

# VA Aid & Attendance

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**Effective Date: October 18, 2018**

**Asset limit:** \$123,600 (assets plus annual income). This figure is adjusted annually and will be equal to Medicaid's Community Spouse Resource Allowance.<sup>1</sup>

**Excluded assets** (38 C.F.R. § 3.275): Primary residence and residential lot limited to 2 acres, personal effects suitable to and consistent with a reasonable mode of life such as appliances and family transportation vehicles. Additional acreage does not count if it is not marketable. This will negatively impact claimants who own farms or large residential lots.

**Penalty for transfers** (38 C.F.R. § 3.276): Part of net worth that was transferred for less than fair market value and, if not transferred, would have caused the claimant's net worth to exceed the asset limit, divided by the MAPR for a veteran needing A&A with one dependent, divided by 12 and rounded to nearest whole dollar. Lookback is 36 months. Penalty is limited to maximum of 5 years, with the effective date being the month following the transfer. The purchase of an annuity or funding a trust is considered a transfer for less than FMV unless the claimant establishes that the annuity or trust can be liquidated; if it can be liquidated then its value is added to net worth.<sup>2</sup>

**Annual income** (38 C.F.R. § 3.252(c)): Payments of any kind or from any source will be counted as income unless specifically excluded. Income will be counted for the calendar year in which it is received and total income for the full calendar year will be considered except as provided in § 3.260<sup>3</sup>

Pursuant to 38 C.F.R. § 3.278, income is reduced for VA Purposes by reasonably predictable annual unreimbursed medical expenses that exceed 5% of the applicable maximum annual pension rate.<sup>4</sup> Medical expenses are limited to those which are medically necessary.

Pension -- Maximum Annual Pension Rates (MAPR) 2017-18

These amounts increased by 2% on 12 / 01 / 2017

For a Living Veteran

Yearly    Monthly

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<sup>1</sup> VA nomenclature does not match Medicaid nomenclature. Medicaid defines "assets" as all income and resources. The VA describes "assets" as everything other than income, but then adds income back in when determining whether the asset limit is exceeded. Also, Medicaid eligibility is based on monthly income, while VA eligibility is based on annual income. Formerly, this meant that denial of a VA claim could result in 12 months of ineligibility. Now, 38 C.F.R. § 3.274(g)(2) provides that the effective date of entitlement or increased entitlement is the day net worth ceases to exceed the limit if the VA receives a certified statement within 1 year following a denial, reduction or discontinuance of benefits.

<sup>2</sup> What this means is that the annuity or trust does not accelerate eligibility for VA A&A.

<sup>3</sup> Section 3.260 addresses irregular or uncertain payments. Specific inclusions and exclusions are listed at Section 3.261.

<sup>4</sup> In other words, medical expenses equal to the first 5% of the MAPR are disregarded.

Without Spouse or Child	\$13,166	\$1,097
Medical Deduction	\$659	\$55
With One Dependent	\$17,241	\$1,436
Medical Deduction	\$863	\$71
Housebound Without Dependents	\$16,089	\$1,340
Housebound With One Dependent	\$20,166	\$1,680
<u>Aid and Attendance Without Dependents</u>	<u>\$21,962</u>	<u>\$1,830</u>
<u>Aid and Attendance With One Dependent</u>	<u>\$26,036</u>	<u>\$2,169</u>
Add for Each Additional Child	\$2,250	\$187

Death Pension -- Maximum Annual Pension Rates (MAPR)  
2017-18

For a Surviving Spouse	Yearly	Monthly
Without Dependent Child	\$8,830	\$735
Medical Deduction	\$442	\$36
With One Dependent Child	\$11,557	\$963
Medical Deduction	\$578	\$47
Housebound Without Dependents	\$10,792	\$899
Housebound With One Dependent	\$13,514	\$1,126
<u>Aid and Attendance Without Dependents</u>	<u>\$14,113</u>	<u>\$1,176</u>
<u>Aid and Attendance With One Dependent</u>	<u>\$16,685</u>	<u>\$1,403</u>
Add for Each Additional Child	\$2,250	
MAPR FOR CHILD ALONE	\$2,250	

**Calculation:** Countable assets + annual income (+ spouse's annual income, if any) – annual medical expenses (less 5% of MAPR) must be less than \$123,600.

	Countable assets	\$
<i>Plus</i>	Annual income	\$
<i>Minus</i>	Annual Medical Expenses (less 5% of MAPR)	\$
<i>Equals</i>		\$
	(Must be less than \$123,600 for A&A eligibility)	