



Long-Term Care Planning 101

Medicaid and VA Benefits Eligibility



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The Elder & Disability Advocacy Firm of Christine A. Alsop, LLC

phone (314) 644-3200 | fax (314) 206-4745

calsop@alsopelderlaw.com | www.AlsopElderLaw.com

6654 Chippewa Street, St. Louis, MO 63109



Planning is Necessary for MO HealthNet and Veterans Benefits

- **Why is this important?**
 - ✧ Must be cognizant of each program's rules
 - ✧ Cost of long-term care can be prohibitive for many
 - ✧ Clients' medical needs may change
 - ✧ May no longer be managed safely at home
 - ✧ May require long-term care in an SNF and need MO HealthNet coverage
- **Additional income received through the Aid & Attendance program may not be sufficient to meet their needs if SNF placement is necessary**

Planning is Necessary for MO HealthNet and Veterans Benefits

- **Similarities and differences exist within the MO HealthNet programs and between the VA and MO HealthNet programs**
- **For MO HealthNet, primary focus today on the NH vendor bed rules**

MO HealthNet & VA

- **Similarities and differences exist between the eligibility requirements of MO HealthNet and Veterans benefits**
 - ✧ Both have financial and medical criteria
- **It is important to consider each program's eligibility rules in the overall planning process**
- **Differences in rules provide opportunities and present challenges**

MO HealthNet Income Limitations

- **Vendor (SNF, ICF)**

- ✧ No income limitations if less than the NH's daily rate
- ✧ Individual's income goes to cost of NH
- ✧ Less \$50 personal needs allowance
- ✧ Special rules exist when one spouse is in the community and the other is institutionalized
- ✧ "Community spouse" allowance and rules not addressed here

MO HealthNet Income Limitations

- **Non-Vendor (Medical Assistance)**

- ✧ Based on the federal poverty level standards
 - \$999.99 for single
 - \$2,000 for married
- ✧ If income exceeds this amount, may become eligible through spend-down
 - when their incurred monthly expenses reduce their income below this limit
- ✧ Income limits change each year

MO HealthNet Resource Limitations

- **Maximum allowed resources**
 - ✧ Single person \$999.99
 - ✧ Married couple \$2,000
- **Exemptions**
 - ✧ Personal residence
 - ✧ One vehicle of any value
 - ✧ Furniture and other personal belongings
 - ✧ Irrevocable pre-paid burial plan
 - ✧ Term life insurance
 - ✧ Special rules exist for income producing property

Non-Financial Eligibility

- **Medically Eligible**
 - ✧ Aged 65 or older
 - ✧ Permanently and totally disabled
 - ✧ Blind
- **Require skilled level of care for vendor**
- **Missouri resident and intends to remain**
- **US citizen or eligible non-citizen**

Transfer or Gift Penalties

- **Gifts are anything that is given or transferred without consideration or for less than its fair market value**
- **Penalty for Vendor NH**
 - ✧ Five-Year Look Back period from month of application
 - ✧ Penalties assessed in month found eligible or, if already on MO HealthNet, the month of transfer
 - ✧ Penalty calculated using penalty divisor
 - \$4,889 per month
 - Total transfer amount is divided by the penalty divisor
 - Divisor changes each year

Exempt Transfers

- **No penalty for inter-spousal transfers**
- **No penalty for transfers to a disabled child**
- **No penalty exists for Medical Assistance**
- **No penalty for supplemental care grants**
 - ✧ RCF, ICF, ALF or SNF in a non-MO HealthNet certified bed
- **Personal residence may be transferred to the caretaker-child of child is providing the necessary care according to the physician for a period of 2 years and this care allows the person to remain in the home**

Veterans Benefits

- **Service connected and non-service connected**
- **Aid & Attendance**
 - ✧ Non-service connected benefit
 - ✧ Available to war time veterans or their surviving spouses

General Qualifications for VA Benefits

- **General qualifications exist for most VA benefit programs**
 - ✧ Must be a veteran (a person who served in active military service, discharged under conditions other than dishonorable)
 - ✧ Need to have good military papers
 - ✧ If other than honorable discharge, forfeit nearly all VA benefits
 - ✧ Certain VA benefits require additional qualifying factors, such as with the non-service connected pension Aid & Attendance

Why Aid & Attendance?

- Not a new benefit
- Has become increasingly more important due to high cost of long-term care and the restrictive rules governing MO HealthNet
- Increase a client's monthly income
- Help the elderly clients afford to live at home with caregivers
- Helps offset the high cost of assisted living facilities

Aid & Attendance

- **Must meet all of the following three criteria:**
 - ✧ Service
 - Veteran must meet service criteria
 - ✧ Medical
 - Need the “aid & attendance” of another
 - ✧ Financial
 - Income and net worth criteria

Aid & Attendance Service

- **Service Criteria**
- **Must have served 90 consecutive days, at least 1 day of which is during a period of wartime**
- **Veteran does not need to have served on the front line or have served in combat or overseas**
- **Discharge under conditions that are other than dishonorable**
- **For surviving spouses:**
 - ✧ Must have been married to the veteran at the time of the veteran's death
 - ✧ Must not have remarried and
 - ✧ Must have been married at least one month prior to the veteran's death or
 - ✧ Have a child by the veteran

Aid & Attendance - Medical

- **Medical Criteria**

- ✧ Entitlement can be established by

- Showing claimant is blind or nearly blind
- Proving claimant is in an SNF for mental or physical impairment
- Showing the claimant needs the “aid and attendance” of another person with their ADL’s
- Presumption if:
 - Permanently and totally disabled or
 - Over 65 years of age
 - In an SNF

- **Assisted Living Facilities and SNF, as long as private pay are fully deductible as an unreimbursed recurring medical expense**

Aid & Attendance - Financial

- **2 Part Criteria – Income and Net Worth**
- **Income Guidelines**
 - ✧ Standard: Whether the person has sufficient net worth and income to cover the ordinary living needs for the remainder of the veteran or widow's life
 - ✧ IVAP (income for VA purposes)
 - ✧ Maximum-monthly pension amount

Critical Calculation

- **Gross Income less unreimbursed medical expenses = IVAP**
- **Income – payments of any kind from any source shall be counted as income 38 CFR Section 3.271 (a)**

The Number that Makes a Difference

- When the IVAP is zero the person receives the full monthly benefit
- Benefit varies depending on the IVAP

Maximum Monthly Pension Rates

- **See:**

- ✧ <http://vanarellilaw.com/2017-updated-va-pension-benefit-rates/>

Possible Medical Expenses

- **List of possible medical expenses that may be deducted from veteran's gross income to determine eligibility**
 - ✧ Insurance premiums
 - ✧ Ambulance or medically necessary transportation
 - ✧ Braces, back supports, artificial limbs, dentures, eyeglasses, hearing aids, durable medical equipment
 - ✧ Assisted living charges

Possible Medical Expenses

- Prescription costs
- Incontinence supplies
- Hospital expense
- Home health care
- Nursing, therapy services
- Specialty physicians
- Nursing home care
- Not inclusive list

Aid & Attendance

- **Net Worth**

- ✧ Net Worth (38 CFR Section 3.274 (b))
 - Considerations for determining net worth
 - Does the veteran has resources that will pay for his/her long-term needs?
 - Analyze the claimant's income along with the following:
 - ✧ Whether the property can readily be converted to cash
 - ✧ Life expectancy
 - ✧ Number of dependents
 - ✧ Potential rate of depletion
 - ✧ Medical expenses

Aid & Attendance

- **Family's assets include net worth of all**
 - ✧ Real and personal property
 - ✧ Except home, car, irrevocable burial plan
 - ✧ If home is sold, it is not considered income, but an asset

Net Worth

- **Net Worth Guidelines**

- ✧ Based on VA's life expectancy chart
- ✧ Some assets are exempt: house, car, personal belongings

VA's Policy on Gifting

- **Governed by 38 CFR Section 3.276 (b)**
 - ✧ Gifts to persons in the same household do not reduce the corpus of the claimants estate
 - ✧ A sale to persons in the same household is not recognized as reducing the corpus of the claimant's estate if the purchase prices is so low as to equate to a gift
 - ✧ A gift to someone other than a relative residing in the grantor's house will not be recognized as reducing the corpus of the estate unless it is clear that the grantor has relinquished all rights of ownership, including the right to control property

VA's Policy on Trusts

- **Use of Irrevocable Trust is primary planning technique to preserve assets**
- **VA has become increasingly more critical of use of trusts**
- **Settlor must divest himself of the full legal and equitable ownership of the property**
 - ✧ Legal ownership of the property: Settlor is not the Trustee
 - ✧ Equitable ownership: Settlor is not the Beneficiary of the Trust

Overview of Critical Rule Differences

- **MO HealthNet**

- ✧ 5 Year Look Back Period
- ✧ No gifting or transfers for less than fair market value or for no consideration
- ✧ Estate recovery
- ✧ Asset Limits
 - \$999.99 single
 - \$2,000 married
- ✧ No joint ownership allowed

- **VA Benefits**

- ✧ No Look Back Period
- ✧ No rules prohibiting transfers or gifts
- ✧ No estate recovery
- ✧ Joint ownership allowed

Questions?



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