

Addendum to Initial Statement of Reasons Proposed Amendments to 12 CCR 452-453

Section 452 (c)(1): CalVet added that the Counties must certify that their county's "proposed" expenditures must exceed "actual" fiscal year expenditures in order to make clear that they are to report both expenditure amounts. This is necessary in order for counties to understand what specific expenditure amounts we are requiring; without it, the counties could interpret one or both numbers to be either proposed or actual.

Section 452 (c)(2): CalVet added back this section per the CACVSO comments that it is valuable for CalVet to collect this information in order to reconcile reported expenditures with actual expenditures at the end of the fiscal year. Subsequent sections were renumbered appropriately to consider the addition of this section.

Section 452 (c)(1-3): *CalVet's Procedure Manual for Subvention and Medi-Cal Cost Avoidance dated October 1, 2016*, was added to each of the sections where the forms are stated because the forms are found in that document. The document was already incorporated by reference in 452 (b). October 1, 2016 version replaces all previous versions noticed during this rulemaking.

Section 452 (d)(2) and 452(d)(3): The necessity of adopting this section is to enable CalVet to prescribe requirements to receive state funding; the section does not prescribe employment standards for county employees. Military and Veterans Code Section 972(b) authorizes the Department to distribute local assistance funds "conditioned upon the observance of standards and regulations adopted by, and in compliance with the direction of, the department and its authorized representatives." Additionally, a recent audit of the local assistance program by the California State Auditor has questioned whether the Department has established standards to ensure that CVSOs and veteran service representatives are adequately trained and competent to perform tasks for which the county would receive local assistance funds. The process CalVet uses prior to recommending accreditation includes a practical test to demonstrate basic competency to perform claims work. The proposed amendments to 12 CCR 452(d)(2) and 12 CCR 452(d)(3) are to establish a standard requiring each CVSO and veteran service representative who performs tasks for which the county might receive local assistance funds to demonstrate their competency; it further allows those CVSOs and veteran service representatives 18 months to demonstrate that competency. This is not a requirement to be employed by any county; it is a requirement for the county to receive local assistance funding in partial reimbursement for their employees' work product. The above rationale addresses public comments submitted by the CACVSO and several counties regarding whether the state can set hiring qualifications for county employees; this section does not prescribe hiring qualifications, it establishes competency standards to receive local assistance funding for the work product of CVSOs and veteran service representatives. Additionally, the Department is aware that some organizations recognized by the U.S. Department of Veterans Affairs (USDVA) to represent veterans do not use a similar practical test to demonstrate competency prior to recommending

individuals accreditation; and those that do test may not test for the same skill sets that CalVet has set as priorities to demonstrate competency. This necessitates that all CVSOs and veteran service representatives take CalVet's practical test, notwithstanding any other organizations they have been accredited to represent. The proposed language was also amended in response to CACVSO public comments to clarify that accreditation is approved by the USDVA and that such accreditation is to represent CalVet in the claims process. It should be noted that this accreditation in no way restricts county employees from acting as accredited representatives of other organizations. Further, the choice of which organization will hold power of attorney to represent a veteran is ultimately the veteran's choice; this section in no way is intended to abridge that right.

Section 453(b)(1): This section was rearranged for clarity and reducing duplication. This subsection was moved to 453(b)(3) in order to include it as a specific requirement instead of grouping it in with the section describing how the funding is divided.

Section 453 (b)(1)(A): The actual amount of administration funding CVSOs receive was added to increase transparency of the amount of county subvention funding distributed to CVSOs annually for administration.

Section 453 (b)(1)(B): The actual amount of training funding CVSOs may receive was added to increase transparency of the amount of county subvention funding distributed to CVSOs annually for training. The distribution methodology for the \$12,000 per year was also added for transparency regarding when a CVSO will receive training funds, and the amounts per training event they will receive.

Section 453(b)(1): The CACVSO recommended to CalVet through public comments that the training funds provided by the state should not be included because the training funds are only allocated based on attendance at training. Small counties do not send many staff to the trainings, so should not have potential administration or incentivized funds reduced due to attendance at the trainings.

Section 453(b)(3): This section was rearranged for clarity and reducing duplication. This subsection was moved to 453(b)(3) in order to include it as a specific requirement instead of grouping it in with the section describing how the funding is divided in 453(b)(1).

Section 453(b)(4): The second sentence was deleted because it duplicates the text that was moved to 453(b)(3).

Section 453(b)(5): The text added in the first comment period: *Each payment shall not exceed either 50 percent of the county's expenditure or 50 percent of the annual allocation, whichever is less*, was deleted in the last comment period because it duplicates what is stated in Section 453(b)(3).

Document Incorporated by Reference

The *CalVet Procedure Manual for Subvention and Medi-Cal Cost Avoidance* dated October 1, 2016 is incorporated by reference because it is needed to clarify the Military and Veterans Code Sections 970-974.5 and California Code of Regulations (Title 12, Division 2, Chapter 3, Subchapter 4) in regards to the procedures for the County Subvention and Medi-Cal Cost Avoidance programs. This document was developed in collaboration with the California Association of County Veterans Service Officers (CACVSO). The drafted procedure manual was given to the County Veterans Service Offices throughout the state to review. CACVSO sent feedback to CalVet, and then CalVet and CACVSO conducted a meeting to discuss and agree upon changes to the initial draft. The CACVSO approved the *CalVet Procedure Manual for Subvention and Medi-Cal Cost Avoidance* in March 2016.

The date of the document was originally noticed as July 1, 2016. The regulations will not be effective until October 1, 2016, so the date was changed to reflect the same date.

On page 20, #12 in the table was changed to clarify that 30% referred to the service-connected disability rating of the veteran. Without the added words, it was confusing to understand what the stand-alone 30% referred to.