

Family Caregiver Agreements and use of Real Estate

New Veterans Administration Regulations

Effective October 18, 2018

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New Veteran Administration Regulations

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Found at:

<https://www.federalregister.gov/documents/2018/09/18/2018-19895/net-worth-asset-transfers-and-income-exclusions-for-needs-based-benefits>

New Veteran Administration Regulations

Highlights

- Lookback for transfers after October 18, 2018 for less than fair market value

LOOK BACK

- General asset limit: \$123,600. The primary home is exempt on a lot up to two acres



New Veteran Administration Regulations

Highlights

- Keep receipts and all documentation for payment of care at home (or in a facility)
- 95% of unreimbursed medical expenses are an offset against income



New Veteran Administration Regulations

Highlights

- Most care at home is essentially ADL or IADL
 - This will only count as a medical expense if the physician (physician assistant, certified nurse practitioner or clinical nurse specialist) states that the individual requires health care or custodial care that the in-home attendant is providing due to a physical, mental, developmental or cognitive disorder.
 - The attendant must actually provide the health care or custodial care.
 - Payments must be commensurate with the number of hours that the provider tends to the disabled person.



New Veteran Administration Regulations

Highlights

- The attendant must be a health care provider unless ... disabled individual needs aid and attendance or is “housebound” or ... the physician, etc., states in writing that due to a physical, mental, developmental or cognitive disorder, the individual requires the health care or custodial care that the in-home attendant provides.



New Veteran Administration Regulations

Highlights

- Payment must be reasonable for the in-home care at the hourly rate not to exceed the average hourly rate for home health aides published in the market survey by MetLife Mature Market Institute.
 - Note: last published rate we could find was dated November 2012



New Veteran Administration Regulations

Highlights



- Period of Penalty
 - Will be the amount of uncompensated transfer divided by the pension payment to a single veteran with one dependent.
 - In 2018, that figure is \$2,000 per month
 - A gift of \$24,000 divided by \$2,000 equals 12 months of ineligibility starting with the month after the date of the gift
 - There can be cures of the gift



New Veteran Administration Regulations Highlights

- Life Estates Not Addressed
- Trust and annuities – unless the disabled person can fully redeem the annuity or trust, then it will be counted as an uncompensated transfer
 - Note: This is different than the Medicaid Rules