ARC 0707D

VETERANS AFFAIRS, IOWA DEPARTMENT OF[801]

Notice of Intended Action

Proposing rulemaking related to Iowa veterans home and providing an opportunity for public comment

The Department of Veterans Affairs hereby proposes to rescind Chapter 10, "Iowa Veterans Home," Iowa Administrative Code, and to adopt a new Chapter 10 with the same title.

Legal Authority for Rulemaking

This rulemaking is proposed under the authority provided in Iowa Code sections 35A.5 and 35D.3 and Executive Order 10.

State or Federal Law Implemented

This rulemaking implements, in whole or in part, Iowa Code sections 35A.5 and 35D.3 and Executive Order 10.

Purpose and Summary

This proposed rulemaking is intended to update procedures, reduce unnecessary text, and eliminate obsolete information.

Regulatory Analysis

A Regulatory Analysis for this rulemaking was published in the Iowa Administrative Bulletin on September 16, 2026. A public hearing was held on the following date(s):

- October 9, 2026

Fiscal Impact

This rulemaking has no fiscal impact to the State of Iowa.

Jobs Impact

After analysis and review of this rulemaking, no impact on jobs has been found.

Waivers

Any person who believes that the application of the discretionary provisions of this rulemaking would result in hardship or injustice to that person may petition the Department for a waiver of the discretionary provisions, if any, pursuant to 801—Chapter 1.

Public Comment

Any interested person may submit written comments concerning this proposed rulemaking, which must be received by the Department no later than 4:30 p.m. on December 3, 2026. Comments should be directed to:

Mike Olson
Iowa Department of Veterans Affairs
Legislative Liaison
1301 Summit Street
Marshalltown, Iowa 50158
Email: michael.olson@ivh.state.ia.us

Public Hearing

Public hearings at which persons may present their views orally or in writing will be held as follows:

December 3, 2026 11 a.m.	Video call link: meet.google.com/edu-ixxu-pay Or dial: 209.431.0222 Conference ID: 452 603 698#
December 3, 2026 2 p.m.	Video call link: meet.google.com/zqe-ouqt-amn Or dial: 432.698.1328 Conference ID: 448 895 214#

Persons who wish to make oral comments at a public hearing may be asked to state their names for the record and to confine their remarks to the subject of this proposed rulemaking.

Any persons who intend to attend a public hearing and have special requirements, such as those related to hearing or mobility impairments, should contact the Department and advise of specific needs.

Review by Administrative Rules Review Committee

The Administrative Rules Review Committee, a bipartisan legislative committee which oversees rulemaking by executive branch agencies, may, on its own motion or on written request by any individual or group, review this rulemaking at its regular monthly meeting or at a special meeting. The Committee's meetings are open to the public, and interested persons may be heard as provided in Iowa Code section 17A.8(6).

The following rulemaking action is proposed:

ITEM 1. Rescind 801—Chapter 10 and adopt the following **new** chapter in lieu thereof:

CHAPTER 10
IOWA VETERANS HOME
PREAMBLE

The Iowa Veterans Home is a long-term health care facility located in Marshalltown, Iowa, with oversight provided by the commission of veterans affairs.

801—10.1(35D) Definitions. The following definitions are unique to rules pertaining to the Iowa Veterans Home.

"Acute alcoholic" means any disturbance of emotional equilibrium caused by the consumption of alcohol resulting in behavior not currently controllable.

"Acutely mentally ill" means any disturbance of emotional equilibrium manifested in maladaptive behavior and impaired functioning caused by genetic, physical, chemical, biological, psychological, social or cultural factors that requires hospitalization.

"Addicted to drugs" means a state of dependency as medically determined resulting from excessive or prolonged use of drugs as defined in Iowa Code chapter 124.

"Admissions committee" means the committee appointed by the commandant to review applications to determine eligibility for admission and appropriate level and category of care.

"Admissions coordinator" means the individual responsible for the coordination of the admissions process.

"Applicant" means a person who is applying for admission into the Iowa Veterans Home.

"Assets" means items of value held by, or on behalf of, an applicant or member. Assets include but are not limited to cash, savings and checking accounts; stocks; bonds; contracts for sale of property; and homestead or nonhomestead property. Nonrecurring windfall payments such as but not limited to inheritances, death benefits, insurance or tort claim settlements, and cash payments received from the conversion of a nonliquid asset to cash shall be considered assets upon receipt.

"At once" or *"timely"* means within ten calendar days.

"Collaborative care plan" means the plan of care developed for a member by the resident care committee.

"Commandant" means the chief executive officer of the Iowa Veterans Home.

"Commission" means the Iowa commission of veterans affairs.

"Continuously disruptive" means any behavior, on a recurring basis, which has been documented by Iowa Veterans Home staff, that causes harm to a member or staff or conflicts with the member responsibilities set forth in subrule 10.12(1).

"Countable asset" means an asset to be considered in calculation of member support obligation.

"Dangerous to self or others" means any activity by a member that would result in injury to the member or others.

"Dependent" means a person for whose financial support an applicant or member is legally responsible or obligated.

"Diversion" means income that is transferred to a spouse before the member's support is determined.

"DVA" means the U.S. Department of Veterans Affairs.

"Expedited admission" means requests for readmission by former residents who were discharged from the Iowa Veterans Home solely due to the need for a temporary level of care that is not provided by IVH and who fully intend to immediately return to IVH upon no longer needing those services.

"Free time" means 12 days of leave time each calendar year for which the member is not charged for care during absence.

"Full support rate" means the maximum daily rate of support times the billable days of care received in any month less any offsets.

"Gold Star parent" means a parent of a deceased member of the United States armed forces who died while serving on active duty during a time of military conflict or who died as a result of such service.

"Honorable discharge" means separation or retirement from active military service. The veteran must be eligible for medical care in the DVA system (excluding financial eligibility). Honorable discharge includes general discharges under honorable conditions.

"Income" means money gained by labor or service or money paid periodically to an applicant or member. Income includes but is not limited to disability, retirement pensions or benefits; interest, dividends, payments from long-term care insurance, or other income received from investments; income from property rentals; certain moneys related to real estate contracts; earnings from regular employment or self-employment enterprises.

"IVH" means the Iowa Veterans Home.

"Legal representative" for purposes of applicant or member personal and care decisions means durable power of attorney for health care, guardian, or next of kin (spouse, adult children, parents, adult siblings). For applicant or member financial decisions, "legal representative" means conservator, power of attorney, fiduciary, representative payee or next of kin (spouse, adult children, parents, adult siblings).

"Licensed nursing home administrator" means a duly licensed nursing home administrator pursuant to Iowa Code chapter 147.

"Medical provider" means a doctor of medicine or osteopathic medicine who is licensed to practice in the state of Iowa. Except as defined by Iowa law, "medical provider" also means an advanced registered nurse practitioner or physician associate who is licensed to practice in the state of Iowa.

"Member" means a resident of IVH.

"Member support" means the dollar amount that is billed monthly to the member or legal representative for the member's care.

"PASRR" means preadmission screening and resident review.

"Personal needs allowance" is the nonbillable amount in which a member is allowed to retain for personal expenditures. This amount is comprised of a portion determined by the state of Iowa pursuant to rules 441—81.18(249A), 441—82.19(249A), and 441—85.47(249A) and a portion determined by the DVA pursuant to 38 U.S.C. Section 5503(d)(2) as effective on [effective date of this rulemaking].

"Resident care committee" or *"RCC"* means the member, family or legal representative, a social worker, a registered nurse, a clinical dietitian, a medical provider, a therapeutic recreation specialist and a unit resident treatment worker who are involved in reviewing a member's assessment data and developing a collaborative care plan for the individual member. For a member receiving mental health services, the RCC will also include the mental health provider.

"Resource" means assets and income.

"Spouse" means a person who is the legal or common law wife or husband of a veteran.

"Surviving spouse" means a person who is the legal or common law widow or widower of a veteran.

"Therapeutic activity" means an activity that is considered as treatment. A therapist shall determine that a particular activity is beneficial to the well-being of a member and shall include this determination in the member's plan of care.

"Veteran" means a person who served in the active military and who was discharged or released therefrom under honorable conditions. Honorable and general discharges qualify a person as a veteran. The veteran must be eligible for medical care in the DVA system (excluding financial eligibility). In addition, veteran includes a person who served in the merchant marine or as a civil service crew member between December 7, 1941, and August 15, 1945.

"Visitation" is considered part of the individual's therapeutic program. Visits are expected to benefit the individual's treatment goals while meeting the security needs of the facility and ensuring the safety of the individual and the visitor.

"Voluntary discharge" means a member wishes to terminate the member's association with IVH on a permanent basis. This includes discharge for medical reasons that have been approved by a qualified medical provider. All other discharges are involuntary.

801—10.2(35D) Eligibility requirements. Veterans, spouses, and Gold Star parents shall be eligible for admission to IVH in accordance with the following conditions:

10.2(1) Veterans.

a. The individual is disabled by reason of disease, injury or old age and meets the qualifications for nursing or residential level of care available at IVH.

b. The individual cannot be competitively employed on the day of admission or throughout the individual's residency.

c. The individual met the residency requirements of the state of Iowa on the date of admission to IVH.

d. An individual who has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others shall not be admitted to or retained at IVH.

e. The individual is eligible for care and treatment at a DVA medical center (excluding financial eligibility).

f. When admitted to the domiciliary level of care, the individual met DVA criteria stated in Veterans Health Administration Directive 1601SH.01(1) as effective on [effective date of this rulemaking].

g. Homelessness does not disqualify persons otherwise eligible for admission to IVH.

10.2(2) Spouses and surviving spouses.

a. The spouse or surviving spouse was married to a veteran for at least one year preceding the date of application or date of death of the veteran.

b. The spouse is eligible only if the veteran is admitted.

c. The surviving spouse is eligible only if the deceased veteran would also be eligible if still living.

d. Spouses, surviving spouses and Gold Star parents admitted to IVH shall not exceed more than 25 percent of the total number of members at IVH as provided in U.S.C. Title 38.

10.2(3) Gold Star parents.

a. The parent's child died while serving on active duty in the armed forces of the United States during a time of military conflict or died as a result of such service.

b. The individual is disabled by reason of disease, injury or old age and meets the qualifications for nursing or residential level of care available at IVH.

c. The individual cannot be competitively employed on the day of admission or throughout the individual's residency.

d. The individual met the residency requirements of the state of Iowa on the date of admission to IVH.

e. An individual who has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others shall not be admitted to or retained at IVH.

10.2(4) Gold Star parents, spouses and surviving spouses admitted to IVH shall not exceed more than 25 percent of the total number of members at IVH as provided in U.S.C. Title 38.

10.2(5) An individual who was not a member of the United States armed forces, in accordance with the limitations described in subrule 10.2(1), if the following conditions are met:

a. The individual was a member of the armed services of a nation with which the United States was allied during a time of conflict.

b. The individual is eligible for admission to a DVA medical center in accordance with U.S.C. Title 38, Part 17, Medical Care, Subchapter 2, Section 1710, as effective on [effective date of this rulemaking].

801—10.3(35D) Application. All applicants shall apply for admission to IVH in accordance with the following:

10.3(1) Application shall be made:

a. Through the county commission of veterans affairs in the applicant's county of residence.

b. On the appropriate Iowa Veterans Home Application for Admission form. An application may be obtained at:

(1) The county commission of veterans affairs office.

(2) DVA medical centers located in or serving veterans in the state of Iowa.

(3) IVH.

(4) Website: dva.iowa.gov.

10.3(2) The applicant shall provide a copy of the veteran's honorable discharge (DD-214) along with all other requested information to allow the determination of level of care and cost for care with the completed application.

10.3(3) The admissions committee shall determine which additional information it needs provided for an expedited admission with the completed application.

10.3(4) Once the requirements of subrules 10.3(1) through 10.3(3) have been met, the county commission of veterans affairs shall forward the completed application to the admissions office at IVH.

10.3(5) Eligibility determinations are subject to approval by the commandant or designee.

801—10.4(35D) Application processing.

10.4(1) Applications received by the admissions office shall be reviewed for completeness. Additional information shall be requested, if needed.

10.4(2) The admissions committee shall assign the level of care needed by the applicant. If there is a question regarding the level of care for which the applicant qualifies, one or more of the following will be completed in order to make an informed decision regarding appropriate level of care:

a. Prescreening call.

b. Preadmission visit to IVH.

c. Site visit.

10.4(3) Regardless of whether the applicant can be immediately admitted, the applicant and the county shall be notified of the applicant's acceptance based on the information provided at the time of review. The applicant's care needs will be reviewed prior to scheduling an admission date to ensure continued eligibility and appropriate placement.

10.4(4) When space is not immediately available, the applicant's name shall be placed on the appropriate waiting list for that level of care or special care unit in the order of the date the application was received. Expedited admissions shall move to the top of the list of the level of care assigned.

10.4(5) When space is available at time of application, or when space becomes available in accordance with the designated waiting list, the applicant shall be scheduled for admittance to IVH as follows:

a. An applicant whose physical examination or personal functional assessment was completed more than three months prior to the scheduled date of admittance may be required to obtain another physical examination by a medical provider or complete a current personal functional assessment, or both if applicable. This information shall be reviewed to determine that the applicant's previously determined level of care remains appropriate.

b. An applicant who requires a different level of care than previously determined shall be admitted to the level of care required, if a bed is available, or shall have the applicant's name placed on the waiting list for the appropriate level of care in accordance with the date the original application was received.

c. Prior to an applicant's admission to a nursing care unit, the PASRR shall be received.

801—10.5(35D) Applicant's responsibilities. Prior to admission to IVH, the applicant or a person acting on the applicant's behalf shall:

10.5(1) Report any change in the applicant's condition that could affect the previously determined level of care.

10.5(2) Report changes in mailing address, county or state of residency.

10.5(3) Provide additional information, verification or authorization for verification concerning the applicant's circumstances, condition of health, and financial resources, if requested.

10.5(4) Participate in a preadmission evaluation for level of care, if requested.

801—10.6(35D) Admission to IVH.

10.6(1) The applicant shall be notified by the admissions coordinator to appear for admission to IVH.

10.6(2) An applicant becomes a member at that point in time when the applicant or legal representative, and the commandant or designee, sign and date the Contractual Agreement, Form 475-1833, or otherwise authorize, in writing, acceptance of the terms of admittance specified in the Contractual Agreement.

10.6(3) Each member shall be placed on a unit providing the appropriate level of care based on individual needs.

a. A member requiring a subsequent change in placement based on individual care needs shall be transferred to a unit that provides the appropriate level of care within the scope of its licensure.

b. Members shall have priority over new admissions for placement on a unit when a vacant bed becomes available.

10.6(4) Care at IVH shall be provided in accordance with Iowa Code chapter 135C; 481—Chapter 57, Residential Care Facilities; 481—Chapter 58, Nursing Facilities; and DVA State Veterans Homes, Veterans Health Administration, M-5, Part 8, Chapter 2, Procedure for Obtaining Recognition of a State Veterans Home and Applicable Standards, 2.07, Standards for Nursing Care, and 2.08, Standards for Domiciliary Care, November 4, 1992.

801—10.7 to **10.10** Reserved.

801—10.11(35D) Member rights.

10.11(1) Member rights shall be in accordance with those listed in 481—Chapter 57 for members residing in the residential care facility level of care, those listed in 481—Chapter 58 for members residing in the nursing facility level of care, and those noted in Department of Veterans Affairs, State Veterans Homes, Veterans Health Administration, pertaining to residents of state veterans homes.

10.11(2) A member has the right to share a room with the member's spouse when both members consent to the arrangement.

10.11(3) If a member is incompetent and not restored to legal capacity, or if the medical provider determines that a member is incapable of understanding and exercising these rights, the rights devolve to the member's legal representative.

10.11(4) In some cases, a member may be determined to be in need of an agent by the DVA, the Social Security Administration or a similar funding source. In these cases, the commandant or designee may serve as agent subject to Iowa Code section 35D.11. All rights and responsibilities regarding the financial awards shall devolve to the commandant or designee.

801—10.12(35D) Member responsibilities.

10.12(1) The member or legal representative has the responsibility:

a. To timely report the existence of or changes in the member's income, spouse's income, assets or marital status, including the conversion of nonliquid assets to liquid assets.

b. To apply for all benefits due (e.g., Medicaid, DVA pension, DVA compensation, Social Security, private pension programs, or any combination) and accept the available billing programs offered at IVH.

c. To provide information concerning the physical condition and, to the best of the member's knowledge, accurate and complete information concerning present physical complaints, past illnesses, hospitalizations, medications and other matters related to the member's health.

d. To report unexpected changes in the member's condition to the attending medical provider or other clinician.

e. To participate in treatment planning, cooperate with the treatment team in carrying out the treatment plan, and participate in the evaluation of the member's care.

f. To be considerate of the rights of other members and staff and control behavior in respect to smoking, noise, and number of visitors.

g. To treat other members and staff with dignity and respect.

h. To respect the property of other members, staff, and IVH. A member or legal representative may be held financially responsible for any property damaged or destroyed by the member.

i. To ask questions about anything that the member may not understand about the member's care or IVH.

j. To accept the consequences of the member's actions if the member refuses treatment or fails to follow prescribed care.

k. To follow the rules and regulations of IVH regarding member care and conduct as set out in subrule 10.40(1).

l. To keep scheduled appointments with staff and, if unable to do so, to notify appropriate staff.

m. To maintain personal hygiene, including clothing, and maintain personal living area based on the member's physical and mental capabilities.

n. To follow all fire, safety and sanitation regulations as established by IVH and applicable regulatory agencies.

o. To provide information and verification of resources. A member or legal representative must fulfill the member support obligation for member health care.

p. To carry Medicare Part B and Medicare Part D insurance, if eligible. If the member is not eligible to receive Medicare under social security, IVH shall pay the medical insurance premiums for Medicare Part B and Medicare Part D.

q. To delegate to IVH the authorization to enroll the member in Medicare Part B and Medicare Part D. The premium shall be deducted from the member's social security or paid monthly with the member's funds.

r. To assign the benefits of Medicare Part B, Medicare Part D and other medical insurances to IVH. The cost of Medicare Part B, Medicare Part D and other medical insurances shall be used as an offset to the aggregate semiannual per diem rate calculation according to the level of care as calculated in January and July of each year for the preceding six months and effective March 1 and September 1.

10.12(2) The member or legal representative is responsible for the full payment of the member's support charges within the calendar month that the monthly support bill is received. Failure to pay

a monthly support bill within 30 days of issuance may result in discharge from IVH unless prior arrangements have been made.

10.12(3) In those instances when a legal representative is responsible for the handling of the member's resources, the legal representative shall keep any records necessary and provide all information or verification required for the computation of member support as set out in rule 801—10.14(35D). Failure of the legal representative to do so may result in the discharge of the member. In some cases, IVH may act to have the commandant or designee established as the member's fiduciary or agent as set out in subrule 10.11(4). In those cases when a guardian or conservator of a member fails to keep necessary records or provide needed information or verification or to meet the member support obligation, IVH may notify the court of problems and request to establish another individual as guardian or conservator. The conservator of a member shall submit a copy of the annual conservatorship report to IVH.

10.12(4) When a member temporarily needs a level of care that is not offered by IVH, the member shall be referred by IVH medical staff to a DVA medical center or other medical facility.

a. If a member who is treated at a DVA medical center has coinsurance to supplement Medicare, this coinsurance shall be used for the DVA medical center charges. IVH shall be responsible for all DVA medical center charges if the member does not carry coinsurance supplement.

b. If a member chooses a medical facility other than a DVA medical center or other medical facility as referred by IVH medical staff, the member is responsible for costs resulting from care at the medical facility chosen.

801—10.13 Reserved.

801—10.14(35D) Computation of member support. As a condition of admittance to and residency in IVH, each member is required to contribute toward the cost of that member's care based on that member's resources and ability to pay.

10.14(1) A monthly member support bill shall be sent to the member or legal representative charging the member for care in the previous month with any necessary adjustment for prior months. A member shall be required to pay member support charges from the member's liquid assets, long-term care insurance benefits and income. The monthly member support charge shall be the billable days, as set out in subrule 10.14(3), multiplied by the appropriate per diem from rule 801—10.15(35D). This amount shall be reduced by any offsets as set out in subrules 10.15(2) and 10.15(3). The member or legal representative shall pay an amount not to exceed the amount calculated based on the resources available for the cost of care as set out in this chapter.

10.14(2) Medicaid residents. If a member is certified as eligible and participating in the Medicaid program, the amount of payment shall be determined by the department of health and human services income maintenance worker.

10.14(3) Billable days (non-Medicaid). Billable days for members not participating in the Medicaid program shall be counted as follows:

a. All days in the month for which the member received care (in-house).

b. All leave days in excess of the 12 credit days up through the fifty-ninth leave day. Any leave days in excess of 59 days shall be considered billable, and the member must pay the full support rate, not the amount determined by resources.

c. The first ten days of each hospitalization. After ten days, IVH assumes the authority to discharge the resident but reserves the right to negotiate an extension to the bed hold, if warranted, in the best interest of the resident and family, at the discretion of the commandant or designee. A hospital stay may occur more than once in a calendar year.

801—10.15(35D) Per diems.

10.15(1) For members not participating in the Medicaid program, the per diem by which the billable days shall be multiplied shall be established as follows:

a. Nursing level of care.

(1) The charge for care is the per diem rate calculated in January and July of each year for the preceding six-month period and is submitted by IVH to the Iowa Medicaid enterprise of the department of health and human services.

(2) The updated per diem rate shall be effective semiannually on March 1 and September 1 of each year.

(3) Members or financial legal representatives shall be sent a notice one month in advance of the rate change.

b. Domiciliary level of care.

(1) The total cost of care per member shall be determined in January and July of each year for the preceding six-month period and calculated in a manner similar to the nursing level of care. This cost shall be the updated per diem rate.

(2) The per diem rate shall be adjusted semiannually on March 1 and September 1 of each year.

(3) Members or financial legal representatives shall be sent a notice one month in advance of the rate change.

10.15(2) Veteran members for whom IVH receives a per diem from the DVA (under Title 38). IVH shall consider this per diem as a third-party reimbursement to the charge for care and shall be an offset to the member support bill. The offset of the per diem received (billed to DVA) shall be shown as an offset for the month billed. The provisions of 38 U.S.C. 1745(a), which were established by Section 211 of the Veterans Benefits, Health Care, and Information Technology Act of 2006 (Public Law 109-461), set forth a mechanism for paying a higher per diem rate for certain veterans who have service-connected disabilities and are receiving nursing home care in state homes. Except as otherwise provided in statute or regulation, if IVH receives this higher per diem rate from the DVA, the member will not have a support charge from IVH.

10.15(3) The daily per diem charge shall be reduced by an amount equal to the appropriate Medicare Part B and Medicare Part D premiums paid by the enrolled member.

10.15(4) For members carrying other medical insurance upon admission and continuing to carry other medical insurance after admission, the member support charge shall be reduced by an amount equal to the other medical insurance premium.

10.15(5) For members not eligible for Medicaid medical assistance, the member support charge shall be reduced in accordance with subrules 10.15(2), 10.15(3) and 10.15(4), if applicable. The member shall then contribute all remaining available resources up to the charge for care. Members receiving DVA pension and aid and attendance shall be considered as having used the amount equal to aid and attendance first in payment for their care at IVH.

10.15(6) Payment of support is due within ten business days after the monthly support bill is received or ten business days after the member's last income deposit for that month.

a. If payment is not received by IVH within 30 days following the due date, a notice of discharge may be issued.

b. If there are extenuating circumstances, the member or legal representative should meet with the commandant or designee to work out a schedule of payments.

801—10.16(35D) Assets. The following rules specify the treatment of assets, as defined in rule 801—10.1(35D), in the payment of member support as described in rule 801—10.14(35D). Only liquid assets shall be considered in the payment of member support.

10.16(1) For members who have applied for and are eligible to receive Medicaid facility assistance, rule 441—75.82(249A) shall apply. Financial eligibility for Medicaid shall be determined by the department of health and human services income maintenance worker.

10.16(2) For members not eligible for Medicaid medical assistance, the following rules apply.

a. Assets considered. The assets considered shall include all assets owned by the member or if married, both the member and the spouse living in the community, except for the following:

(1) The homestead. The exempt homestead is defined as the house, used as a home, and may contain one or more contiguous lots or tracts of land, including buildings and appurtenances. Contiguous means that portions of the homestead cannot be separated from the home by intervening property owned by others. However, the homestead is considered contiguous if portions of it are separated from the home

only because of roads or other public rights-of-way. Property that is not exempt as part of the homestead shall be treated in accordance with this chapter. The homestead, as defined, can retain its exempt status for a period of time not to exceed 36 months, while the member, spouse and dependents are temporarily absent, provided the following conditions are met:

1. There is a specific purpose for the absence.

2. The member, spouse or dependents intend to return to the homestead when the reason for the absence has been accomplished.

3. The member, spouse or dependents can reasonably be expected to return to the home during the 36-month time limitation.

4. If a person is an applicant at the time the homestead becomes vacant due to the absence of the applicant, spouse or dependents, the first month of the 36-month period is the month of admission to IVH.

5. If a person is a member when the homestead becomes vacant due to the absence of the member, spouse or dependents, the first month of the 36-month period is the month following the month in which the homestead is vacated.

6. Any homestead that does not qualify for this exemption or any homestead that is vacant for a period of time exceeding the 36-month limit shall be treated in accordance with subrule 10.16(3).

(2) Household goods, personal effects and one motor vehicle.

(3) The value of any burial spaces held for the purpose of providing a place for the burial of the member, spouse or any other member of the immediate family.

(4) Exempt income-producing property includes but is not limited to tools, equipment, livestock, inventory and supplies, and grain held in storage.

(5) Other property essential to the means of self-support of either the member or spouse as to warrant its exclusion under the Supplemental Security Income program.

(6) Assets of a blind or disabled person who has a plan for achieving self-support as determined by the division of vocational rehabilitation or the department of health and human services.

(7) Assets of Native Americans belonging to certain tribes arising from judgment funds and payments from certain land and subsurface mineral rights. This does not include per capita payments from casino proceeds.

(8) Any amounts arising from Public Law 101-239, which provides assistance to veterans under the Agent Orange product liability litigation.

(9) Assistance under the Disaster Relief Act and Emergency Assistance Act or other assistance provided pursuant to federal statute as a result of a presidential disaster declaration and interest earned on these funds for the nine-month period beginning on the date these funds are received or for a longer period where good cause is shown.

(10) An amount that is irrevocable and separately identifiable, having a principal amount not in excess of a predetermined amount set by the department of health and human services, without an itemized billing, for the member or spouse to meet the burial and related expenses of that person.

(11) Federal assistance paid for housing occupied by the spouse living in the community.

(12) Assistance from a fund established by a state to aid victims of crime for nine months from receipt when the client demonstrates that the amount was paid as compensation for expenses incurred or losses suffered as a result of a crime.

(13) Relocation assistance provided by a state or local government to a member or spouse comparable to assistance provided under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, which is subject to the treatment required by Section 216 of the Act.

(14) Any other asset excluded by statute.

b. Assets of a single member. When liquid assets not exempted in paragraph 10.16(2)*"a"* are equal to or exceed $2,000, those liquid assets shall be considered an available resource for the payment of member support. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than $500, but leaving at least the personal needs allowance.

c. Assets of a married member with spouse in a care facility. If a member's spouse is residing in a nursing facility, the member shall be treated as a single member for asset determination purposes. If the member and the spouse become members of IVH on the same day, all resources of both members shall be added together and split one-half to each member for asset determination purposes. If the spouse is residing in a residential care facility, the rules pertaining to a spouse living in the community apply.

d. Assets of a married member with a spouse living in the community. When liquid assets not exempted in paragraph 10.16(2)*"a"* are equal to or exceed $2,000, those liquid assets shall be considered an available resource for the payment of member support. The assets attributed to the member shall be determined from the documented assets of both the member and spouse living in the community as of the first day of admission to IVH. All resources of both the member and the spouse shall be added together. If the total resources are less than the predetermined amount set by the department of health and human services, then that amount is awarded to the community spouse. The amount in excess of this predetermined figure, up to an equal amount, if applicable, shall be awarded to the member. Any resources over this combined amount shall be split one-half to the member and one-half to the spouse up to a predetermined maximum set by the department of health and human services. All resources over the predetermined amount shall be awarded to the member. These assets shall be considered available for payment of member support until such time that the remaining liquid assets total less than $500, but leaving at least the personal needs allowance.

(1) If the member has transferred assets to the spouse living in the community under a court order for the support of the spouse, the amount transferred shall be the amount attributed to the spouse to the extent it exceeds the specified limits above.

(2) After the month in which the member is admitted, no attributed resources of the spouse living in the community shall be deemed available to the member during the continuous period in which the member is at IVH. Resources that are owned wholly or in part by the member and that are not transferred to the spouse living in the community shall be counted in determining member support. The assets of the member shall not count for member support to the extent that the member intends to transfer and does transfer the assets to the spouse living in the community within 90 days.

(3) Report of results. The department of health and human services shall provide the member and spouse and legal representative, if applicable, a report of the results of the attribution. The report shall state that either has a right to appeal the attribution in accordance with rule 801—10.45(35D).

e. Exception based on estrangement. When it is established by a disinterested third-party source and confirmed by the commandant or designee that the member is estranged from the spouse living in the community, member support shall be determined on the basis of resources of a single member.

10.16(3) When a member owns an available, nonliquid, nonexempt asset, the value of which would affect the computation of member support as described in rule 801—10.14(35D), the asset shall be liquidated. The value of that asset shall be considered in the computation of member support. The following paragraphs are to be considered when liquidating assets:

a. Net market value, or equity value, is the gross price for which property or an item can be sold on the open market less any legal debts, claims or liens against the property or item. IVH shall consider the condition and location of an item or property and local market conditions in determining the gross sales price of the item or property. In order for a loan or claim to be considered a lien or encumbrance against an asset, the loan or claim must be made under circumstances that result in the creditors having a recorded legal right to satisfy the debt.

b. An asset must be available in order for it to be treated in accordance with this chapter. An asset is considered available when:

(1) The member owns the property in part or in full and has control over it, i.e., it can be occupied, rented, leased, sold or otherwise used and disposed of at the member's discretion; and

(2) The member has a legal interest in a liquidated sum and has the legal ability to make the sum available for member support.

c. A member must take all appropriate action to gain title and control of any asset of which the value would affect the computation of member support.

d. The value of the asset may be adjusted if the member or legal representative:

(1) Advertises the asset for sale, through appropriate methods, on a continual basis.

(2) Lists the asset with a real estate broker or other agent appropriate to the asset.

(3) Asks a reasonable price that is consistent with the asking price of similar items of property in the community.

(4) Does not refuse a reasonable offer.

(5) Does not sell the asset for an unreasonably low price.

e. Cash proceeds from the sale of an asset, conversion of an asset to cash, or receipt of any cash asset as defined in rule 801—10.1(35D) shall be used in the computation of member support beginning with the calendar month of receipt.

801—10.17(35D) Divestment of assets.

10.17(1) "Intentional divestment of assets" means:

a. To knowingly sell, give or transfer by member or legal representative for less than fair market value, any asset, the value of which would affect member support; or

b. To knowingly and voluntarily place an asset, the value of which would affect member support, under a trust or other legal instrument that ends or limits the availability of that asset.

10.17(2) Transfers of resources shall be presumed to be divestiture unless the individual furnishes convincing evidence to establish that the transaction was exclusively for some other purpose. In addition to giving away or selling assets for less than fair market value, examples of transferring resources include but are not limited to establishing a trust, contributing to a charity or other organization, removing a name from a joint bank account, or decreasing the extent of ownership interest in a resource or any other transfer as defined in the Supplemental Security Income program.

a. Convincing evidence to establish that the transaction was not a divestiture may include documents, letters, and contemporaneous writings, as well as other circumstantial evidence.

b. In rebutting the presumption that the transfer was a divestiture, the burden of proof is on the individual to establish:

(1) The fair market value of the compensation;

(2) That the compensation was provided pursuant to an agreement, contract, or expectation in exchange for the resource; and

(3) That the agreement, contract, or expectation was established at the time of transfer.

10.17(3) An applicant or legal representative shall not knowingly and intentionally divest an asset, as set out in subrule 10.17(1), within the period established by Medicaid statute prior to admission, with the intention of reducing the applicant's member support or of obtaining admission to IVH. When it is determined by the commandant or designee that an applicant did intentionally divest an asset, that applicant may be charged member support as if divestment did not occur.

801—10.18(35D) Commencement of civil action. The commandant or designee may file a civil action for money judgment against a member or discharged member or the member's legal representative for support charges when the member or discharged member fails to pay member support in accordance with this chapter.

801—10.19(35D) Income. This rule describes the treatment of income, as defined in rule 801—10.1(35D), in the computation of member support as described in rule 801—10.14(35D).

10.19(1) For members who are eligible for Medicaid medical assistance, rule 441—75.82(249A) shall apply. For those members participating in the Medicaid medical assistance program, the difference between the IVH personal needs allowance and the Medicaid personal needs allowance shall be returned to the member out of individual member participation.

10.19(2) For members who are not eligible for Medicaid, the following shall apply:

a. The following types of income are exempt in the computation of member support:

(1) The earned income of the spouse or dependents.

(2) Unearned income restricted to the needs of the spouse or dependents (social security, DVA, etc.).

(3) Any other income that can be specifically identified as accruing to the spouse or dependents.

(4) Nonrecurring gifts, contributions or winnings, not to exceed $60 in a calendar quarter.

(5) Interest income of less than $20 per month from any one source.

(6) State bonus for military services.

(7) Any earnings received by a member for that member's participation in money-raising activities administered by veterans' organizations or auxiliaries (i.e., poppies).

(8) Any money received by a member from the sale of items resulting from a therapeutic activity (must be documented in the resident's care plan).

(9) The first $150 received by a member in a month for participation in the incentive therapy or other programs as described in rule 801—10.30(35D), for members in the domiciliary level of care. For members in the nursing level of care, the first $75 shall be exempted.

(10) Personal loans.

(11) In-kind contributions to the member.

(12) Medicaid quarterly payments.

(13) Yearly DVA compensation clothing allowance for those who qualify.

(14) Other income as specifically exempted by statute.

(15) Any income similar in its origin to the assets excluded in subparagraphs 10.16(2)*"a"*(6) and *"a"*(7).

(16) Wages from paid community employment for 30 days prior to a resident's planned discharge; however, if during the 30 days the decision is made not to discharge, the resident must terminate the community employment by the end of the 30 days. In that event, moneys earned during the period of employment would be subject to support calculations on the same basis as incentive therapy earnings.

b. Personal needs allowance. All members shall have an amount exempted, determined by the legislature, from their monthly income intended to cover the purchase of clothing and incidentals.

(1) The personal needs allowance shall be subtracted from the member's income prior to determination of money to which the spouse may be entitled.

(2) Reserved.

c. Any type of income not specifically exempted shall be considered for the payment of member support as provided in rule 801—10.14(35D).

d. Determining income from property.

(1) Nontrust property. Where there is nontrust property, income paid in the name of one person shall be available only to that person unless the document providing income specifies differently. If payment of income is in the name of two persons, one-half is attributed to each. If payment is in the name of several persons, the income shall be considered in proportion to their ownership interest. If the member or spouse can establish different ownership by a preponderance of evidence, the income shall be divided in proportion to the ownership.

(2) Trust property. Where there is trust property, the payment of income shall be considered available as provided in the trust. In the absence of specific provisions in the trust, the income shall be considered as stated above for nontrust property.

e. The amount of income to consider in the computation of member support shall be as follows:

(1) Regular monthly pensions and entitlements. The amount of income to be considered is the gross amount of the monthly entitlement or pension received less any medical insurance premium deductions.

(2) Investments or nonrecurring lump sum payments. Net unearned income from investments or nonrecurring lump sum payments shall be determined by deducting income-producing costs from the gross unearned income. Income-producing costs include but are not limited to brokerage fees, property manager's salary, maintenance costs and attorney fees.

(3) Property sold on contract. The amount of income to consider shall be the amount received minus any payments for mortgage, taxes, insurance or assessments still owed on the property and payable by the contract holder.

(4) Earned income from a rental, sole or partnership enterprise. The amount of income to consider shall be the net profit figure as determined for the Internal Revenue Service on the member's income tax return.

EXCEPTION: The deductions of the previous year's state and federal taxes and depreciation on the income tax return are not allowable deductions for the purpose of the computation of member support. If a tax return is not available, the member or legal representative shall provide all information and verification needed in order to correctly compute member support.

(5) Partnership income. The member's share of the net profit shall be determined in the same manner as the partnership percentage as determined for the Internal Revenue Service's purposes.

10.19(3) Member income diversion to dependent spouse not living at IVH. A portion of the member's income shall be diverted to the spouse according to the following:

a. Spouse living in the community. One-half the income in exclusion of an amount equal to aid and attendance and after reduction of personal needs allowance.

b. Spouse permanently in another nursing home. Member shall be treated as single. If the member is in receipt of a DVA pension, the only amount of income provided to the spouse would be the DVA pension dependency amount.

c. Spouses living in a residential care facility. Spouses shall be treated under the same rules as a spouse living in the community in accordance with paragraph 10.19(3)*"a."*

d. All current court order proceedings and guardian/conservatorship appointments regarding financial obligations shall be honored.

10.19(4) Income disbursements.

a. All diversions to spouse or valid court orders shall be mailed or sent electronically as designated or on a monthly basis.

b. All checks or electronic payments shall be sent to the proper recipient no later than the eighth day of any given month or, at IVH's option, five business days after the member's last income deposit for that month.

c. Monthly income disbursements to a community spouse may be delayed or canceled if there is an overdue amount owed for support payments.

801—10.20(35D) Other income.

10.20(1) When a member receives regular monthly payments of unearned income, it shall be included in the calculation of member support.

10.20(2) When a member receives periodic recurring income that is received less frequently than monthly, this countable income, after the deduction of any allowable income-producing expenses, shall be considered in the month received.

10.20(3) When a member receives a nonrecurring retroactive payment from a specific entitlement source for a prior period of time, it shall be considered as income in the month received. The aid and attendance amount of the DVA pension shall be computed as a manual adjustment (only available to members residing in nursing care).

10.20(4) Income from a particular source is considered terminated as of the date the member receives the last income payment from that source or the date that a sole or partnership enterprise ends, whichever is later.

10.20(5) When income from a particular source decreases in a calendar month, the decrease in income shall be considered in the computation of that month's member support. Income from a particular source is considered to be decreased as of the date the member receives the first income payment in the decreased amount.

10.20(6) When income from a particular source increases in a month, the increase in income shall be considered in the computation of that month's member support. Income from a particular source is considered to be increased as of the date the member receives the first income payment in the increased amount.

10.20(7) Recurring lump sum payments shall be treated as income in the month received.

10.20(8) Nonrecurring lump sum payments earned prior to admission, regardless of when received, shall not be counted as income but may be considered as an available liquid asset.

10.20(9) Any income as defined in rule 801—10.20(35D) that exceeds the member support billing for that month shall thereafter be considered a liquid asset available under rule 801—10.16(35D).

10.20(10) A resident who is planning to discharge may take on paid community employment for 30 days prior to discharge and not have the resident's wages subject to IVH support billing; however, if during the 30 days the decision is made not to discharge, the resident must terminate the community employment by the end of the 30 days. In that event, moneys earned during the period of employment would be subject to support calculations on the same basis as incentive therapy earnings.

801—10.21(35D) Fraud. Applicants, members or legal representatives who knowingly conceal the existence of resources may be subject to the billing of full member support, discharge for failure to pay for member's care or denial of admission. Further, members who knowingly conceal liquid assets or income that would have affected member support shall be charged for the amount not previously billed due to the fraudulent act. If upon admission it is determined that medical or other pertinent information provided during the application process was fraudulent, notice of discharge may be issued. In addition, any applicant, member or legal representative suspected of fraud may be referred to the department of inspections, appeals, and licensing division of investigations for possible criminal or civil action. The attorney general's office shall conduct the investigation.

801—10.22(35D) Overcharges. When it is discovered that a member was charged for support in excess of the amount actually due, the member shall receive a refund or credit to the member's account. If the member is discharged or deceased, a refund shall be conveyed to the member or legal representative.

801—10.23(35D) Penalty.

10.23(1) All members who have resources in excess of the full support rate shall be charged the full support rate. If any member does not apply for all benefits due (e.g., Medicaid, DVA pension, DVA compensation, social security, or any combination), fails to report resources accurately in order to not pay full support, or refuses to accept the available billing programs offered at IVH, that member shall be charged up to full support rate as if these responsibilities had been followed. Failure to comply with these rules may result in discharge from IVH.

10.23(2) If a member is required to pay full member support under these rules, the monthly charge shall be calculated as the per diem in paragraph 10.15(1)*"a"* or *"b"* times the billable days less any offsets. If a member is required to pay member support based on additional resources, these figures shall be obtained from the appropriate agencies.

801—10.24 to **10.29** Reserved.

801—10.30(35D) Incentive therapy and nonprofit rehabilitative programs. Members may be offered the opportunity to perform services for IVH through the incentive therapy program as part of their plan of care. Participating members shall be compensated at the state's minimum wage for their involvement in the incentive therapy program. If members enrolled in nonprofit rehabilitative programs receive an income from such programs, that income shall be treated in the same manner as the incentive therapy program or IVH policy.

This rule is intended to implement Iowa Code section 35D.7(3).

801—10.31 to **10.34** Reserved.

801—10.35(35D) Handling of pension money and other funds. Each member who has not been assigned a guardian, conservator, fiduciary or representative payee or has not designated a power of attorney while having adequate decision-making capacity or as otherwise specified may manage that member's own personal financial affairs. Upon the receipt of written authorization from the member or legal representative by the commandant or designee, the commandant or designee may assist the member in the management of the member's financial affairs.

10.35(1) Pension money or other funds deposited with IVH are not assignable, except as specified in subrule 10.19(3) or subparagraph 10.40(2)*"b"*(1).

10.35(2) If authorized by a member, the commandant or designee may act on behalf of that member in receiving, disbursing, and accounting for personal funds of the member received from any

source subject to the requirements of Iowa Code section 135C.24. The authorization may be given or withdrawn in writing by the member or legal representative at any time. The authorization shall not be a condition of admission to or retention at IVH.

10.35(3) IVH shall maintain a commercial account with a federally insured bank for the personal deposits of its members. The account shall be known as the IVH membership account/rep payee for social security/VA beneficiaries. The commandant or designee shall record each member's personal deposits individually and shall deposit the funds in the membership account where the members' deposits shall be held in the aggregate. Interest shall accrue on those accounts that are on deposit at the end of each month. IVH may withdraw moneys from the account maintained pursuant to this subrule to establish certificates of deposit for the benefit of all members.

10.35(4) If authorized in writing by the member or legal representative, the commandant or designee may make withdrawals against that member's personal account to pay regular bills and other expenses incurred by the member. The authorization may be given or withdrawn in writing by the member or legal representative at any time. The authorization shall not be a condition of admission to or retention at IVH.

10.35(5) The commandant or designee shall maintain a written record of each member's funds that are received by or deposited with IVH. The member or legal representative shall receive a monthly statement showing deposits, withdrawals, disbursements, interest and current balances. If the commandant or designee is made representative payee or fiduciary for the member's financial transactions, this statement shall be maintained in the member's administrative file.

10.35(6) Except as otherwise specified and unless the commandant or designee has been appointed representative payee or fiduciary, funds deposited with IVH shall be released to the member or legal representative upon request. A statement will be provided showing deposits, disbursements, interest, and the final balance at the time the funds are withdrawn. When the member continues to maintain residency at IVH, the funds shall be released and a statement provided within three working days following the request. When a member is being discharged from IVH, the funds shall be released and a statement provided no later than the tenth day of the month following the month of discharge.

801—10.36(35D) Leave, bed holds and 96-hour passes.

10.36(1) *Non-Medicaid members.*

a. Members are free to leave IVH grounds unless contraindicated by medical determination. In cases where it is determined to be medically contraindicated and a member chooses to leave, the member or legal representative must sign Discharge Against Medical Advice, Form 475-0940.

b. Leaves are required if the member expects to be absent past midnight.

c. All leaves other than free time shall require payment of member support charges as though the member were in residency. Failure to pay regular member support charges may result in discharge of the member. Leave length may be changed by notification from the member or legal representative to the nursing unit social worker or domiciliary office.

d. Hospital leaves. Leaves spent in approved medical facilities away from IVH shall not be counted against the 59-day leave time limit as set out in paragraph 10.14(3)*"b."* Hospital leaves shall be granted and the charges for such leaves shall be as follows:

During the first ten consecutive days of any hospital stay, the member shall pay the regular and usual assessed charge for the member's level of care. Beginning on the eleventh day through the remainder of the hospitalization, the member shall not be charged. Each monthly member support bill shall reflect any adjustments related to hospitalization. Leaves to other medical facilities for the purpose of treatment shall be treated as hospital leaves.

e. General leaves.

(1) Twelve days of leave time each calendar year shall be free time.

(2) The member shall be charged the usual support charge for leave time over 12 days up to and including 59 days.

(3) The member shall be charged the full support rate for the level of care in which the member resides for leave time over 59 days.

(4) Leave time is not cumulative from one calendar year to another calendar year.

(5) Leave time the member has not utilized or cannot utilize shall not be credited toward the member's support.

(6) Support charges for the member on leave who wishes to retain the member's bed shall be due and payable as though the member were in residency as set forth in paragraph 10.36(1)*"c."*

f. When the nursing care member is on leave, the member shall remain on in-house status for the first 12 leave days per calendar year for DVA per diem purposes and IVH shall be financially responsible for medical expenses, which include deductibles, copays and the member's share after all insurance has been filed and paid to the medical facility, unless the medical expenses are assumed by the member or legal representative in relation to choice of medical facility.

g. When a member has used 12 non-hospital leave days, IVH is not financially responsible for any medical charges for the member while on leave.

10.36(2) *Members who are receiving Medicaid benefits.*

a. Members are free to leave IVH grounds unless contraindicated by medical determination. In cases where it is determined to be medically contraindicated and a member chooses to leave, the member or legal representative must sign Discharge Against Medical Advice, Form 475-0940.

b. A leave as set out in paragraph 10.36(1)*"b"* is required if a member expects to be absent past midnight.

c. The member's bed shall be held while the member is visiting away from IVH for a period not to exceed 18 days in any calendar year. There is no restriction as to the amount of days taken in any one month or during any one visit, as long as the days taken in the calendar year do not exceed 18. Additional days shall be allowed if the member's medical provider recommends in the plan of care that additional days would be rehabilitative.

d. A member or a legal representative who wishes to exceed the 18 visitation days and retain the member's bed, but does not have medical provider recommendation for an extension, must make arrangements with the operations division administrator or designee for payment of the rate determined by the department of health and human services income maintenance worker for all days in excess of the 18 visitation days. If prior arrangements and payment are not made, a member may be discharged in accordance with subrule 10.12(2).

e. A bed shall be held for a hospitalized member. The member's client participation shall be paid according to the department of health and human services income maintenance worker for all hospitalized days until member returns or is discharged.

f. While on leave, IVH shall be financially responsible for medical expenses, which include deductibles, copays and the member's share after all insurance has been filed and paid to the medical facility, unless the medical expenses are assumed by the member or legal representative in relation to choice of medical facility.

10.36(3) *Ninety-six-hour passes for domiciliary members.*

a. A pass shall not exceed 96 hours. If a member expects to be gone for more than 96 hours, a leave is required.

b. Upon return from a pass, the member must remain in residence for 24 hours before another pass is issued.

c. When a member is on pass, the member shall remain on in-house status for DVA per diem purposes; IVH shall be financially responsible for medical expenses, which include deductibles, copays and the member's share after all insurance has been filed and paid to the medical facility, unless the medical expenses are assumed by the member or legal representative in relation to choice of medical facility.

801—10.37(35D) Mail.

10.37(1) Each member or legal representative shall be afforded a choice in the methods of handling the member's business mail and in meeting the member's responsibilities for reporting resources for the purpose of computation of member support. A member found to be inadequate at financial decision making shall have that member's business mail handled in a manner as to respect that member's dignity and still meet the needs of IVH for complete information regarding resources.

10.37(2) Each member or legal representative shall be allowed to handle that member's business mail to the degree of responsibility chosen by the member or legal representative. A member may:

a. Elect to receive all business mail personally and provide the resident finance office with financial documentation, or

b. Designate that the member shall receive personal mail items but that business mail received at IVH from entitlement sources or concerning assets shall be routed to the resident finance office, cashier's office, budget office, or purchasing office, whichever is appropriate.

801—10.38 and **10.39** Reserved.

801—10.40(35D) Requirements for member conduct. The commandant or designee shall administer and enforce all requirements for member conduct. Subject to these rules and Iowa Code section 135C.23, the commandant or designee may transfer or discharge any member from IVH when the commandant or designee determines that the health, safety or welfare of the members or staff is in immediate danger and other reasonable alternatives have been exhausted.

10.40(1) In addition to the member responsibilities as set out in rule 801—10.12(35D), each member shall also comply with the following requirements:

a. The use of intoxicants or alcoholic beverages on IVH premises is prohibited unless prescribed by a medical provider.

b. The bringing of alcoholic beverages or illicit substances on IVH premises is prohibited. Any illicit substances or drug paraphernalia or both found in the member's possession shall be grounds for immediate discharge.

c. The use of illegal substances while a member of IVH is prohibited. A urinalysis shall confirm the presence of illegal substances. A member's refusal to submit to a urinalysis in response to a request based on probable cause shall be considered a positive result and is grounds for discharge.

d. Firearms or weapons of any nature shall be turned in to the commandant or designee for safekeeping. The commandant or designee shall decide if an instrument is a weapon. Firearms or weapons in the possession of a member that constitute a hazard to self or others shall be removed and stored in a place provided and controlled by the facility or sent with family members for safekeeping.

e. Smoking in members' rooms is prohibited. Members who smoke shall do so within designated smoking areas so as not to endanger self or others.

f. Continuously disruptive behavior on the part of a member is grounds for transfer or discharge.

g. Members shall comply with legal requests and orders of the commandant or designee.

h. Members shall not violate state and federal statutes.

i. Members shall report to the resident finance supervisor or designee any changes in assets/income and pay support within ten business days after the monthly support bill is received or ten business days after the member's last income deposit for the month.

10.40(2) When a member is found in violation of the requirements of conduct established in subrule 10.40(1), the following steps may be taken:

a. For a first offense, a member is counseled by an appropriate staff person and options for correcting the behavior are considered. Options may include but are not limited to:

(1) Funds restriction.

(2) Substance use treatment.

(3) Mental health services.

b. IVH control of the member's personal funds as follows:

(1) The pension money and other incomes and available liquid assets shall be deposited by the commandant or designee in a separate account for and on behalf of the member. The commandant or designee shall, under the procedures established in subrules 10.35(3) and 10.35(4), make withdrawals and disbursements to meet the regular bills and other expenses of the member.

(2) If, after a period of up to six months, the member's behavior is deemed appropriate by the facility, the handling of funds will be reviewed and funds may be returned to the control of the member.

(3) If the member is discharged from IVH, the balance of the funds in the IVH membership account shall be paid to the member or financial legal representative no later than the tenth day of the month following the month of discharge.

c. For a second offense, a member is offered the services above and is placed on probation that warns a third offense may lead to discharge.

d. For a third offense, discharge from IVH in accordance with subrule 10.40(3).

10.40(3) The steps described in subrule 10.40(2) shall generally be followed in that order. However, if the member's violation is of an extreme nature and the member is not amenable to counseling, the commandant or designee shall choose to discharge the member after the expiration of a 30-day written notification period that begins when the notice is personally delivered. If the RCC, in conjunction with the medical provider and mental health personnel, deems that the member's behavior poses a threat of imminent danger, the commandant or designee may issue notice of an immediate involuntary discharge. In such an emergency situation, a written notice shall be given prior to or within 48 hours following the discharge. The member's county commission of veterans affairs and the legal representative shall be informed in writing of the decision to discharge. Written notification shall also be issued to appropriate governmental agencies including the commission; the department of inspections, appeals, and licensing; and the department on aging's long-term care ombudsman to ensure that the member's health, safety or welfare shall not be in danger upon the member's release.

10.40(4) A member who has been previously discharged under the provisions of subrule 10.40(2) or 10.40(3) shall be readmitted to IVH only upon the approval of the commandant or designee. If not approved, the applicant shall receive written notice of the denial. A copy of the denial notice shall be forwarded to the commission and the appropriate county commission of veterans affairs. Any decision to deny readmittance is subject to the review of the commission.

801—10.41(35D) County of settlement upon discharge. A member does not acquire residency in Marshall County, the county in which IVH is located, unless the member is voluntarily or involuntarily discharged from IVH and the member meets county of residence requirements. For purposes of this rule, "county of residence" means the same as defined in Iowa Code section 331.190.

801—10.42(35D) Disposition of personal property and funds.

10.42(1) A discharged member shall remove all personal property at the time of discharge or within 30 days. Personal property not removed within 30 days after discharge shall become the property of IVH to dispose of as the commandant or designee directs. Personal property may be forwarded at the member's expense to the member's last-known address. When the member is discharged from IVH, the member's funds shall be released to the member or legal representative with a statement provided no later than the tenth day of the month following the month of discharge.

10.42(2) Following written notification to the legal representative or next of kin, a deceased member's personal property remaining at IVH 30 days after written notification shall become the property of IVH to dispose of as the commandant or designee directs. If there is a known legal representative or next of kin, the property may be shipped to the legal representative or next of kin at the expense of the estate, legal representative, or next of kin.

10.42(3) Upon the death of a member with personal funds deposited at IVH, any final funeral expenses must be paid first. If there are no outstanding funeral expenses, then pending account charges and the IVH final bill will be collected. Upon receipt of notification from the estate recovery program that release of funds is approved, IVH shall convey the member's funds along with a final statement to the legal representative administering the member's estate. When an estate is not opened or in cases where no executor is appointed, IVH shall attempt to locate the deceased member's heirs and deliver the funds to the heirs equally or according to the terms of the last will and testament within one year after the date of death.

801—10.43(35D) Rule enforcement—power to suspend and discharge members. The commandant or designee shall administer and enforce all rules adopted by the commission including rules of discipline and, subject to these rules, may immediately suspend the membership of and discharge any

member from IVH for infraction of the rules when the commandant or designee determines that the health, safety or welfare of the members of IVH is in immediate danger and other reasonable alternatives have been exhausted. The suspension and discharge are temporary pending action by the commission. Judicial review of the action of the commission may be sought in accordance with Iowa Code chapter 17A.

10.43(1) The commandant or designee shall, with the input and recommendation of the RCC, involuntarily discharge a member for any of the following reasons:

a. The member has been diagnosed with a substance use disorder but continues to abuse alcohol or an illegal drug in violation of the member's conditional or provisional agreement entered into at the time of admission, or at any time thereafter, and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and has been given the opportunity to correct the behavior through either of the following options:

1. Being given the opportunity to receive the appropriate level of treatment in accordance with best practices for standards of care.

2. By having been placed on probation by IVH for a second offense. Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1)*"a,"* if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the RCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged under paragraph 10.43(1)*"a"* if the member's actions or behavior jeopardizes the life or safety of other members or staff.

b. The member refuses to utilize the resources available to address issues identified in the member's collaborative care plan and all of the following conditions are met:

(1) The member has been provided sufficient notice of any changes in the member's collaborative care plan.

(2) The member has been notified of the member's commission of three offenses and the member has been placed on probation by IVH for a second offense. Notwithstanding the member meeting the criteria for discharge under paragraph 10.43(1)*"b,"* if the member has demonstrated progress toward the goals established in the member's collaborative care plan, the RCC and the commandant or designee may exercise discretion regarding the discharge. Notwithstanding any provision to the contrary, the member may be immediately discharged if the member's actions or behavior jeopardizes the life or safety of other members or staff.

c. The member no longer meets the requirements for residential or nursing level of care, as determined by the RCC or medical provider.

d. The member requires a level of licensed care not provided at IVH.

10.43(2) Provisions for members following discharge from IVH.

a. If a member is discharged under this rule, the discharge plan shall include placement in a suitable living situation that may include but is not limited to a transitional living program approved by the commission or a living program provided by DVA.

b. If a member is involuntarily discharged under this rule, the commission shall, to the greatest extent possible, ensure against the member being homeless and ensure that the domicile to which the member is discharged is fit and habitable and offers a safe and clean environment that is free from health hazards and provides appropriate heating, ventilation and protection from the elements.

10.43(3) Discharge notice, including right to appeal. An involuntary discharge of a member under this rule shall be preceded by a written notice to the member. The notice shall state that, unless the discharge is an immediate discharge due to the member's actions or behavior that jeopardizes the life or safety of other members or staff, the effective date of the discharge is 30 calendar days from the date of receipt of the discharge notice and that the member has the right to appeal the discharge. In addition, the discharge notice shall contain:

a. The stated reason for the proposed discharge or transfer.

b. The actual effective date of the proposed discharge or transfer.

c. A statement in not less than 12-point type that reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Commission of Veterans Affairs (hereinafter referred to as "Commission") within five (5) calendar days after receiving this notice. You have a right to be represented at the hearing by an attorney or any other individual of your choice at your own expense. If you request a hearing, it will be held, and a decision rendered within ten (10) calendar days of the filing of the appeal. Provision may be made for extension of the ten (10) day requirement upon request to the Commission designee. If you lose the hearing, you will not be discharged or transferred before the expiration of 30 days following receipt of the original notice of the discharge or transfer, or no sooner than five (5) days following final decision of such hearing. To request a hearing or receive further information, call the Commission or write to the Commission to the attention of: Chairperson, Commission of Veterans Affairs."

10.43(4) Emergency discharge. In the case of an emergency transfer or discharge relating to a threat of imminent harm, the resident must still be given a written notice prior to or within 48 hours following transfer or discharge. A copy of this notice must be placed in the resident's file, and it must contain all the information required by subrule 10.43(3). In addition, the notice must contain a statement in not less than 12-point type (elite) that reads: "You have a right to appeal the facility's decision to transfer or discharge you on an emergency basis. If you think you should not have to leave this facility, you may request a hearing in writing or verbally with the Commission of Veterans Affairs (hereinafter referred to as 'Commission') within 5 calendar days after receiving this notice. If you request a hearing, it will be held and a decision rendered within 10 calendar days of the filing of the appeal no later than 14 days after receipt of your request by the Commission. You may be transferred or discharged before the hearing is held or before a final decision is rendered. If you win the hearing, you have the right to be transferred back into the facility. To request a hearing or receive further information, you may call the Commission or write to the Commission to the attention of: Chairperson, Commission of Veterans Affairs."

10.43(5) Appeal by member.

a. If a member appeals the discharge under this rule, the member shall be provided with the information relating to the appeals process as specified in rule 801—10.47(35D).

b. If a member appeals the discharge under this rule, the involuntary discharge appeal process in rule 801—10.47(35D) shall apply.

10.43(6) By the fourth Monday of each session of the Iowa general assembly, the commandant shall submit a report annually to the senate veterans affairs committee and the house veterans affairs committee specifying the number, circumstances and placement of each member involuntarily discharged from IVH under this rule during the previous calendar year.

10.43(7) Any involuntary discharge by the commandant or designee under this rule shall comply with the rules adopted by the commission and by the department of inspections, appeals, and licensing in accordance with Iowa Code section 35D.15.

801—10.44 Reserved.

APPEAL PROCESS

801—10.45(35A,35D) Applicant appeal process. An applicant who believes that any of the provisions of this chapter have not been upheld, or have been upheld unfairly, may file an appeal directly with the commandant or designee containing a statement of the grievance and requested action. The commandant or designee shall investigate and may hold an informal hearing with the applicant and other involved individuals. Subrules 10.46(4) through 10.46(8) apply subsequently. The commandant or designee shall notify the applicant of the decision in writing within ten working days of receipt of the grievance.

801—10.46(35A,35D) Member appeal process. A member who believes that any of the provisions of this chapter have not been upheld or have been upheld unfairly may file an appeal.

10.46(1) A member shall discuss the problem and action desired with the assigned social worker within five working days of the incident that caused the problem. The social worker shall investigate the situation and attempt to resolve the problem within five working days of the discussion with the member. If the assigned social worker has allegedly caused the grievance, the member may file the grievance directly with the social work supervisor.

10.46(2) If unable to resolve the problem, or if the member is dissatisfied with the solution, the social worker shall assist the member with filing a formal grievance and shall submit a report of the facts and recommendations to the administrator of nursing within five working days of the discussion with the member. The administrator of nursing shall inform the member of the decision in writing within five working days of receipt of the social worker's report.

10.46(3) If the member is not satisfied with the decision of the administrator of nursing, or if no decision is given within the time specified in subrule 10.46(2), the member may appeal to the commandant or designee within ten working days of the decision of the administrator of nursing or, if no decision is given, within ten working days of the time limit specified in subrule 10.46(2). The grievance shall be submitted in writing and contain a statement of the cause of the grievance and requested action. A copy of the decision of the administrator of nursing shall be attached to the grievance statement, if applicable. The commandant or designee shall investigate the grievance and may hold an informal hearing with the member, administrator of nursing, and other involved individuals. The commandant or designee shall notify the member and the administrator of nursing of the decision in writing within ten working days of receipt of the grievance.

10.46(4) If the member is not satisfied with the decision of the commandant, or if no decision is given within the time limits specified in subrule 10.46(3), the member may appeal to the commission within ten working days of the commandant's decision. The member and commandant shall be notified in writing within five working days of the commission's receipt of the appeal. The commission shall schedule a hearing with the member, commandant, and other involved individuals to determine the facts and make a final decision.

10.46(5) The member may appoint any individual to represent the member in the appeal process, at the member's expense.

10.46(6) No reprisals of any kind shall be taken against a member for filing an appeal.

10.46(7) The member may obtain judicial review of the commission's final decision in accordance with Iowa Code chapter 17A.

10.46(8) The time limits specified in the above subrules may be extended when mutually agreed upon by the persons involved in the appeal process.

Rules 801—10.45(35A,35D) and 801—10.46(35A,35D) are intended to implement Iowa Code section 35A.3(4) and chapter 35D.

801—10.47(35D) Involuntary discharge appeal. When a member appeals an involuntary discharge, the following provisions shall apply:

10.47(1) The member shall file the appeal with the commission within five calendar days of receipt of the discharge notice.

10.47(2) The commission shall conduct a contested case proceeding in accordance with the uniform rules on contested case proceedings found in 7—Chapter 2506, adopted by reference with the following amendment: The presiding officer must be a member of the commission and cannot be an administrative law judge with the department of inspections, appeals, and licensing.

10.47(3) The commission shall render a decision on the appeal and notify the member of the decision in writing within ten calendar days of the filing of the appeal.

10.47(4) If the member is not satisfied with the decision of the commission, the member may appeal the commission's decision by filing an appeal with the department of inspections, appeals, and licensing within five calendar days of being notified in writing of the commission's decision.

10.47(5) The department of inspections, appeals, and licensing shall render a decision on the appeal of the commission's decision and notify the member of the decision in writing within 15 calendar days of the filing of the appeal with the department.

10.47(6) The maximum time period that shall elapse between receipt by the member of the discharge notice and actual discharge shall not exceed 55 days, which includes the 30-day discharge notice period and any time during which any appeals to the commission or the department of inspections, appeals, and licensing are pending.

10.47(7) If a member is not satisfied with the decision of the department of inspections, appeals, and licensing, the member may seek judicial review in accordance with Iowa Code chapter 17A. A member's discharge under rule 801—10.43(35D) shall not be stayed while judicial review is pending.

801—10.48 Reserved.

801—10.49(35D) Licensed nursing home administrator. The commandant shall employ a licensed nursing home administrator and convey the authority for compliance with all applicable laws and rules.

This rule is intended to implement Iowa Code chapter 135C.

GROUNDS AND FACILITY ADMINISTRATION

801—10.50(35D) Visitors. Visitors are welcome to IVH subject to the following conditions:

10.50(1) Visitors are subject to the policies and procedures as established by IVH, including the tobacco-free policy.

10.50(2) Tours of IVH may be arranged by contacting the commandant or designee.

10.50(3) Weapons, illegal substances or alcoholic beverages are not permitted on IVH grounds.

10.50(4) Any disruptive behavior on the part of a visitor shall result in modification, denial or termination of visiting privileges.

10.50(5) Trespass. Visitors shall not enter IVH grounds with the intent to commit a public offense, remain upon the grounds or in IVH buildings without justification after being notified or requested to abstain from entering, or to remove or vacate therefrom by any peace officer, magistrate, or public employee whose duty it is to supervise the use or maintenance of IVH and its grounds.

10.50(6) Any visitor violating any of the rules within this chapter may be restricted from IVH for a period of time to be determined by the commandant or designee.

10.50(7) Visitors who bring pets must comply with IVH rules regarding pet health and safety. Pets shall be kept on a leash while on IVH grounds.

801—10.51 Reserved.

801—10.52(35D) Interviews and statements.

10.52(1) Releases to the news media shall be the responsibility of the commandant or designee. Authority for dissemination and release of information shall be designated to other persons at the discretion of the commandant or designee.

10.52(2) Interviews of members within IVH by the news media or other outside groups are permitted only with prior consent of the member to be interviewed or the member's legal representative. At the request of the person or group who wishes to conduct an interview, the commandant or designee shall seek to obtain the required consent from the member or the member's legal representative.

801—10.53(35D) Donations. Donations of money, new clothing, books, games, recreational equipment or other gifts shall be made directly to the commandant or designee. The commandant or designee shall evaluate the donation in terms of the nature of the contribution to the facility program. The commandant or designee shall be responsible for accepting the donation and reporting the gift to the commission. All monetary gifts shall be acknowledged in writing to the donor and reported to the Iowa ethics and campaign disclosure board.

801—10.54(35D) Photographing and recording of members and use of cameras.

10.54(1) Photographs and recordings of members within IVH by news media or other outside groups are permitted only with prior consent of the member to be photographed or recorded or the member's legal representative. At the request of the person or group who wishes to make photographs

or recordings, the commandant or designee shall seek to obtain the required consent from the member or the member's legal representative.

10.54(2) Every effort shall be made to preserve the inherent dignity of the member and to preclude exploitation or embarrassment of the member or the family of the member.

801—10.55(35D) Use of grounds and facilities.

10.55(1) Persons wishing to use the facilities and grounds for civic purposes, programs for members, meetings, and similar purposes must contact the commandant or designee at least two weeks in advance of the requested date. The commandant or designee may disapprove a request when the requested facilities are scheduled for use by or for the members or when the activity would disrupt the normal operation of IVH. Previous arrangements to use the facilities or grounds may be canceled by the commandant or designee in the event of an emergency or when changes in the schedule require the use of the facilities or grounds for the members. Persons who use the facilities or grounds shall be held responsible for leaving the facilities or grounds in satisfactory condition and for any damages caused by or resulting from use.

10.55(2) Outside organizations permitted to use facilities or grounds shall observe the same rules as visitors to the facility.

801—10.56(35D) Nonmember use of cottages. Cottages may be made available to IVH staff or to other members of the public with the commandant's or designee's approval and at the established rate.

10.56(1) Expenses incurred as a result of damage or need for exceptional cleaning/sanitizing procedures, or both, may result in additional charges as determined by IVH.

10.56(2) Posted occupancy capacities shall not be exceeded and, if exceeded, may be grounds for denial of use.

10.56(3) Pets are only allowed inside the cottages as outlined in the IVH cottage occupancy policy.

801—10.57(35D) Operating motor vehicles on grounds.

10.57(1) The operator of a motor vehicle shall have a valid license for the type of vehicle being driven upon IVH grounds.

10.57(2) All persons operating a motor vehicle on IVH grounds shall comply with the applicable state and local laws and IVH policies.

10.57(3) No driver of a motor vehicle or motorcycle shall disobey the instructions of any traffic-control device, warning, or sign placed.

10.57(4) No person shall drive any vehicle in such a manner as to indicate either a willful or wanton disregard for the safety of person or property. The person operating the motor vehicle or motorcycle shall maintain control and shall reduce the speed to 20 miles per hour on IVH grounds and reduce the speed to a lower, reasonable rate when approaching and passing a person walking in the traveled portion of a street.

10.57(5) No person shall stop, park, or leave any type of vehicle in established fire lanes, emergency vehicle areas, and other essential lanes. No person shall park any type of vehicle on roadways.

10.57(6) No person shall leave any type vehicle unattended by not locking doors or removing keys.

10.57(7) Failure to comply with rules may cause limitation or curtailment of driving privileges on IVH grounds for an indefinite period.

10.57(8) Motor vehicles belonging to members may be parked in member-designated parking on IVH grounds.

10.57(9) Members wishing to operate a motor vehicle on campus must adhere to the IVH Driving Safety policy.

These rules are intended to implement Iowa Code section 35A.3(4) and chapter 35D.