

# LONG-TERM CARE MEDICAID VS. NON-SERVICE-CONNECTED DISABILITY VETERANS' BENEFITS

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# VA NON-FINANCIAL ELIGIBILITY REQUIREMENTS

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- No dishonorable discharge
- Active duty before 9/8/1980 for 90 days or more at least 1 day during wartime
- Active duty after 9/7/1980 requires 24 months of service

# VA NON-FINANCIAL ELIGIBILITY REQUIREMENTS (CONT'D)

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- Over 65; or permanent and total disability; or patient in nursing home for long-term care because of disability (2 activities of daily living); or getting social security disability; or supplemental security income (if under 65)

# LONG-TERM CARE MEDICAID NON-FINANCIAL ELIGIBILITY

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- US citizen
- Texas resident
- Not getting Medicaid benefits from another state
- Must have enough of a medical necessity for long term care such as skilled nursing facility
  - unlike VA where benefits are often granted for those in ALF's or Memory Care

# LONG-TERM CARE MEDICAID NON-FINANCIAL ELIGIBILITY

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- Must be in a facility that accepts Medicaid (VA can be any ALF, Memory Care Center, or SNF)
- Must be in a Medicaid bed (often there are wait lists – particularly if it is a nicer place) if in SNF
- If under 65, proof of disability (i.e. social security disability or supplemental security income)



# VA – MAXIMUM MONTHLY BENEFIT IN 2023

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- Single Veteran - \$2,229.00
- Married Veteran (spouse as dependent) - \$2,642.00 (amount increases with additional dependents)
- Surviving spouse of Wartime Veteran - \$1,433.00

# MEDICAID LONG-TERM CARE BENEFIT

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- If single – difference between income (after deduction for Medicare part B, Medicare supplement premium and personal needs allowance + Medicare part D) and cost of care
- If married and one spouse lives in the community – ranges from entire cost of care to difference between income after deductions for applicant (similar to being single).  
Depends on non-countable resource income (if couple's income is less than \$3,715.50 per month)

# LOOK-BACK PERIOD FOR TRANSFERS FOR LESS THAN FMV

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- VA – 3 years (if assets would have pushed over net worth limit)
- SNF Medicaid – 5 years
- VA maximum penalty – 5 years
- SNF Medicaid – no limit
- \*Some consider asset protection if planning in advance\*



# TRANSFER PENALTY DIVISOR TO DETERMINE INELIGIBILITY PERIOD FOR BENEFITS

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- VA - \$2,642.00/month (increases annually) pension benefits not paid during penalty period
- SNF Medicaid - \$242.13 per day (increases every 2 years) SNF not paid during penalty period (but drug coverage is if otherwise eligible)

# SOME EXCEPTIONS TO TRANSFER PENALTY RULES

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- VA – exempt resources (home, car, appliances, etc.)
- Medicaid – between spouses, disabled child, irrevocable 529 or UTMA (more exceptions on home)

# RESOURCE LIMITS (EXCLUSIVE OF EXEMPT RESOURCES)

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- VA - \$150,538.00 (until 11/30/23)
- Medicaid (if single) - \$2,000.00
- If married, \$148,620.00 and one spouse in community
- \*Can be expanded to be much greater if couple's income is less than \$3,715.50 per month. The lower the income, the more that can be kept by the community spouse.\*

# VA COMMON EXEMPT RESOURCES

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- Homestead less than 2 acres unless additional acreage is not marketable
- Personal effects – i.e. appliances
- Car
- Consider asset protection trust for home if VA recipient plans to sell homestead

# MEDICAID COMMON EXEMPT RESOURCES

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- Homestead - \$688,000.00 equity limit if single, no limit if married
- Automobile
- Pre-need funeral
- Burial spaces
- Mineral rights (< \$6,000.00 & > 6% rate of return)
- Everyday household goods and personal items



# COMMON MEDICAID NON-COUNTABLE RESOURCES (CONT'D)

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- Term life insurance
- Whole or universal life (face value \$1,500.00 or less)
- Livestock (business or consumption)
- Business property essential for self support
- Certain traditional IRA's (RMD's)
- Certain immediate annuities

# VETERAN NET WORTH DETERMINATION (INCLUDES INCOME)

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- Assets such as stocks, bonds, checks, savings, personal property (other than primary residence, car, and basic home items)
- Income (including spouse) is included toward \$150,538.00 limit salary, commissions, bonuses, social security, pension, etc.). Rental income, inheritance, less educational or medical expenses without reimbursement

# LONG TERM CARE MEDICAID INCOME LIMIT

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- \$2,742.00 (in year 2023) if gross income of applicant exceeds
- Qualified income trusts (f/k/a Miller Trusts) are used if income > CAP

# ESTATE RECOVERY

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- VA – none
- Medicaid – claim against home (there are exceptions), car and other non-countable resources that pass by probate (use enhanced life estate deed or transfer on death deed to avoid successful claim on home)

# SOME EXCEPTIONS TO MEDICAID ESTATE RECOVERY

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- Surviving spouse
- Child < 21
- Blind or disabled child of any age
- Unmarried adult child living in recipient's home at least 1 year before recipient's death
- If not cost effective (non-countable resources worth < \$10,000.00)
- If amount of claim is < \$3,000.00
- If business or farm which produces at least 50% of family's livelihood



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