

IC 10-17-9

Chapter 9. Indiana Veterans' Home

IC 10-17-9-0.3

"Director"

Sec. 0.3. As used in this chapter, "director" refers to the director of veterans' affairs appointed under IC 10-17-1-5.

As added by P.L.21-2008, SEC.1.

IC 10-17-9-0.5

"Home"

Sec. 0.5. As used in this chapter, "home" refers to the Indiana Veterans' Home.

As added by P.L.21-2008, SEC.2.

IC 10-17-9-0.8

"Superintendent"

Sec. 0.8. As used in this chapter, "superintendent" refers to the superintendent of the Indiana Veterans' Home appointed under section 3.5 of this chapter.

As added by P.L.21-2008, SEC.3.

IC 10-17-9-1

Conduct and maintenance

Sec. 1. The conduct and maintenance of the Indiana Veterans' Home, located near Lafayette in Tippecanoe County, Indiana, are governed by this chapter.

As added by P.L.2-2003, SEC.8. Amended by P.L.21-2008, SEC.4.

IC 10-17-9-2

Gifts; legacies; devises; conveyances

Sec. 2. The home may receive for the use of the institution and expend as the donor directs:

- (1) gifts;
- (2) legacies;
- (3) devises; and
- (4) conveyances;

of real and personal property that are made, given, or granted to or for the home or in its name.

As added by P.L.2-2003, SEC.8.

IC 10-17-9-3

Appropriations for buildings

Sec. 3. The board of county commissioners in each county may appropriate money out of the general fund of the county to erect cottages or any other needed building on the grounds of the home.

As added by P.L.2-2003, SEC.8.

IC 10-17-9-3.5

Appointment of superintendent

Sec. 3.5. (a) The director shall appoint the superintendent of the Indiana Veterans' Home. In appointing the superintendent, the director shall give preference to an honorably discharged veteran of the armed forces of the United States.

(b) The superintendent may be removed only by the director.

(c) The superintendent is administratively responsible to the director.

(d) The director shall determine the superintendent's salary, subject to the approval of the governor and the budget agency.

As added by P.L.21-2008, SEC.5.

IC 10-17-9-4

Superintendent responsibilities

Sec. 4. The superintendent of the Indiana Veterans' Home:

(1) has the immediate charge and management of the institution;

(2) directs and controls the resident employees; and

(3) superintends the medical and physical care, rehabilitation, and management of the members in the home.

As added by P.L.2-2003, SEC.8. Amended by P.L.21-2008, SEC.6.

IC 10-17-9-5

Political affiliation of employees

Sec. 5. The superintendent may not appoint or employ a person in an office or a place in the Indiana Veterans' Home because of the political views or affiliation of the appointee or employee or for a reason other than capacity and fitness for the duties to be performed by the appointee or employee. However, among applicants for appointment found capable and fit, preference shall be given to an honorably discharged military veteran and the spouse, widow, widower, mother, and child of an honorably discharged military veteran.

As added by P.L.2-2003, SEC.8. Amended by P.L.21-2008, SEC.7.

IC 10-17-9-6

Repealed

(As added by P.L.2-2003, SEC.8. Repealed by P.L.100-2012, SEC.26.)

IC 10-17-9-7

Admissions; rules; funds; death

Sec. 7. (a) As used in this section, "eligible person" refers to either of the following:

(1) An honorably discharged member of the armed forces.

(2) The spouse or surviving spouse of an honorably discharged member of the armed forces.

(b) An eligible person who has a disability or is destitute is eligible for admission to the home if:

(1) the eligible person has been a resident of Indiana for at least one (1) year immediately preceding application for admission to the home; or

(2) in the case of an eligible person referred to in subsection (a)(1), the eligible person was a resident of Indiana when the eligible person enlisted in the armed forces.

(c) The Indiana department of veterans' affairs shall adopt rules concerning admission to the home.

(d) In adopting rules governing the admission, maintenance, and discharge of members of the home, the Indiana department of veterans' affairs may establish a fund called the veterans' home comfort and welfare fund. The director shall deposit all money collected from the members for the cost of their care and maintenance in the fund. The director shall expend this money in any manner that adds to the comfort and welfare of the members of the institutions.

(e) A part of the veterans' home comfort and welfare fund may be withdrawn and deposited in a special fund called the veterans' home building fund. The veterans' home building fund shall be used for the construction, maintenance, remodeling, or repair of buildings of the home.

(f) Preference under this section may be given to a person who served in an Indiana military organization. Except in cases where the surviving spouse of a veteran marries another veteran, the benefits of this chapter extend only to a surviving spouse and the spouse of a veteran if the contract of marriage was entered into more than five (5) years before the date of death of the veteran. Except as otherwise provided by law, upon the death of a person in the home, money paid to the person or due to the person from a bank, a trust company, a corporation, or an individual becomes an asset of the person's estate and shall be distributed in the manner prescribed by the probate law of the state.

As added by P.L.2-2003, SEC.8. Amended by P.L.99-2007, SEC.37; P.L.21-2008, SEC.8; P.L.113-2010, SEC.74.

IC 10-17-9-8

Cost of maintaining members

Sec. 8. (a) Each member, the estate of a deceased member, or the estate of a member under guardianship is liable for the costs of maintenance of the member in an amount up to one hundred percent (100%) of the daily per capita cost of personal services and all other operating expenses for the preceding fiscal year. The per capita charge may be adjusted to reflect the level of care provided.

(b) The level of care must be as consistent as possible with:

(1) the care category of the facility in which the member is placed;

(2) the rules of the Indiana health facilities, home health care, and hospice council adopted under IC 16-28; and

(3) the applicable code of the federal government covering reimbursement from the United States Department of Veterans'

Affairs or another department of the federal government.

(c) The liability created for the costs of maintenance of a member constitutes a lien upon the real property of the member if the lien is recorded as provided in this chapter. The lien has priority over all liens subsequently acquired.

As added by P.L.2-2003, SEC.8. Amended by P.L.197-2011, SEC.37.

IC 10-17-9-9

Billing and collection of maintenance costs; funds

Sec. 9. (a) The billing and collection of the maintenance cost of a member under section 8 of this chapter shall be made by the superintendent of the Indiana Veterans' Home based on the per capita cost for the preceding fiscal year.

(b) All money collected shall be deposited in the veterans' home comfort and welfare fund. The fund shall be used in part by the superintendent for the comfort and welfare of the members and in part to reimburse the state general fund in an amount specified by the general assembly.

(c) Excess money in the veterans' home comfort and welfare fund shall be placed in the veterans' home building fund.

(d) The fund shall be used for new construction, maintenance, remodeling, and repair of the buildings at the Indiana Veterans' Home.

As added by P.L.2-2003, SEC.8. Amended by P.L.21-2008, SEC.9.

IC 10-17-9-10

Agreement to accept lesser amount for maintenance cost; petition for release or modification of maintenance charge

Sec. 10. (a) The superintendent of the Indiana Veterans' Home, with the approval of the director, may accept payment at a lesser rate than prescribed in section 8 of this chapter. The superintendent of the Indiana Veterans' Home, in determining whether or not to accept the lesser amount, shall consider the amount of money necessary to maintain or support a dependent of the member. An agreement to accept a lesser amount is subject to cancellation or modification at any time by the superintendent of the Indiana Veterans' Home with the approval of the director.

(b) A member who is issued a statement of a sum due as maintenance charges may petition the superintendent of the Indiana Veterans' Home for a release from or modification of the statement. The superintendent shall submit a written statement of the facts to the director for a final determination.

As added by P.L.2-2003, SEC.8. Amended by P.L.21-2008, SEC.10.

IC 10-17-9-11

Standard method of determining maintenance charges; adjustments

Sec. 11. (a) The superintendent of the Indiana Veterans' Home, with the approval of the director, may adopt a standard method of

determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home. A member shall receive at least thirty dollars (\$30) per month for personal needs before a maintenance charge is levied against current income.

(b) The monthly maintenance charge may not exceed one-twelfth (1/12) of the annual per capita cost of the preceding year.

(c) The superintendent may adjust the standard for determining the lesser rate to provide that in the case of married members with the spouses residing at the home this standard will allow at least forty dollars (\$40) to be deducted from income by the member before the charge for maintenance is applied.

(d) The superintendent, in adopting the standard method of determining a lesser rate to be accepted in settlement of maintenance charges due from a member of the home, shall take into account as current income:

- (1) a pension;
- (2) compensation or income from any source; and
- (3) benefits from:
 - (A) the federal Social Security Administration;
 - (B) the railroad retirement law; or
 - (C) a retirement annuity or insurance annuity.

(e) The agreement to accept a lesser rate from current income does not relieve the estate of the member of the charge for the full per capita cost for the period the member resided in the home. However, the claim for the full per capita cost will not be filed or allowed if there is a surviving spouse, dependent child less than eighteen (18) years of age, or dependent parent.

As added by P.L.2-2003, SEC.8. Amended by P.L.21-2008, SEC.11.

IC 10-17-9-12

Lien for unpaid maintenance charges

Sec.12. (a) If charges for the cost of maintenance of a member remain unpaid in whole or in part for a period of six (6) months, the superintendent of the Indiana Veterans' Home may file, in the office of the county recorder of the county in which the real property is located, a notice of lien designating:

- (1) the name and place of residence of the member against whose property the lien is asserted;
- (2) the date when the charges become delinquent for more than six (6) months; and
- (3) a legal description of the real property subject to the lien.

One (1) copy of the notice of lien shall be retained by and filed in the office of the superintendent, and one (1) copy shall be furnished to the member or guardian.

(b) From the date on which notice of lien is recorded in the office of the county recorder, the recorded notice constitutes due notice of a lien against the member or the member's estate for any amounts then recoverable and any amounts that become recoverable under this chapter and gives a specific lien in favor of the Indiana Veterans'

Home. The lien continues from the date of filing until the lien is satisfied or released.

As added by P.L.2-2003, SEC.8.

IC 10-17-9-13

Claim or judgment for maintenance charges; suit against legal guardian; foreclosure; claim against estate

Sec. 13. (a) The attorney general, upon notification of the superintendent of the Indiana Veterans' Home, shall file a claim in the name of the state on behalf of the superintendent of the home against the estate of a person who fails to make payment as required in this chapter. If the claim is allowed or judgment is obtained, the claim or judgment constitutes a lien against that part of the estate of the person described in the claim.

(b) The attorney general may bring suit against the legal guardian of a patient for failure to comply with an established maintenance agreement or for failure to make an agreement. Suit may be brought for the amount due the state for the maintenance charges of the member. The court may order the payment of maintenance charges for a period as the circumstances require. An order may be entered against one (1) or more of the defendants. An order for the payment of money may be enforced by attachment, garnishment, or a proceeding supplemental against the defendants. Other judgments at law and costs may be adjudged against the defendants and apportioned among them.

(c) The attorney general may bring a proceeding to foreclose on a lien arising from maintenance charges under section 8 of this chapter during the lifetime of the member if the superintendent believes it is in the best interest of the veterans' home to foreclose on the lien.

(d) Upon:

- (1) the death of a member whose property is encumbered by a lien arising under section 8 of this chapter; and
- (2) notification by the superintendent;

the attorney general shall file a claim against the member's estate for recovery of all charges for maintenance that have accrued at the date of death. Notwithstanding any other law, a claim filed for recovery of charges for maintenance has priority in order of payment from the estate over all other claims except prior recorded encumbrances, taxes, reasonable costs of administration, and reasonable funeral expenses. However, if real property of the deceased member is occupied by a surviving spouse of the member, the home may not assert its lien or claim during the lifetime of the surviving spouse. However, if other claimants or persons have opened an estate and are attempting to enforce their claims, or if there have been fraudulent attempts to avoid the claim or lien, the veterans' home shall file and assert the claim for recovery of costs of treatment and maintenance.

As added by P.L.2-2003, SEC.8.

IC 10-17-9-14

Agreements with federal government

Sec. 14. The superintendent of the Indiana Veterans' Home may make agreements with instrumentalities of the federal government for application of monetary awards to be applied toward the maintenance charges to provide a sufficient amount of the periodic award to be deposited in the member's trust account to meet the immediate personal needs of a member. The amount applied toward the settlement of maintenance charges may not exceed the amount specified in section 8 of this chapter.

As added by P.L.2-2003, SEC.8.

IC 10-17-9-15

Transfer from Department of Veterans' Affairs

Sec. 15. (a) If space is available, the superintendent of the Indiana Veterans' Home, with the approval of the director, may accept a veteran who is:

- (1) otherwise eligible for admission to the home;
- (2) in need of nursing home care; and
- (3) transferred at the request of the United States Department of Veterans' Affairs from one (1) of its facilities.

(b) The United States Department of Veterans' Affairs under United States Department of Veterans' Affairs regulations shall award the cost of care to the home. A rate of charge described in section 8 of this chapter may not be used to determine the cost of care under this section.

As added by P.L.2-2003, SEC.8. Amended by P.L.21-2008, SEC.12.

IC 10-17-9-16

State treasurer investigation; disposition of federal funds

Sec. 16. (a) The treasurer of state may require an investigation to determine the true number of members in the home at any time.

(b) Twenty percent (20%) of the money annually allowed by the government of the United States for a military veteran maintained in the home shall be deposited in the state general fund to the credit of the veterans' home building fund. Money deposited in the state general fund may be invested in securities of the United States government. The money in the building fund shall be used only for the maintenance, remodeling, or repair of buildings at the Indiana Veterans' Home. Money deposited in the building fund is appropriated and subject to allocation by the budget committee. The remaining eighty percent (80%) of the money annually allowed by the government of the United States for a military veteran maintained in the home shall be deposited in the state general fund as a reimbursement to the general fund for operating expenses of the home.

As added by P.L.2-2003, SEC.8.

IC 10-17-9-17

Applicability of Financial Reorganization Act of 1947

Sec. 17. IC 4-13-2 applies to the Indiana Veterans' Home.
As added by P.L.21-2008, SEC.13.

IC 10-17-9-18

Bond requirement

Sec. 18. (a) The superintendent shall furnish an individual public official bond in an amount determined by the director, payable to the state and conditioned upon the faithful performance of the superintendent's duties.

(b) A bond required under this section is subject to the approval of the insurance commissioner and shall be filed in the office of the secretary of state.

As added by P.L.21-2008, SEC.14.

IC 10-17-9-19

Notice regarding requests for names of nursing personnel or direct care staff

Sec. 19. (a) The Indiana Veterans' Home shall post a notice that a resident, the legal representative of a resident, or another individual designated by a resident may request, from the individual in charge of each shift, information that designates the names of all nursing personnel or direct care staff on duty by job classification for the:

- (1) wing of;
- (2) unit of; and
- (3) other area as routinely designated by;

the Indiana Veterans' Home.

(b) The notice required under subsection (a) must meet the following conditions:

- (1) Be posted in a conspicuous place that is readily accessible to residents and the public.
- (2) Be at least 24 point font size on a poster that is at least eleven (11) inches wide and seventeen (17) inches long.
- (3) Contain the:
 - (A) business telephone number of the superintendent; and
 - (B) toll free telephone number for filing complaints with the department of veterans' affairs.
- (4) State that if a resident, the legal representative of a resident, or another individual designated by a resident is unable to obtain the information described in subsection (a) from the individual in charge of each shift, the resident, the legal representative of the resident, or another individual designated by the resident may do any of the following:
 - (A) Contact the superintendent.
 - (B) File a complaint with the department of veterans' affairs using the department's toll free telephone number.

(c) The department of veterans' affairs may adopt rules under IC 4-22-2 to carry out this section.

As added by P.L.21-2008, SEC.15.

IC 10-17-9-20

Repealed

(As added by P.L.21-2008, SEC.16. Repealed by P.L.133-2012, SEC.64.)

IC 10-17-9-21

Qualification of Indiana Veterans' Home for Medicaid reimbursements; state department of health plan; Medicaid reimbursements may be used to augment appropriations

Sec. 21. The state department of health established by IC 16-19-1-1 may develop a plan and seek federal approval to qualify the Indiana Veterans' Home for reimbursement of services and other expenses that could be eligible under Medicaid. A plan developed under this section must be structured to maximize federal Medicaid reimbursement for the Indiana Veterans' Home. Subject to approval of the budget agency, any revenue accruing to the Indiana Veterans' Home from the receipt of Medicaid reimbursement may be used to augment appropriations made to the office for use in funding long term care.

As added by P.L.220-2011, SEC.239.