RULE

Office of the Governor

Department of Veterans Affairs

Military Family Assistance Program (LAC 4:VII.961-987)

The Louisiana Department of Veterans Affairs has adopted rules and regulations pertaining to the Military Family Assistance Board and the Military Family Assistance Fund, in accordance with the provisions of Act 676 of the 2008 Regular Legislative Session and Act 256 of the 2010 Regular Legislative Session.

Title 4

ADMINISTRATION

Part VII. Governor’s Office

Chapter 9. Veterans Affairs

Subchapter D. Military Family Assistance Program

§961. Authority

A. Rules and regulations are hereby established by the Military Family Assistance Board by order of the Military Family Assistance Act, R. S. 46: 120 et seq., Act 151 of the 2005 Louisiana Legislature and amended by Act 676 of the 2008 Louisiana Legislature and Act 256 of the 2010 Louisiana Legislature.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011).

§963. Construction of Regulations; Severability

A. Nothing contained in these rules shall be so construed as to conflict with any provision of the Act or any other applicable statute. If any provision of any rule or regulation is held invalid by any state or federal court in Louisiana, such provision shall be deemed severed from the rule and the court’s finding shall not be construed to invalidate any of the other provisions of the rules.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1606 (June 2011).

§965. Definitions

A. The following terms as used in these regulations, unless the context otherwise requires or unless redefined by a particular part hereof, shall have the following meanings.

*Activated Military Personnel* or *Activated Military Person*—a person domiciled in Louisiana for civilian purposes, names Louisiana as home of residence (HOR) for military purposes, and who is a member of a reserve component of the United States Army, Navy, Air Force, Marine Corps, or Coast Guard, including the Louisiana National Guard, and called to active federal service in excess of 30 days or who is a member of the Louisiana National Guard and called to active state service pursuant to Louisiana R.S. 29:7.

*Application*—a written request for financial assistance from the Military Family Assistance Program made on the form captioned Military Family Assistance Program Request Form, together with documents related thereto.

*Approval Authority*—the third party administrator for all need-based claims of $1500 or less; the fund committee for all need-based claims of greater than $1500 up to $2500; and the board for all need-based claims of greater than $2500. The fund committee and the board are the approval authority for all claims for one-time lump sum payments and all claims appealed by an eligible applicant.

*Board*—the Louisiana Military Family Assistance Board.

*Claimant*—an eligible applicant.

*Eligible Applicant*—activated military personnel or a family member of activated military personnel.

*Family Member of Activated Military Personnel*—the primary next of kin or an immediate family member.

*Final Appeal*—an appeal to the Louisiana Military Family Assistance Board.

*Fund Committee*—the committee comprised of three board members appointed by the chairman of the board to assist in administering the Louisiana Military Family Assistance Program which committee shall also serve as an appellate body for all claims of $1500 or less before a final appeal is made to the full board.

*Immediate Family Member*—with respect to an activated military person:

a. spouse;

b. a natural child, adopted child, step child, or illegitimate child, if acknowledged by the person or parenthood has been established by a court of competent jurisdiction, except that if such child has not attained the age of 18 years, the term means a surviving parent or legal guardian of such child;

c. any other person claimed as a dependent on the federal income tax of the activated military person;

d. a biological or adoptive parent, unless legal custody of the person by the parent has been previously terminated by reason of a court decree or otherwise under law and not restored;

e. a brother or sister of the person, if such brother or sister has attained the age of 18 years; or

f. any other person, if such person was given sole legal custody of the person by a court decree or otherwise under law before the person attained the age of 18 years and such custody was not subsequently terminated before that time.

*Outreach*—activities directed at improving or strengthening veteran initiatives, activities or problems.

*Third Party Administrator*—the Louisiana Department of Veterans Affairs Benefits Division.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011).

§967. Eligibility

A. To be eligible for a grant from the Louisiana Military Family Assistance Program, an individual must be either an activated military person or the family member of an activated military person.

B. The activated military person must have served in excess of 30 consecutive days of active duty since September 11, 2001, before the activated military person or any family member may submit an application for assistance to the Louisiana Military Family Assistance Program.

C. The Military Family Assistance Program is a payer of last resort. All applicants shall seek assistance from other available sources prior to making application to the Military Family Assistance Program. Other available sources include, but are not limited to, Army Emergency Relief, Air Force Aid Society, Navy-Marine Corps Relief Society, Coast Guard Mutual Assistance, Salvation Army, American Red Cross, and Veterans’ Emergency Assistance.

D. The approval authority may, in its sole discretion, waive the requirement to seek assistance from other available sources when unusual or exigent circumstances make such application impractical or unlikely to produce results in a timely manner or when the applicant shows that the circumstances are such that other potential sources of funds are inapplicable to the particular circumstances.

E. Requests for assistance from the Military Family Assistance Fund shall not be bifurcated.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011).

§969. Application Process

A. Eligible Applicant Responsibilities

1. All requests for assistance shall be made through a completed Louisiana Military Family Relief Assistance Program Request Form.

2. An application is not complete unless it is signed by the applicant and contains all information requested by the form.

3. All applicants shall provide all additional information requested by the Military Family Assistance Board, the fund committee, or the third party administrator. Failure to provide additional requested information may result in the denial of the application.

4. Applications for assistance from the Military Family Assistance Program shall include copies of applications for other types of assistance filed by the applicant.

5. Applications, together with all supporting documents, shall be mailed to: Department of Veterans Affairs, Attn: MFA Third Party Administrator, P.O. Box 94095, Baton Rouge, LA 70804-9095.

6. To expedite the application process, applications and supporting documents may be sent by facsimile transmission to MFA third party administrator. If the application and supporting documents are faxed, an application with the applicant’s original signature must also be mailed, along with all supporting documents, to the third party administrator. The approval authority shall not approve or pay a request for assistance until an original application is received.

7. An application for assistance from the Military Family Assistance Fund shall be considered made as of the date that it is received by the third party administrator, provided that for all applications received by facsimile transmission, an application with the applicant’s original signature is subsequently received by the third party administrator.

8. If an individual acts on behalf of an eligible applicant in preparing and submitting the application, a copy of a fully executed power of attorney authorizing the individual preparing and submitting the application to act on the eligible applicant’s behalf must be submitted as an attachment to the application.

9. The deadline to file an application for assistance from the Military Family Assistance Fund is six months from the date of discharge from active duty.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1607 (June 2011).

§971. Types of Grants; Restrictions on Awards

A. Three types of grants may be made by the Military Family Assistance Fund:

1. grants for need-based assistance;

2. grants for one-time lump sum awards; and

3. grants for transportation and other related costs as authorized by the board.

B. No request shall be approved by the board, the fund committee, or the third party administrator that does not meet the requirements of the law or the rules.

C. The request of an eligible applicant may be denied if the activated military personnel is not in good standing with the appropriate military unit at the time the application is submitted or the time payment is made.

D. The board may disapprove a request for assistance if the board determines that the grant of an award under the facts and circumstances of a particular case is not be in the best interests of the board or the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1608 (June 2011).

§973. Award Amounts

A. The maximum dollar amount that may be awarded on behalf of an activated military person for a need-based claim per 12 month period is $10,000.

B. The maximum dollar amount for need-based claims shall apply per active duty order.

C. One uniform maximum dollar amount that may be awarded on behalf of an activated military person for a one-time lump sum award shall be $700. With respect to one-time lump sum awards, the following shall apply.

1. An eligible applicant may be awarded an additional one-time lump sum award for cost directly related to a service related death or an injury with a greater than 50 percent residual disability.

2. One-time lump sum awards are addition to, and not in lieu of, need-based awards.

3. A one-time lump sum award may be made only when extenuating circumstances are present. Extenuating circumstances include, but are not limited to:

a. the circumstance in which the injured military person is recuperating in a location away from home that necessitates travel by family members to visit with the injured military person. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to visit an activated military person with a service related injury with a greater than fifty percent residual disability, whether the extent of the disability has been determined at the time application is made or is reasonably anticipated to result in a greater than fifty percent residual disability at the time application is made, may be requested;

b. the circumstance in which the funeral of an activated military person necessitates travel by family members to attend the funeral. Costs associated with transportation, lodging, meals, and other related matters not covered by any other source to enable family members to attend the funeral of an activated military person may be requested;

c. the circumstance in which the absence of family members to visit the injured activated military person or attend the funeral of the activated military person creates financial needs for the care of a home, pets, children, or others when the financial need is not covered by any other source;

d. such other extenuating circumstances as may be determined on a case-by-case basis by the fund committee.

4. Family members of activated military personnel who are listed as missing in action or prisoner of war by the U.S. Department of Defense shall be eligible for the lump sum award. The activated military person must be listed as missing in action or a prisoner of war on or after September 11, 2001.

D. With respect to grants for transportation and other related costs of activated military personnel, the following shall apply.

1. One transportation request shall be approved per person per period of mobilization, and pay no greater than $500 per applicant.

2. The utilization of the lowest cost fare and group rates with other applicants, where practicable, shall be encouraged.

3. The awarded amount shall be subtracted from the maximum dollar amount of $10,000 per applicant per 12-month period.

4. Consideration for assistance will be limited to activated military personnel whose deployment is for overseas only.

5. Requests for assistance must have the approval from the adjutant general and/or commanding officer.

6. The rank of the applicant will be considered.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1608 (June 2011).

§975. Minimum Funding Levels; Reserve Level; Calculation of Funds Available for Payment of One-Time Lump Sum Awards

A. The Military Family Assistance Fund shall have a minimum of $150,000 on deposit for the Military Family Assistance Program to become operational.

B. At all times the fund shall have a reserve of a minimum of $15,000.

C. For fiscal year 2006/2007, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed five percent. The percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the date of the approval of these rules.

D. For fiscal year 2007/2008 and each succeeding fiscal year, the maximum percentage of the Military Family Assistance Fund that may be directed to one-time lump sum awards shall not exceed 20 percent. This percentage shall be based on the amount of funds on deposit in the Military Family Assistance Fund as of the first day of the fiscal year.

E. Award amounts directed to transportation and other related costs of activated military personnel shall not exceed 30 percent of the funds on deposit in the Military Family Assistance Fund on the first day of the fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011).

§977. Third Party Administrator

A. The third party administrator shall receive all need-based applications, all applications for one-time lump sum assistance, and all applications for transportation and other related costs assistance.

B. The third party administrator is authorized to review, process, approve and remit payment on all need-based applications of $1500 and less. In no event shall the third party administrator remit payment on any request that exceeds $1500 without the prior express written approval of the board or the fund committee.

C. The third party administrator is authorized to disapprove need-based applications for $1500 or less if the eligible applicant fails to show that all requirements set forth in the law and the rules are met. The eligible applicant has the right to appeal such disapproval to the fund committee.

D. With respect to need-based applications of $1500 and less, the third party administrator is authorized to approve the claim in part and disapprove the claim in part. The eligible applicant has the right to appeal the third party administrator’s disapproval of any part of its need-based claim to the fund committee.

E. For all need-based applications received, regardless of the dollar amount of the request, the third party administrator shall make a determination on the following issues:

1. that all awards are on behalf of activated military personnel;

2. that all awards are made pursuant to a claim that is made by an eligible applicant;

3. that all awards are need-based. The third party administrator may consider a claim need-based if all of the following apply:

a. the funds are requested for necessary expenses incurred or to be incurred;

b. the necessary expenses created or will create an undue hardship on the activated military person or family member;

c. the undue hardship is directly related to the activation of the military person;

d. the activated military person or family member does not have reasonable and timely access to any other funding source;

e. payment of the claim does not supplant other available public or private funds; and

f. the Louisiana Military Family Assistance Fund is the eligible applicant’s last resort.

F. For all one-time lump sum applications, the third party administrator shall make an initial determination of whether extenuating circumstances exist that support approval of the application.

G. After making the determinations set forth above, the third party administrator shall, for all need-based applications requesting assistance in an amount greater than $1500 and for all one-time lump sum applications, forward the application together with all supporting documents and the determination to the fund committee for further review and processing, approval or disapproval, and payment by the third party administrator in the event of approval.

H. If the third party administrator approves a request of $1500 or less, it shall determine when the claim shall be paid, the amount of payment, to whom the payment shall be made, and such other matters as it deems necessary and appropriate.

I. The third party administrator shall make a written determination on all applications for assistance as soon as possible.

1. In no event shall the time period between receipt of the completed application by the third party administrator and release of the written determination by the third party administrator exceed 30 calendar days.

2. The written determination shall be:

a. to approve the claim;

b. to disapprove the claim;

c. to request additional information or documentation regarding the claim; or

d. to schedule a meeting with the eligible applicant to discuss the claim.

J. If the third party administrator schedules a meeting, it shall make a determination within 15 days following the date that such meeting actually takes place. The determination shall be to either approve or disapprove the claim.

K. If the third party administrator fails to make a written determination within the time periods set forth in these rules, the claim shall be considered disapproved. The eligible applicant may then lodge an appeal within the time delays set forth by statute.

L. The third party administrator shall determine that sufficient funds are on deposit for the payment of all approved claims.

M. The third party administrator shall notify the fund committee and the board in writing any time approved applications will cause the Military Family Assistance Fund’s unobligated balance to drop to within $15,000 of its minimum reserve level.

N. With respect to any application that creates a conflict of interest for the third party administrator, the third party administrator shall refer the application to the fund committee for consideration and action.

O. The third party administrator shall notify the board if it appears that an application is submitted in violation the law and these rules.

P. The third party administrator shall submit such reports to the Fund Committee and the board as are requested.

Q. The third party administrator may refer need-based requests for assistance to the fund committee for determination if the third party administrator suspects that the grant of an award under the facts and circumstances of a particular case may not be in the best interests of the Board or the state of Louisiana.

R. The third party administrator’s expenses in the administration of the program shall be paid from the balance of the Military Family Assistance Fund, but shall not exceed 5 percent of the total amount deposited into the fund in the previous fiscal year.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1609 (June 2011).

§979. Fund Committee

A. The Fund Committee shall receive determinations from the third party administrator and make decisions on all need-based applications of greater than $1500 up to $2500 and all applications for one-time lump sum assistance.

B. The fund committee shall sit as a board of appeals for the third party administrator’s disapproval of all or any part of a need-based application for $1500 or less. If the fund committee disapproves the eligible applicant’s request for assistance, the eligible applicant may appeal the fund committee’s disapproval to the military family assistance board.

C. The board chairman shall designate the members of the fund committee and shall select alternates to act on their behalf.

D. The fund committee shall receive the third party administrator’s monthly report on applications received and claims paid. The fund committee shall determine the payment of claims when the Military Family Assistance Fund falls to within $15,000 of its minimum funding level.

E. The fund committee shall instruct the third party administrator with respect to the receipt and processing of all applications for assistance from the fund if the fund falls to within $15,000 of its minimum funding level.

F. The fund committee may refer need-based requests for assistance and requests for one-time lump sum awards to the board for determination if the Fund Committee suspects that the grant of an award under the facts and circumstances of a particular case may not be in the best interests of the board or the state of Louisiana.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011).

§981. The Board and Chairman of the Board

A. If the board suspects that an application is submitted in violation of the provisions of the law and these rules, it shall refer such application to the appropriate district attorney’s office.

B. The board shall provide an annual report to the Joint Legislative Committee on the Budget on the overall activities of the program and any recommendations for consideration.

C. The chairman of the board shall appoint three board members and alternates to serve on the fund committee.

D. The board shall sit as a final board of appeals for all applications disapproved by the fund committee. An eligible applicant shall have no right to appeal the final decision of the board to any other court, tribunal, or hearing body.

E. The board shall make determinations on requests for assistance brought before the board.

F. The board shall exercise oversight of the activities of the third party administrator and the fund committee.

G. The chairman of the board shall provide for state administration of the program, the cost of which shall be paid from the balance of the Military Family Assistance Fund, not to exceed 5 percent of the total amount deposited into the fund in the previous fiscal year.

H. The Secretary of the Louisiana Department of Veterans Affairs may direct up to 10 percent of the total amount deposited into the fund in the previous fiscal year to be spent toward veteran outreach activities.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011).

§983. Appeals

A. An eligible applicant may appeal the third party administrator’s disapproval of all or any part of the request for assistance to the fund committee within thirty days of the receipt of the written determination disapproving the claim.

B. The fund committee is authorized by these rules to decline to consider any appeal that is not timely filed.

C. An eligible applicant may appeal the fund committee’s disapproval of claim to the board within 30 days of the receipt of the written determination disapproving the claim.

D. The board is authorized by these rules to decline to consider any appeal that is not timely filed.

E. The decision of the board on a request for assistance shall be final. The third party administrator, the fund committee, and the eligible applicant shall not have a right to appeal the final decision of the board to any court, tribunal, or hearing body of any kind.

F. The eligible applicant may request reconsideration of a disapproval of claim by the third party administrator, the fund committee, or the board. The request for reconsideration shall be made within 30 days of the date of the eligible applicant’s receipt of the written determination disapproving the claim. The request for reconsideration shall be made to the approval authority that disapproved the request for assistance.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1610 (June 2011).

§985. Withdrawal of Applications

A. An eligible applicant and anyone properly acting on behalf of an eligible applicant shall have the right to withdraw the application at any time prior to final disposition of the application by the third party administrator, the fund committee or the board.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1611 (June 2011).

§987. Waivers

A. Prior to the approval of a claim, applications and the identity of eligible applicants and their related military personnel shall be confidential unless expressly waived by the eligible applicant in writing. The filing of an appeal before the fund committee or the board shall be considered a waiver of the identity of eligible applicants and their related military personnel.

B. Once a claim is approved, the identity of the eligible applicant, related activated military personnel, and any person filing the application on behalf of the eligible applicant, and the amount approved shall be public record.

C. Applications, the identify of applicants and their related military personnel, and all records of the board, the fund committee and the third party administrator related thereto, shall be available prior to any approval of the application, to necessary parties including but not limited to, the legislative auditor, the legislative oversight committee for rules and annual reports, and such other parties as necessary for prudent administration of the Military Family Assistance Program and verification of elements of the application.

D. The board, the fund committee, and the third party administrator are expressly authorized to make public data concerning the number of applications received, the amount of claims approved, the geographic areas of the state from which such applications are received and approved, the number of disapproved applications, and the amount of funds in the Louisiana Family Military Assistance Fund.

AUTHORITY NOTE: Promulgated in accordance with R.S. 46:121 et seq.

HISTORICAL NOTE: Promulgated by the Office of the Governor, Department of Veterans Affairs, LR 37:1611 (June 2011).

Lane A. Carson

Secretary

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