It’s Now Harder for Veterans to Qualify for Long-Term Care Benefits

By Elder Law Attorney Jeffrey Hall, CPA, JD

The Department of Veterans Affairs (VA) has finalized new rules that make it more difficult to qualify for long-term care benefits. The rules establish an asset limit, a look-back period, and asset transfer penalties for claimants applying for VA pension benefits that require a showing of financial need. The principal such benefit for those needing long-term care is Aid and Attendance.

The VA offers Aid and Attendance to low-income veterans (or their spouses) who are in nursing homes or who need help at home with everyday tasks like dressing or bathing. Aid and Attendance provides money to those who need assistance.

Currently, to be eligible for Aid and Attendance a veteran (or the veteran's surviving spouse) must meet certain income and asset limits. The asset limits aren't specified, but $80,000 is the amount usually used. There historically have been no penalties if an applicant divests assets before applying

Not so anymore. The new regulations set a net worth limit of $123,600, which is the current maximum amount of assets (in 2018) that a Medi-Cal applicant's spouse is allowed to retain. But in the case of the VA, this number will include both the applicant's assets and income. An applicant's house will not count. Applicants will also be able to deduct medical expenses -- now including payments to assisted living facilities, as a result of the new rules -- from their income.

The regulations also establish a three-year look-back provision. Applicants will have to disclose all financial transactions they were involved in for three years before the application. Applicants who transferred assets to put themselves below the net worth limit within three years of applying for benefits will be subject to a penalty period.

Under the new rules, the VA will determine a penalty period in months by dividing the amount transferred that would have put the applicant over the net worth limit by the maximum annual pension rate (MAPR) for a veteran with one dependent in need of aid and attendance. For example, assume the net worth limit is $123,600 and an applicant has a net worth of $115,000.

The applicant transferred $30,000 to a friend during the look-back period. If the applicant had not transferred the $30,000, his net worth would have been $145,000, which exceeds the net worth limit by $21,400. The penalty period will be calculated based on $21,400, the amount the applicant transferred that put his assets over the net worth limit (145,000-123,600).

The new rules go into effect on October 18, 2018. The VA will disregard asset transfers made before that date. Applicants may still have time to get through the process before the rules are in place.

Veterans or their spouses who think they may be affected by the new rules should contact their neighborhood Elder Law Attorney—Jeffrey Hall about available planning for VA benefits. You may visit his website at www.HallLawGroup.com or call (925) 230-9002. We are a Veteran Owned -- Veteran friendly law firm.

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