscal Impact and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Office of the State Board Administrator, Department of Social Services.

Removal of Section 11.400 and addition of Section 11.500 was final adoption following publication at the 11/3/89 State Board meeting, with an effective date of 1/1/90 (CSPR# 89-6-6-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule.

These materials are available for review by the public during normal working hours at the State Board Office, Department of Social Services.

Revisions to Sections 11.100 through 11.300 were final adoption following publication at the 3/4/2000 State Board meeting, with an effective date of 10/1/2000 (CSPR# 00-5-25-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, State Board Administration.

Re-write of Sections 11.100 through 11.400 were final adoption following publication at the 8/3/2007 State Board meeting, with an effective date of 10/1/2007 (Rule-Making# 07-5-31-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, State Board Administration.

Revision of Sections 11.100, 11.110, and 11.400; and, deletion of Sections 11.500 through 11.500.6 were final adoption following publication at the 12/2/2011 State Board rule-making session, with an effective date of 2/1/2012 (Rule-Making# 11-8-11-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Section 11.200 were final adoption following publication at the 3/8/2013 State Board rule-making session, with an effective date of 5/1/2013 (Rule-Making# 12-10-10-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, Division of Boards and Commissions, State Board Administration.

Revisions to Sections 11.100 through 11.300 were final adoption following publication at the 10/3/2014 State Board rule-making session, with an effective date of 12/1/2014 (Rule-Making# 14-7-21-1). Statement of Basis and Purpose and specific statutory authority for these revisions were incorporated by reference into the rule. These materials are available for review by the public during normal working hours at the Colorado Department of Human Services, Office of Enterprise Partnerships, State Board Administration.

## **11.000 COLORADO VETERANS COMMUNITY LIVING CENTERS [Rev. eff. 12/1/14]**

### **11.100 DEFINITIONS [Rev. eff. 12/1/14]**

"Applicant" means the individual applying for residency in a Veterans Community Living Center which includes the applicant's legal representative.

"Colorado resident" means an individual who currently resides in Colorado, intends to reside in Colorado permanently and who does not maintain a primary residence in another state.

"Colorado State Veterans Center" means Veterans Community Living Center at Homelake and the Domiciliary at Homelake located in Monte Vista, Colorado.

"Legal representative" means an individual who has the legal authority to take a particular action on behalf of an applicant or resident.

"Medical leave" means absence of the resident from the Center due to admittance to a hospital or other institution as defined in the Department of Health Care Policy and Financing rules, Section 8.482.43 (10 CCR 2505-10).

"Surviving spouse" means a person who was married to a Veteran at the time of the Veteran's death, and who has not remarried or held himself or herself out to the public to be the spouse of another person.

"Veteran" means a person who served in the active military, naval, or air service, and who was discharged or released there from under conditions other than dishonorable.

"Veterans Community Living Center" means any State nursing home or a nursing home administered under contractual obligation with a party that has been designed and constructed to qualify for federal funds and that is operated so as to qualify for per diem payments from the United States Department of Veterans Affairs.

**11.110 RESIDENT ELIGIBILITY [Rev. eff. 12/1/14]**

An eligible resident in a Veterans Community Living Center shall:

- A. Be a Colorado resident Veteran; or,
- B. Be a non-Colorado resident Veteran; or,
- C. Be a spouse/surviving spouse of a Colorado resident or non-Colorado resident Veteran; or,
- D. Be a surviving parent whose child(ren) who (all) died while serving in the armed forces of the United States; and,
- E. Be able to be served safely by the reasonable and customary care provided in the Veterans Community Living Center as determined by the Home's admission staff in conjunction with any applicable state or federal law or regulation.

**11.120 ADMISSION PROCESS, WAIT LIST, AND PRIORITY [Rev. eff. 12/1/14]**

- A. A person seeking admission to a Veterans Community Living Center may obtain an application form and information describing the application procedures from the individual Center. Staff shall provide the applicant with information regarding all required documentation, information and verifications necessary to complete the application when the application is requested.
- B. Staff shall conduct a preadmission screening of the applicant to determine if the applicant meets the eligibility requirements stated in Section 11.110 within five business days of receipt of the application. If the requirements are met, the Center's admissions staff shall review the submitted materials as outlined in Section 11.120, C. Once the applicant has been determined eligible, the applicant shall be admitted to the Center or placed on the Center's wait list, if applicable.
- C. Applicants shall provide the following information:
  - 1. A signed admission application, including completed financial information, a functional assessment, medical information and authorization for release of information; and,
  - 2. Verification of eligibility for admission, including proof of discharge from the armed services and a copy of the DD-214 Form, if applicable.
- D. In the event admission is denied, admission's staff shall provide the applicant with information regarding their right to request a review of the denial and the review process. The applicant can request a review of the denial by sending a request in writing to the administrator of the home within thirty (30) calendar days of the date on the applicant's notice of denial. The administrator shall conduct a final review of the admission's staff decision within ten calendar days of receipt

from the applicant and shall notify the applicant in writing of the final decision. The decision of the administrator shall constitute final agency action.

- E. If a Veterans Community Living Center does not have a vacant bed for an approved admission, the applicant shall be placed on a wait list administered by each Center. Wait list protocols shall be based on the following rank:
  - 1. Date of completed application.
  - 2. Applicant is a resident Veteran.
  - 3. Applicant is a non-resident Veteran.
  - 4. Applicant is a spouse/surviving spouse.
  - 5. Applicant is a parent of a child(ren) who (all) died while serving in the United States Armed Forces.
- F. An applicant on the wait list offered admission has ten business days from the date of the written notice of admission to accept or decline admission to the Center. If the applicant declines the offer of admission, the applicant's name shall be removed from the list, unless the applicant requests to be moved to the bottom of the wait list. If the applicant fails to respond to the offer of admission within ten business days from the date of the written notice, the applicant shall be moved to the bottom of the wait list.
- G. The Veterans Community Living Center shall require all approved applicants to declare all sources and amounts of monthly income. Staff shall evaluate the financial status of an approved applicant to determine the person's ability to pay toward the cost of care and to calculate the maintenance rate.

**11.130 VETERANS COMMUNITY LIVING CENTER RESPONSIBILITIES [Rev. eff. 12/1/14]**

- A. A resident shall be provided with the following information upon admission to a Veterans Community Living Center:
  - 1. General information about the Center, resident care, services and activities available.
  - 2. Resident Rights as found in Section 25-1-120, C.R.S.
  - 3. Grievance procedures per the Colorado Department of Public Health and Environment Regulations for long-term care facilities (6 CCR 1011-1).
  - 4. Other applicable Center policies including the Center's rates, room reservation policy and charges.
- B. The Center's staff shall review the above stated information with the resident or the resident's legal representative. After reviewing this information, the resident or resident's legal representative shall sign a statement indicating they have received and reviewed the information and agrees to abide by the Center's rules and regulations. This statement shall be kept with the resident's admission agreement. If changes occur to the information, the Center shall inform the resident and provide a copy of the changes. The resident or resident's legal representative shall sign a statement indicating they have received and reviewed a copy of the changes and agrees to abide by the changes.

**11.140 ROOM RESERVATION CHARGES [Rev. eff. 12/1/14]**

- A. The resident or the resident's legal representative shall notify the Center twenty-four (24) hours in advance of any planned absences of over ten hours.
- B. A resident whose bed is held during an absence shall be responsible for any charges that accrued before or during the leave period. If the resident or resident's legal representative does not agree in writing to pay the reservation charge, the Center may reassign the resident's bed to another resident or discharge the resident and place the resident on the Center's wait list.
- C. There shall be no room reservation charge to a Medicaid resident on medical leave if no source of payment, other than the resident's funds, are available and the Center's current occupancy is less than ninety percent (90%) of capacity.
- D. Calculation of room reservation charges shall be as follows:
  - 1. For non-Veteran Medicaid residents the room reservation charge shall be the Center's current Medicaid per diem rate, less total food and linen service costs as computed from the most recent Med-13 Cost Report submitted to the Colorado Department of Health Care Policy and Financing (HCPF). In no case shall the charge be greater than the per diem rate less two dollars (\$2).
  - 2. For Veteran Medicaid residents the room reservation charge shall be the Center's current Medicaid per diem rate less total food and linen service costs as computed from the most recent Med-13 Cost Report submitted to the HCPF. In no case shall the charge be greater than the per diem rate less two dollars (\$2). If the resident is absent from the Center less than ninety-six (960 hours, the current per diem rate provided by the U.S. Department of Veterans Affairs shall be subtracted from the room charge.

Room reservation charges for a Veteran Medicaid resident, whose absence results in a loss of U.S. Department of Veterans Affairs per diem payment (greater than 96 hours), shall include the current per diem reimbursement provided by the U.S. Department of Veterans Affairs, retroactive to the resident's date of departure.
  - 3. For private pay residents the room reservation charge shall be the Center's private pay daily rate, less the daily total food and linen service costs as computed from the most recent Med-13 Cost Report submitted to HCPF.
  - 4. Homelake Domiciliary residents shall be allowed thirty (30) days of approved leave per state fiscal year, excluding Medical Leave. Residents absent from the domiciliary over thirty days per fiscal year may be subject to discharge. The Homelake Domiciliary room reservation charge during any approved leave shall be the resident's current daily rate at the time of leave. At the resident's request, a domiciliary room shall be held for a resident admitted to the nursing home for up to thirty days at the resident's current daily rate. If the resident fails to return to the facility within thirty days, the resident shall be evaluated for continued stay at the domiciliary. If the resident is not approved for continued stay, the resident shall be given five business days to vacate the Homelake Domiciliary. The resident shall be responsible for the payment of rent through the day of departure.
- E. A bed may be held without charge for an approved applicant for up to two weeks from the date of acceptance of the offer of admission. Bed holds prior to admission may exceed two weeks from the date of acceptance with the approval of the Center's administrator; however, the applicant shall be responsible for the daily rate following the first two weeks from the date of acceptance of the offer of admission.

**11.150 FINANCIAL INFORMATION [Rev. eff. 12/1/14]**

- A. An applicant or resident shall be the primary source of financial information to determine ability to pay except when management of the applicant's or resident's financial affairs has been designated to the legal representative. If the applicant or resident is not the source of financial information, the reason shall be noted in the financial information file.
- B. Residents shall apply for all federal and state benefits for which they may be eligible within thirty days of admission. The resident's status with the Center and eligibility for continued care shall not be affected if the resident is denied benefits.

**11.160 MAINTENANCE RATES – PAYMENT FOR CARE [Rev. eff. 12/1/14]**

- A. Pursuant to Section 26-12-108, C.R.S., the Department shall establish rates for care of residents as nearly equal to the cost of operation and maintenance of the Centers as practicable.
- B. Current rates shall be given to each applicant. Each Center shall send a written notice of any increase in proposed rates to each resident no later than fourteen business days prior to the effective date of the new rate.
- C. Each Home shall have the authority to request pre-payment from a resident.

**11.170 PAST DUE ACCOUNTS [Rev. eff. 12/1/14]**

- A. A resident's account shall be deemed past due if the debt has not been paid by the close of business on the due date. The due date is ten calendar days from the end of the month for which a resident resided at the Center. Interest may be accrued on accounts which are thirty days past due, and may be referred to the State Controller for collection.
- B. Discharge proceedings may be instituted per the Colorado Department of Public Health and Environment Regulations for long-term care facilities (6 CCR 1011-1) when an account is past due. Discharge proceedings shall be stopped if full payment is received by Center prior to the discharge taking place.

**11.200 BURIAL AT THE COLORADO VETERANS COMMUNITY LIVING CENTER AT HOMELAKE [Rev. eff. 12/1/14]**

- A. Current cemetery operation protocols shall remain in effect until such time as adequate moneys are available to fund construction of the northernmost triangular parcel of the cemetery in its entirety. Adequate moneys shall include funds for surveys, design, testing and inspection, code review, and construction.
- B. "Reservation" means the ability of an honorably discharged veteran, who is a Colorado resident, to reserve space in the cemetery for himself/herself and his/her spouse.
  - 1. Reservations shall be contingent upon receipt of one-half of the published U.S. Department of Veterans Affairs burial benefit at the time of the reservation.
  - 2. Reservations shall begin upon completion of the construction of the triangular northernmost parcel of the cemetery. Eligible individuals may place their names on a waitlist for reservations until such time as construction is complete.
  - 3. Any person who has made a reservation with the Department on or before May 3, 2012, shall retain such right to reservation.
- C. Site selection shall be at the discretion of the Colorado Veterans Community Living Center at Homelake.

- D. Only upright marble markers or headstones furnished by U.S. Department of Veterans Affairs shall be permitted.

**11.300 LOCAL ADVISORY BOARD [Rev. eff. 12/1/14]**

- A. Each Veterans Community Living Center shall institute a local advisory board. The local advisory board shall ensure appropriate communication channels are in place between the Center, the local community, and other stakeholder groups in order to resolve issues or celebrate successes at the earliest opportunity.
- B. The local advisory board shall consist of a minimum five members, at least one of the members shall be a resident of the Center or a person who at the time of his or her appointment is a family member of a resident at the Center.
- C. The local advisory board shall submit a year-end report to the Office Director of the Veterans Community Living Centers by July 30 of each year beginning in 2008. The year-end report shall summarize board activities, member concerns, resident concerns, staffing vacancies, accomplishments and any other issues the board deems appropriate.

**11.400 [Repealed eff. 02/01/2012]**

**11.500 OPERATION OF THE COUNTY VETERANS SERVICE OFFICER PROGRAM [Repealed eff. 02/01/2012]**

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**Editor's Notes**

**History**

Sections 11.100 thru 11.400 eff. 10/1/2007.

Sections 11.100; 11.110; Repealed Sections 11.400 through 11.500.6 eff. 02/01/2012.

Sections SB&P, 11.200 eff. 05/01/2013.

Entire rule eff. 12/01/2014.