

# MAINE STATE LEGISLATURE

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STATE OF MAINE

ONE HUNDRED AND NINTH LEGISLATURE

COMMITTEE ON AGING, RETIREMENT AND VETERANS

June 26, 1980

Senator Richard Pierce, Chairman  
Legislative Council  
State House  
Augusta, Maine 04333

Dear Senator Pierce:

In accordance with Title 5, Chapter 377 of the Maine Revised Statutes Annotated, the Joint Standing Committee on Aging, Retirement and Veterans hereby submits the attached Final Report of the Rules of the Bureau of Veterans' Services.

Respectfully submitted,

*Ralph Lovell*  
Ralph Lovell  
Senate Chairman

*Merle Nelson*  
Merle Nelson  
House Chairwoman

Attachment

JRS/elk

REPORT OF THE  
JOINT STANDING COMMITTEE ON AGING, RETIREMENT AND VETERANS  
OF THE STATUTORY REVIEW OF  
THE RULES OF THE BUREAU OF VETERANS' SERVICES

SENATE

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## I. INTRODUCTION

Under the provisions of Title 5, Chapter 377 of the Maine Statutes, any rule promulgated by any State agency is required to be reviewed periodically by the Legislature to determine whether the rules shall automatically terminate. Pursuant to that law and at the direction of the Legislative Council the Joint Standing Committee on Aging, Retirement and Veterans has reviewed the rules promulgated by the Bureau of Veterans' Services.

The Committee has evaluated whether: such rules are consistent with and necessary to the intent of the authorizing legislation; the effects of these rules are suitable, including the costs and benefits of the rules; there have been significant changes in circumstances since promulgation of the rule or its authorizing statute.

## II. PUBLIC HEARING

In accordance with 5 MRSA, Section 11105 (Chapter 377), a public hearing was held on November 29, 1979 to solicit and hear testimony from interested parties concerning the review of the rules of the Bureau of Veterans' Services. Representatives of the Bureau of Veterans' Services, the Veterans of Foreign Wars and the American Legion submitted oral and written testimony.

## III. GENERAL COMMENTS

The rules of the Bureau of Veterans' Services have been reviewed by the Joint Standing Committee on Aging, Retirement and Veterans. As a result of that review, the Committee has made certain recommendations concerning amendments to the law and amendments to the rules. These recommendations are contained fully in Part 4 of this report. Part 4 discusses each rule in numerical sequence. Following the title of the rule there is a summary of the rule and the complete text of the rule itself. The Committee then has evaluated each rule according to the statutory requirements and made its recommendations.

The rules of the Bureau of Veterans' Services are effective June 28, 1979. According to Title 5, Section 11104, these rules shall expire on June 27, 1984 unless a continuation is authorized by law. In addition to the specific recommendations concerning each rule, this Committee recommends that the rules as amended be continued until January 1, 1989.

IV. TEXT OF REPORT

DEPARTMENT OF DEFENSE AND VETERANS' SERVICES  
BUREAU OF VETERANS' SERVICES

Chapter 1  
DEFINITIONS - WORLD WAR ASSISTANCE

RULE 1.01 Definitions

SUMMARY: This rule defines terms used in 37-A MRSA §§28 through 37 and in succeeding chapters of these rules dealing with the World War Assistance program.

TEXT:

"As used in 37-A M.R.S.A. §§28 through 37 and in these rules, the following terms shall have the following meanings, unless the context otherwise indicates:

- A. Assistance. 'Assistance' means World War Assistance.
- B. Bureau. 'Bureau' means the Bureau of Veterans' Services.
- C. Dependent. 'Dependent' means a veteran's child, parent, or spouse who is eligible for World War Assistance under 37-A M.R.S.A. §§28 through 37 and these rules.
- D. Director. 'Director' means the Director of the Bureau of Veterans' Services.
- E. State office. 'State office' means the central office of the Bureau of Veterans' Services located in Augusta, Maine."

EVALUATION:

Authorizing legislation 37-A MRSA, §§28-37.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

This rule does not need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or authorizing legislation.

Chapter 2  
ELIGIBILITY OF DEPENDENTS - WORLD WAR ASSISTANCE

RULE 2.01 Eligibility of spouse

SUMMARY: This rule describes eligibility requirements for World War Assistance for the spouse of a veteran.

TEXT:

"The Bureau shall establish the legality of the marriage between a veteran and his spouse by verifying the legality of the marriage between the veteran and his present spouse and by verifying the termination of all prior marriages of both the veteran and his spouse, either by divorce or death.

A. If the marriage, divorce, or death took place outside the State, the applicant shall supply adequate proof of the event to the Bureau.

B. If the veteran is deceased, the applicant shall supply adequate proof of the legality of the marriage and a death record or other adequate proof of death to the Bureau.

C. The Bureau may grant assistance to the spouse during the time period necessary to establish the legality of the marriage, but the Bureau shall terminate the grant if the legality of the marriage cannot be established after checking all available sources."

EVALUATION:

Authorizing legislation 37-A MRSA, §28, sub-§4; §29.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does need to be amended.

COMMITTEE RECOMMENDATIONS:

The law and the rule should be amended to reflect a person's ceasing to be dependent on another person, and thus becoming eligible again for assistance as the spouse of a veteran.

COMMENTS: The intent of this program is to provide assistance to spouses of disabled veterans or widows or widowers of deceased veterans, i.e., to those who can no longer rely upon the veteran for support. In those circumstances where the widow or widower becomes the dependent of another person, it is determined under the statute that the widow or widower no longer needs the type of aid provided by this program, i.e., they have someone they can rely on for support. However, in the case of a widow or widower of a deceased veteran who became the dependent of another person and subsequently lost that dependency through

death or divorce or other causes, the needs of the widow or widower may recur. The law does not recognize that renewed need and the widow or widower does not again become eligible.

RULE 2.02 Eligibility of widow or widower

SUMMARY: This rule describes eligibility requirements for World War Assistance for the widow or widower of a veteran.

TEXT:

"The Bureau shall determine the eligibility of a widow or widower for assistance according to the following procedures:

A. Other benefits available. If a veteran's widow or widower has applied for a pension, Social Security, or other permanent income benefit program, he or she may receive assistance until the application is approved or denied, if he or she has assets under \$1000 or under \$1500 if there is more than one dependent.

B. Other benefits unavailable. If other permanent income benefits are unavailable, a veteran's widow or widower may receive assistance for 3 months after the veteran's death to allow him or her time to obtain gainful employment, if:

1. He or she has assets under \$1000 or under \$1500 if there is more than one dependent; and
2. The grant of assistance is authorized within 30 days of the veteran's death.

C. Incapacitation while employed. A veteran's widow or widower who is employed and becomes incapacitated at any time may receive assistance if he or she:

1. Provides substantiation of the incapacitation by medical evidence;
2. Incurs loss of income; and
3. Has assets under \$1000 or under \$1500 if there is more than one dependent.

EVALUATION:

Authorizing legislation 37-A MRSA, §28, sub-§4; §29.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.



COMMITTEE RECOMMENDATIONS:

The rule should be amended in ¶B, sub-¶1, and ¶C, sub-¶3, by increasing the assets figures of \$1,000 and \$1,500 to \$1,500 and \$2,000 respectively. Inflation has made the current limitation on assets unrealistically low.

The rule should also be amended in ¶A for grammatically correct referents, "she or he", referring to "widow or widower."

RULE 2.03 Eligibility of child

SUMMARY: This rule describes eligibility requirements for World War Assistance for the child of a veteran.

TEXT:

"The Bureau shall determine the eligibility of a child for assistance according to the following policies and procedures:

- A. Age. The Bureau shall determine the age of the child by verifying the birth of the child.
- B. Legitimate child. The Bureau shall determine if the child is the legitimate child of the veteran or his spouse by verifying the birth of the child.
- C. Adopted child. The Bureau shall determine if the child is legally adopted by verifying the adoption of the child.
- D. Stepchild. The Bureau shall determine if the child is a stepchild by verifying the birth of the child and by verifying the marriage of the veteran to the child's mother or father.
- F. Foster child. The Bureau shall determine if the child is a foster child by verifying that the child has made his home with the veteran for a significant period of time and that the arrangement is not a temporary one.
- F. Illegitimate child. The Bureau shall determine if the child is an illegitimate child by obtaining any of the following:
  - 1. A court order ordering the veteran to support the child;
  - 2. A copy of a court order showing the veteran to be the putative father of the child; or
  - 3. A written acknowledgement, sworn to by the veteran, stating that he is the father of the child.
- G. State wards. State wards are ineligible for assistance.
- H. Schoolchildren.

1. The Bureau shall determine if a child is regularly attending school by obtaining information to that effect from the school.

2. A child who has been put in school for the apparent intention of receiving additional assistance moneys is ineligible for assistance.

I. Child living outside parents' home. The Bureau shall determine the eligibility of a child living outside the parents' home by:

1. Requiring the applicant to show a logical reason for the child's absence; and

NOTE: Examples of logical reasons for a child's absence are (1) poor health or physical condition of the parents preventing their giving adequate care to the child; (2) employment by the non-veteran parent when the veteran is out of the home; and (3) attendance by the child at a school away from home.

2. Requiring the applicant to show that the veteran was furnishing support for the child prior to the onset of his disablement or death."

#### EVALUATION:

Authorizing legislation 37-A MRSA, §28, sub-§1; §29.

This rule is consistent with and necessary to the law; it does not accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

#### COMMITTEE RECOMMENDATIONS:

The rule should be amended in ¶C, by noting that the Bureau shall require the applicant to provide proof of adoption.

The rule should also be amended to reflect the concept of the "incapacitated child," as provided by the authorizing legislation.

#### RULE 2.04 Eligibility of parent

SUMMARY: This rule describes eligibility requirements for World War Assistance for the parent of a veteran.

#### TEXT:

"The Bureau shall determine the eligibility of a parent for assistance according to the following policies and procedures:

A. Foster parent. A foster parent of a veteran shall provide proof of the foster relationship to the satisfaction of the Bureau.

B. Veteran only child. A parent of a veteran who is an only child is automatically eligible for assistance.

C. Veteran not only child. A veteran's parent who has other living children may receive assistance if he or she proves that:

1. The veteran had been assuming chief support of the parent prior to the veteran's disablement; or

2. If the veteran is deceased, the veteran had been providing chief support of his parent prior to his death."

EVALUATION:

Authorizing legislation 37-A MRSA, §28, sub-§2; §29.

This rule is not consistent with but is necessary to the law; it does accomplish its purpose, if the law is changed.

The costs of complying with and administering this rule are reasonable.

This rule does not need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or authorizing legislation.

RULE 2.05 Residence of dependents

SUMMARY: This rule establishes eligibility requirements for the dependents of veterans.

TEXT:

"A. Qualification for assistance. In order to qualify for assistance, dependent applicants shall be residing in the State at the time of application.

B. Continued assistance. Dependents who have been granted assistance do not forfeit the assistance if they leave the State temporarily to be near the veteran or for any other logical reason, provided that dependents shall notify the Bureau that there will be an absence, stating the reasons for the absence and showing that it will be for a brief duration."

EVALUATION:

Authorizing legislation 37-A MRSA, §29.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does not need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or the authorizing legislation.

Chapter 3  
ELIGIBILITY OF VETERAN - WORLD WAR ASSISTANCE

RULE 3.01 Type of discharge

SUMMARY: This rule describes the discharge requirements for veterans in order for them or their dependents to qualify for World War Assistance.

TEXT:

"The Bureau shall determine if a veteran has been honorably discharged according to the following policies and procedures:

- A. If a veteran has been granted a regular honorable discharge certificate for wartime service or another type of discharge containing the phrase 'Under Honorable Conditions,' he satisfies the honorable discharge requirement.
- B. If a veteran has been granted a dishonorable discharge, he does not satisfy the honorable discharge requirement.
- C. If a veteran's discharge is not covered by subsections A or B, the Bureau shall follow the rulings of the Veterans Administration on eligibility for their benefits."

EVALUATION:

Authorizing legislation 37-A MRSA; §28, sub-§3; §29.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does not need to be amended.

The authorizing legislation does need to be amended.

COMMITTEE RECOMMENDATIONS:

The legislation should be amended in §28, sub-§3, to conform to the type of discharge currently permitted for burial in the Maine Veterans' Cemetery; i.e., an honorable discharge, or general discharge under honorable conditions, and not a discharge upgraded through a program of general amnesty.

RULE 3.02 Service

SUMMARY: This rule describes the service requirements for veterans in order for them or their dependents to qualify for World War Assistance.

TEXT:

"The Bureau shall determine if a veteran has served in the

Armed Forces of the United States on active duty according to the following policies and procedures:

A. A veteran who has served one day on active duty during World War I, World War II, or the Korean Campaign satisfies the service requirement.

B. World War I veterans who were 'discharged from the draft' and World War II veterans who were sworn in but never actually reported for federal duty do not satisfy the service requirement."

EVALUATION:

Authorizing legislation 37-A MRSA, §28, sub-§§3 and 5; §29.

This rule is not consistent with, but is necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The rule should be amended by adding Vietnam Service to "A. The heading should also be amended to read "Service of Veteran."

RULE 3.03 Residence of veteran

SUMMARY: This rule describes the residence requirements for veterans in order for them or their dependents to qualify for World War Assistance.

TEXT:

"The Bureau shall determine if a veteran is a resident of the State according to the following policies and procedures:

A. Qualification for assistance. A veteran who is a resident of the State at the time of application for assistance satisfies the residency requirement.

B. Hospitalization outside State. A veteran is a resident of the State even though he or she is hospitalized outside the State, provided that:

1. His or her dependents are residing in the State; and

2. His or her absence is only for the purpose of hospitalization."

EVALUATION:

Authorizing legislation 37-A MRSA, §29.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does not need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or authorizing legislation.

RULE 3.04 Disability

SUMMARY: This rule describes the disability requirements for veterans in order for them or their dependents to qualify for World War Assistance.

TEXT:

"The Bureau shall determine if a veteran is disabled according to the following policies and procedures:

A. Light work. Except as provided in subsection 1, a veteran is disabled if he is unable to perform light work.

1. Even though a veteran is able to perform light work, he is disabled if:

a. He incurs an injury or incapacity while he is gainfully employed;

b. He has a job to return to; and

c. Medical evidence indicates that he is incapacitated from performing his regular work.

2. If a veteran qualifies as disabled under paragraph 1 and his dependents receive assistance payments, these payments shall continue until the veteran is again able to perform his regular work, he returns to his job, and receives a pay check from his employer.

3. If a veteran qualifies as disabled under paragraph 1 and investigation shows that he will be permanently incapacitated from performing his regular work, then, at the discretion of the Bureau, his dependents may receive 2 additional assistance checks after the date he is determined capable of performing light work.

4. A veteran undergoing a program of training under State Vocational Rehabilitation is considered able to perform light work and is not disabled.

B. Hospitalization. Except as provided in subsection D,

a veteran is disabled if he is hospitalized.

NOTE: If a veteran is hospitalized in a state institution or Veterans' Administration hospital where there is no charge, he or she will not be included in the assistance plan, although his or her dependents are eligible for assistance.

C. Bedridden at home. Except as provided in subsection D, a veteran is disabled if he is bedridden at home.

NOTE: To qualify under this subsection, the veteran shall submit to the Bureau a brief statement from a doctor verifying that the veteran is bedridden at home and stating the approximate length of time the condition will exist.

D. Willful misconduct. Except as provided in paragraph 1 below, a veteran is not disabled if his claimed disability is the result of willful misconduct. For purposes of this subsection, willful misconduct means conscious, deliberate, or intentional commission of a prohibited act with knowledge of, or wanton and reckless disregard of, its probable consequences.

1. A veteran will be considered disabled if he has organic diseases and disabilities which are a secondary result of use of alcohol as a beverage or of drugs, whether out of compulsion or otherwise, since such use is not considered willful misconduct."

#### EVALUATION:

Authorizing legislation 37-A MRSA, §29.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

#### COMMITTEE RECOMMENDATIONS:

The rule should be amended in ¶D to note that addiction to alcohol or drugs is considered a disability even without secondary organic diseases and disabilities.



Chapter 4  
POLICIES AND PROCEDURES - WORLD WAR ASSISTANCE

RULE 4.01 Amount of assistance

SUMMARY: This rule describes policies and procedures of the Bureau of Veterans' Affairs under the World War Assistance program with respect to the amount of assistance.

TEXT:

"The Bureau shall determine the amount of assistance by computing the total need according to state standards and deducting any income available to the applicant. If the resulting deficit exceeds \$10.00 per month, the amount of the deficit will be the amount of assistance, except that the amount of assistance shall not exceed the ceiling limitation based on the number of dependents as determined by the Bureau.

NOTE: The state standards used in computing the amount of assistance have not been made a part of these rules because, by authority of 37-A M.R.S.A. §32, they are set by the Bureau and are subject to change without notice.

A. Determination of need. In determining the amount of assistance, the Bureau shall compute total need according to the following policies and procedures:

1. Maximum allowable benefits shall be based only on the number of eligible dependents.
2. If the veteran is living in the home with his dependents, the veteran's needs shall be considered in determining total need, except that the veteran may not be considered a dependent for purposes of increasing the maximum allowable benefits.
3. If a person considered essential to the well-being of eligible dependents is living in the home with the dependents, that person's needs may be considered in determining total need, except that the person may not be considered a dependent for purposes of increasing the maximum allowable benefits.
4. If the needs of a divorced spouse of a veteran are considered in determining total need under paragraph 3, and there is a court order ordering alimony or support, the Bureau shall pay either the amount of the court order or the amount of the deficit, whichever is less. The Bureau will not pay any assistance benefits, however if the veteran's former spouse has remarried and the new spouse is well and capable of working.

B. Determination of available income. In determining the amount of assistance, the Bureau shall compute available income according to the following policies and procedures:

1. When delay in the receipt of Workmen's Compensation or insurance benefits or both is the fault of the veteran or his agent, the amount of these benefits shall be considered income after one month from the date the disability began.
2. Any regular income received by an eligible dependent, including regularly scheduled contributions from relations, from fraternal organizations, or from any other source, shall be considered income.
3. Insurance premiums deducted from the veteran's compensation or pension shall be considered income.
4. \$15.00 per week as an expected contribution toward expenses of the home from each unmarried child who is living in the veteran's home, who is not included in the assistance plan, and who is making over \$1000 per year shall be considered income, whether or not the child is actually contributing, except that:
  - a. If the child contributes more than \$30.00 per week, the excess of his contributions over \$15.00 shall be considered income;
  - b. If a child is temporarily unemployed, the Bureau may postpone the inclusion of the child's contribution as income for reasonable time to allow the child to seek employment; and
  - c. No expected contribution from a child in school will be considered as income unless the child is actually contributing to the expenses of the home.
5. A contribution or an expected contribution toward expenses of the home by a married child living in the home may be considered as income in an amount to be determined by the Bureau after weighing the merits of each individual case.
6. Income received, over and above expenses, from rental of real estate shall be considered income.
7. Ownership of and income received from property, other than a home or rental property, may be considered as income in an amount to be determined by the Bureau after weighing the merits of each individual case.
8. Income from roomers shall be considered income, except that legitimate expenses such as laundering expenses may be deducted.
9. Income from boarders over \$6.00 per week shall be considered income.
10. Income from business enterprises shall be con-

sidered income except that deductions may be allowed in the discretion of the Bureau when:

- a. A veteran running his or her own business becomes temporarily disabled;
- b. A failure to provide assistance might cause the business to fail or cause the veteran to lose the business; and
- c. It appears likely that a temporary grant of assistance during the period of disability will enable the veteran to resume supporting himself and his family by means of the business when the disability ends.

11. The Bureau shall determine deductions from income according to the following policies and procedures:

- a. \$8.00 per month for the needs of a hospitalized veteran shall be deducted from any regular income received by an eligible dependent, if the veteran is not included in the assistance budget.
- b. Any expenses incidental to the receipt of income such as spouse's withholding tax, Social Security deductions, expenses of travel to employment, and cost of a baby sitter may be deducted from income.
- c. Any expenses of a child who is over 21 years of age, still in school, and receiving satisfactory grades may be deducted from income.

12. Each applicant for or recipient of assistance may retain liquid assets as an emergency reserve fund in case of sickness, death, or other casualty.

- a. The maximum allowable amounts of these liquid assets which may be retained are:
  - i. \$1000 for one eligible dependent of a deceased veteran;
  - ii. \$1500 for two or more eligible dependents of a deceased veteran; and
  - iii. \$1500 for the veteran and one or more dependents.

- b. For purposes of this paragraph, liquid assets means cash on hand; money in a bank or other savings institution; cash value of stocks and bonds in the name of the veteran or any dependent; real estate, if arrangements are made to liquidate it; or any other asset easily converted to cash except:

i. Frozen assets, such as a trust to begin at a certain age or death proceeds to be received for educational purposes upon the attainment of a certain age.

ii. Cash value of governmental or commercial life insurance policies of the veteran or his or her dependents.

13. The combined income from all benefit programs shall not exceed the amount the veteran's family was living on prior to application for assistance."

EVALUATION:

Authorizing legislation 37-A MRSA, §32.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The committee recommends that the rule specifying the amount of permissible liquid assets in ¶B, sub-¶11, section a, be amended to reflect the proposed committee recommendation for rule 2.02.

RULE 4.02 Payment procedure

SUMMARY: This rule describes policies and procedures under the World War Assistance Program with respect to the payment of assistance.

TEXT:

"The Bureau shall pay assistance benefits according to the following policies and procedures:

A. The Bureau shall mail assistance checks to qualified recipients semi-monthly.

B. Authorizations for payment of assistance shall be based on the Bureau's determination of amount of assistance as set out in section 4.01.

C. When an application for assistance is received on or before the 15th day of the month:

1. The grant of assistance becomes effective the first part of that month, if the authorization for payment is received at the state office before 11:00 A.M. on the day designated by the Bureau as the payroll deadline.

2. The grant of assistance becomes effective on the 16th of that month if the authorization for payment is received at the state office after 11:00 A.M. on the day designated as the payroll deadline.

D. When an application for assistance is received on or after the 16th day of the month:

1. The grant of assistance becomes effective on the 16th of that month if the authorization for payment is received at the state office before 11:00 A.M. on the day designated by the Bureau as the payroll deadline.

2. The grant of assistance becomes effective on the first day of the next month if the authorization for payment is received at the state office after 11:00 A.M. on the day designated as the payroll deadline.

E. The Bureau may grant emergency World War Assistance only when the Bureau determines that a case presents an extreme emergency and either no local aid is available or an application for local aid can not be acted on before a payroll deadline.

1. The Bureau may not authorize emergency assistance for any payroll period before the payroll period immediately preceding the date on which the application was received.

F. If there is a shortage of World War Assistance funds, the Bureau shall give preference to disabled veterans.

G. The Bureau will not pay for medical examinations or other medical charges."

#### EVALUATION:

Authorizing legislation 37-A MRSA, §§29, 32, 35.

This rule is not consistent with but is necessary to the law.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

#### COMMITTEE RECOMMENDATIONS:

¶F is inconsistent with the law, and should be amended to be consistent with 37-A MRSA, §29, which reads in part: "The Bureau shall endeavor to give preference to applications in which the death or disability of the veteran is due to service or in which the Bureau might presume that death or disability might be due to service."

The Committee hopes that ¶E will be liberally construed to avoid unnecessary hardship to needy veterans. The rule could be amended to reflect this.

RULE 4.03 Denial of assistance

SUMMARY: This rule describes policies and procedures under the World War Assistance Program with respect to the denial of assistance.

TEXT:

"The Bureau shall deny assistance if:

A. A veteran, spouse, widow, widower, or family custodian applying for assistance fails to cooperate by not giving complete, accurate, and timely information, or by not producing medical information when requested;

B. At the time of application, medical evidence indicates that the veteran's disability will exist for less than 2 weeks;

C. The applicant has sufficient income as determined by the Bureau;

D. The veteran's disability creates no loss in family income.

NOTE: For example, the Bureau will deny assistance on the basis of no loss of income if a veteran who was capable of doing light work failed to provide for his family's cost of living during the major portion of the 12 months before his disability.

E. The applicant is receiving any other type of state aid. For purposes of this subsection, town assistance shall not be considered state aid."

EVALUATION:

Authorizing legislation 37-A MRSA, §§29, 30, 32.

This rule is consistent with and necessary to the law.

It does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does not need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or authorizing legislation.

RULE 4.04 Termination of assistance

SUMMARY: This rule describes policies and procedures under the World War Assistance program with respect to the termination of assistance.

TEXT:

"A. The Bureau shall terminate assistance when:

1. A veteran, spouse, widow, widower, or family custodian receiving assistance fails to cooperate by not giving complete, accurate, and timely information, or by not producing medical information when requested;
2. A veteran who has been a patient at the Veterans' Administration Hospital at Togus is discharged, except that if the veteran is placed on out-patient treatment, the Bureau may continue assistance if it determines that the veteran is unable to perform light-work;
3. A person receiving assistance is denied a non-service-connected pension, Social Security disability benefits, or Supplemental Security Income, unless the denial was based on a disability which is expected to last less than 12 months, except that:
  - a. If a case has been referred to the Family Income Maintenance Division and benefits have been denied because a family has greater than the maximum allowed liquid assets based upon life insurance cash value, ownership of a camp, ownership of an automobile, etc., the Bureau shall continue World War Assistance until benefits under Supplemental Security Income, Social Security Disability, or Veterans' Administration benefits are either granted or denied.
4. A case has been referred to the Family Income Maintenance Division and benefits have been denied by them because the medical disability requirement has not been satisfied;
5. The Bureau determines that the income of an assistance recipient has become sufficient due to increased income or removal of a dependent;
6. An assistance recipient receives any other type of state aid. For purposes of this paragraph, town assistance shall not be considered state aid.

B. All terminations of assistance shall be made effective on either the 15th or the last day of the month."

EVALUATION:

Authorizing legislation 37-A MRSA §§29, 30.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does not need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or authorizing legislation.

RULE 4.05 Transfer to other programs

SUMMARY: This rule describes policies and procedures under the World War Assistance program with respect to transfer to other programs.

TEXT:

"The Bureau shall attempt to transfer cases to other benefit programs according to the following policies and procedures:

A. The Bureau shall provide assistance when it appears that the disability will be of relatively short duration rather than immediately attempt to transfer the case to another program.

NOTE: Such transfers would be impracticable, since it normally takes at least 2 months before a referred case can be picked up by Family Services. Most World War Assistance cases are based on a period of disability of less than 2 months, after which the veteran would be ready to return to his regular employment.

B. The Bureau shall attempt to transfer cases to federal benefit programs when it appears, from the original medical evidence and prognosis, that the disability will exist for over 8 months.

1. The Bureau shall continue to provide assistance until it receives notice that the case has been accepted by a federal benefit program.

2. It is the policy of the Bureau that there should be no interruption of income during the transfer from World War Assistance to a federal benefit program, even though there might be a duplication of benefits for a month.

C. Applicants or recipients of World War Assistance may not refuse aid under another program in order to continue drawing a greater benefit under World War Assistance."



EVALUATION:

Authorizing legislation 37-A MRSA §§29, 30.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or authorizing legislation.

RULE 4.06 Confidential information

SUMMARY: This rule describes policies and procedures under the World War Assistance program with respect to confidential information.

TEXT:

"The policy of the Bureau with respect to confidentiality of information is as follows:

- A. The Bureau shall not release confidential information furnished to it by any other agency, except that the Bureau may release such information to other state agencies which are attempting to furnish assistance to the veteran or the veteran's dependents.
- B. The Bureau shall obtain the signed permission of the veteran for the release of information pertaining to the veteran which is in the custody of the Veterans' Administration, the Social Security Administration, or any other federal agency.
- C. The Bureau shall not release World War Assistance records or files, information obtained from investigations, names or addresses of applicants or recipients, or any other information relating to World War Assistance in their possession, except as follows:
  1. Information may be released to other agencies or persons from whom the veteran has requested specific services, such as federal, state, or municipal agencies dealing with welfare or vocational rehabilitation.
  2. Information may be released to state governmental bodies or offices for whom the information is essential for the continued administration of the World War Assistance program.

NOTE: Information should be released only to agencies or bodies such as the Executive Department, the legislature as a whole, a committee of the legislature concerned with World War Assistance, the State Auditor, or the State Controller. Information should not be released to individual members of the legislature.

3. Information may be released to the court when the information is subpoenaed.

4. Information may be released to a representative of a veterans' service organization holding a power of attorney for a veteran or dependent, if the representative has been duly certified by the organization.

5. Information may be released to the veteran, his family, his guardian, or his duly appointed representative if, in the judgment of the Director, the release will not be injurious to the physical or mental health of the veteran or his dependents."

EVALUATION:

Authorizing legislation 37-A MRSA §29.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The veteran should be fully informed why particular information is required of him or her, and to whom and for what purposes this information might be released. The veteran should sign a form giving consent for release of all or part of the information. The Committee recommends that the rule be amended to reflect this.

RULE 4.07 [Omitted rule - Appeal Procedure]

COMMITTEE RECOMMENDATIONS:

37-A MRSA, §34 provides for an appeal procedure. There should be some rules concerning such items as notice to the applicant of appeal rights if aid is denied or terminated or in other circumstances where the veteran is not satisfied with the decision or procedures followed in arriving at the decision.

The Committee strongly recommends that the Bureau write these rules.

Chapter 6  
VETERANS' DEPENDENTS' EDUCATIONAL BENEFITS

RULE 6.01 Definitions

SUMMARY: This rule defines the terms used in the Veterans' Dependents' Educational Benefits program.

TEXT:

"As used in 37-A M.R.S.A. §§50-J through 50-M and in these rules, the following terms shall have the following meanings, unless the context otherwise indicates:

- A. Benefits. 'Benefits' means scholarship monies, as defined in subsection I, and free tuition at state supported post-secondary vocational schools or institutions of collegiate grade, as authorized by 37-A M.R.S.A. §50-L.
- B. Board. 'Board' as used in 37-A M.R.S.A. §50-K, does not include board paid to a parent.
- C. Books and supplies. 'Books and supplies', as used in 37-A M.R.S.A. §50-K, means books and supplies, in reasonable amounts, as are customarily required of all students enrolled in a particular course of education. Supplies does not include items of clothing other than special clothing required for a particular course.
- D. Bureau. 'Bureau' means the Bureau of Veterans' Services.
- E. Dependent. 'Dependent' means a veteran's opinion, child, spouse, or surviving spouse, who qualifies for educational benefits under 37-A M.R.S.A. §50-J.
- F. Educational institution of collegiate grade. 'Educational institution of collegiate grade' means an educational institution of collegiate grade inside or outside of Maine, provided that the person attending remains a resident of Maine during the course of education. It does not include college preparatory schooling or correspondence courses.
- G. Orphan. 'Orphan' does not include an adopted child whose natural parent was not a veteran at the time of adoption unless the adoptive parent is, or until the adoptive parent becomes, a veteran qualified under 37-A M.R.S.A. §50-J.

NOTE: The following examples are presented to clarify this definition:

Example 1: X applies for benefits. X has graduated from high school and is 18 at the time of first entering a vocational school. X's natural father, Y, was killed in action before X was adopted by Z. Z is not a veteran. X is eligible for benefits.

Example 2: X applies for benefits. X has graduated

from high school and is 18 at the time of first entering a vocational school. X's natural father, Y, was killed in action after X was adopted by Z. Z is not a veteran. X is ineligible for benefits.

Example 3: X applies for benefits. X has graduated from high school and is 18 at the time of first entering a vocational school. X's natural father, Y, was killed in action after X was adopted by Z. Z is a veteran qualified under 37-A M.R.S.A. §50-J. X is eligible for benefits.

H. Room rent. 'Room rent' as used in 37-A M.R.S.A. §50-K, includes pro-rated rent for an apartment, but does not include rent paid to a parent.

I. Scholarship monies. 'Scholarship monies' means the assistance paid by the Bureau, under the authority of 37-A, M.R.S.A., §50-K, to eligible persons toward the cost of higher education.

J. State supported...institutions. 'State supported post-secondary vocational schools or institutions of collegiate grade,' as used in 37-A M.R.S.A. §50-L, means the following institutions:

1. All branches of the University of Maine;
2. All state vocational technical institutes;
3. Maine school of Practical Nursing in Waterville;  
and
4. Maine Maritime Academy at Castine.

K. Vocational school. 'Vocational school' means a vocational school inside or outside of Maine, provided that the person attending remains a resident of Maine during the course of education. It does not include college preparatory schooling or correspondence courses."

#### EVALUATION:

Authorizing legislation 37-A MRSA, §§50-J through 40-M.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

#### COMMITTEE RECOMMENDATIONS:

The Committee recommends that ¶J, sub-¶3, of the rule be deleted, since this school is now part of KVVTI; sub-¶4 would then be renumbered as sub-¶3.

RULE 6.02 Eligibility

SUMMARY: This rule defines the eligibility requirements for receipt of services under the Veterans' Dependents' Educational Benefits Program.

TEXT:

"The Bureau shall determine eligibility for benefits according to the following policies and procedures:

- A. A dependent may receive benefits for summer and continuing education courses.
- B. A dependent may receive benefits while attending a vocational school or institution of collegiate grade either full or part time, but a less than full time program of education will be counted as full time for purposes of determining the time limitations under 37-A M.R.S.A. §50-K.
- C. A dependent may not receive benefits for courses taken in pursuit of a degree beyond that of the undergraduate level.
- D. A dependent may not receive benefits for courses completed prior to application.
- E. A dependent may not receive scholarship monies for commuting expenses.
- F. An academic semester or any period shorter than an academic semester, such as summer course, during which a dependent receives benefits will be counted as one semester for purposes of determining the time limitations under 37-A M.R.S.A. §50-K."

EVALUATION:

Authorizing legislation 37-A MRSA, §§50-J thru 50-L.

This rule is consistent with and necessary to the law; it does accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does not need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The Committee does not recommend any changes in the rule or authorizing legislation.

RULE 6.02 Appeal procedure

SUMMARY: This rule describes the appeal procedures for receipt of services under the Veterans' Dependents' Educational Benefits Program.

TEXT:

"Any applicant who believes that he or she has been wrongfully denied benefits under the Veterans' Dependents' Educational Benefits program may appeal the denial to the Director of the Bureau within 30 days of the date of the denial."

EVALUATION:

Authorizing legislation 37-A MRSA, §34.

This rule is not consistent with and is necessary to the law; it does not accomplish its purpose.

The costs of complying with and administering this rule are reasonable.

This rule does need to be amended.

The authorizing legislation does not need to be amended.

COMMITTEE RECOMMENDATIONS:

The rule should be amended to be uniform with the appeals procedures established under the omitted rule 4.07. The rule should also provide for local hearings, and an appeal to someone other than the person responsible for denying the benefits.

APPENDIX

AN ACT to Amend the Veterans' Law and to Authorize the Continuation of the Rules of the Bureau of Veterans' Services for an Additional 5-year Period

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 5 MRSA, Chapter 379 is hereby enacted to read as follows:

CHAPTER 379  
EXPIRATION SCHEDULE FOR STATE AGENCY RULES

§12000. The rules in the Bureau of Veterans' Services shall expire January 1, 1989 unless terminated earlier by the administering agency or by statute.

Sec. 2. 27-A MRSA, Section 28, sub-§3, 1st sentence, is amended to read as follows:

The term "veteran" shall ~~be construed to~~ mean any person who served in the armed forces of the United States on active duty during World War I, World War II, the Korean Campaign or Vietnam War, ~~not dishonorably discharged~~ and who, if discharged, received an honorable discharge or a general discharge under honorable conditions, provided that the discharge was not upgraded through a program of general amnesty.

Sec. 3. 37-A MRSA, Section 28, sub-§4, is amended to read as follows:

The term "spouse" shall ~~be construed to~~ mean the legally married spouse of the veteran, not divorced, or the widow or widower of the veteran, not previously divorced and who ~~has~~ is not ~~become~~ the dependent of another person.

Sec. 4. 37-A MRSA, Section 33, is amended by adding a new sentence to read:

The rules and regulations of the Bureau shall expire in accordance with the termination schedule contained in Title 5, Chapter 379.

Statement of Fact

Sections 1 & 4 of the bill enacts Title 5, Chapter 379, extending the deadline for expiration of the rules another 5 years, to 1989.

Section 2 adds language consistent with the discharge criteria for burial in the Veterans' Cemetery.

Section 3 clarifies language in definitions to show that "dependency" is an attribute which may pass from and return to a person.