

December 20, 2011

INCOME THRESHOLDS AND CLINICAL CRITERIA USED IN IDENTIFYING VETERANS EXEMPT FROM EXTENDED CARE SERVICES AND OUTPATIENT MEDICATION CO-PAYMENTS AND IN DETERMINING ELIGIBILITY FOR BENEFICIARY TRAVEL

1. PURPOSE: This Veterans Health Administration (VHA) Directive provides the Calendar Year (CY) 2012 income threshold to be used in identifying Veterans who are exempt from co-payment requirements that apply to the receipt of extended care services. This Directive also provides the income thresholds to be used in determining a Veteran's eligibility for beneficiary travel benefits and exemption from the co-payment for medications furnished on an outpatient basis, and the clinical criteria for determining whether a Veteran is in need of the aid and attendance (A&A) of another person, or is housebound.

2. BACKGROUND: The law requires that the applicable pension rate, as defined under Title 38 United States Code (U.S.C.) 1521(b), be used to determine if a Veteran is exempt on the basis of such income level from the co-payment requirements that apply to the receipt of extended care services. Veterans' pension rates set forth in 38 U.S.C. 1521 are used to determine a Veteran's eligibility for beneficiary travel benefits and exemption from the co-payment for outpatient medications. In October 2011, the Veterans Benefits Administration (VBA) announced that there is a 3.6 percent increase in Department of Veterans Affairs (VA) pension rates for calendar year (CY) 2012.

3. POLICY: It is VHA policy that certain rules concerning exemptions from Certain Co-payments and Eligibility for Beneficiary Travel found in subparagraph 4b must be implemented by January 1, 2012. These are the rules for determining exemptions from co-payment for extended care services, and for determining eligibility for beneficiary travel and the exemption of co-payment for outpatient medications. *NOTE: The income thresholds set forth in subparagraph 4b are adjusted annually and may be found at the following Web site: <http://www4.va.gov/healtheligibility/Library/AnnualThresholds.asp>.*

4. ACTION: Each medical facility Director is responsible for:

a. Ensuring that procedures are in place to identify:

(1) Veterans who are exempt from the co-payment requirements for extended care services.

(2) Veterans who are exempt from the co-payment requirements for outpatient medications.

(3) Veterans who are eligible for beneficiary travel benefits.

b. Ensuring that the following rules concerning exemptions from certain co-payments and eligibility for beneficiary travel benefits; these are applied:

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(1) **Receipt of Pension.** If a Veteran is in receipt of a pension under 38 U.S.C. 1521, the Veteran is co-payment exempt for extended care services and outpatient medication and is eligible for beneficiary travel benefits.

(2) **Extended Care Services.** Veterans are exempt from the co-payment requirement for extended care services if their household income is at, or below, the single Veteran maximum annual rate of pension (i.e., the amount in effect under 38 U.S.C. 1521(b)). The CY 2012 rate is \$12,256.

(3) Outpatient Medication Co-payment Exemption and Beneficiary Travel Eligibility

(a) Veterans are exempt from outpatient medication co-payment requirements and are eligible for beneficiary travel benefits if their household income is at, or below, the maximum annual rate of pension. The CY 2012 rates are:

1. The rate for a Veteran with no dependents is \$12,256.
2. The rate for a Veteran with one dependent is \$16,051.
3. Add \$2,093 for each additional dependent.

(b) In the case of a Veteran determined by a VA clinical assessment to need A&A of another person; as defined by Title 38 Code of Federal Regulations (CFR) 3.351(b), 3.351(c), and 3.352 (a) (see Att. A); the maximum annual rate of pension for a Veteran who is in need of A&A, is used to determine the exemption from outpatient medication co-payment requirements and the eligibility of the Veteran for beneficiary travel benefits. In the case of a Veteran determined by a VA clinical assessment to be housebound (HB); as defined by 38 CFR 3.351(d) (see Att. A); the maximum annual rate of pension for a Veteran who is HB, is used to determine the exemption from outpatient medication co-payment requirements and the eligibility of the Veteran for beneficiary travel benefits. The CY 2012 rates, for a Veteran with A&A or HB, are as follows:

1. The rate for a Veteran with no dependents. A&A = \$20,447 HB = \$14,978
2. The rate for a Veteran with one dependent. A&A = \$24,239 HB = \$18,773
3. Add \$2,093 for each additional dependent.

5. REFERENCES

- a. Title 38 U.S.C. 111.
- b. Title 38 U.S.C. 1503.
- c. Title 38 U.S.C. 1521.
- d. Title 38 U.S.C. 1710B.

- e. Title 38 U.S.C. 1722A.
- f. Title 38 CFR 17.108.
- g. Title 38 CFR 17.110.
- h. Title 38 CFR 17.111.
- i. Title 38 CFR 3.351(b).
- j. Title 38 CFR 3.351(c).
- k. Title 38 CFR 3.351(d).
- l. Title 38 CFR 3.352 (a).

6. FOLLOW-UP RESPONSIBILITY: Chief Business Officer (10NB) is responsible for the content of the Directive. Questions may be referred to (202) 461-1589.

7. RESCISSION: VHA Directive 2011-033 is rescinded. This VHA Directive expires December 31, 2016.

Robert A. Petzel, M.D.
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ATTACHMENT A

AID AND ATTENDANCE OR HOUSEBOUND CLINICAL DETERMINATION

1. The aid and attendance (A&A), or housebound (HB) clinical determination must be used for determining the applicable income threshold to be used in determining a Veteran's exemption from the medication co-payment requirement and beneficiary travel eligibility.

2. The Veteran must meet the definition of A&A as defined by Title 38 Code of Federal Regulations (CFR) 3.351(b), 3.351(c), and 3.352(a).

a. For A&A consider the Veteran:

(1) Is blind or so nearly blind as to have corrected visual acuity of 5/200 or less, in both eyes, or concentric contraction of the visual field to 5 degrees or less;

(2) Is a patient in a nursing home because of mental or physical incapacity;

(3) Lacks the ability to dress, undress, or to keep ordinarily clean and presentable;

(4) Needs frequent adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid (this does not include the adjustment of appliances which normal persons would be unable to adjust without aid, such as supports, belts, lacing at the back, etc.);

(5) Lacks the ability to feed oneself through loss of coordination of upper extremities or through extreme weakness;

(6) Lacks the ability to attend to wants of nature; or

(7) Lacks the capacity, physical or mental, which requires care or assistance on a regular basis to protect the Veteran from hazards or dangers incident to the Veteran's daily environment.

b. Bedridden is a proper basis for the determination of A&A. For the purpose of this Directive, "bedridden" is that condition which, through its essential character, actually requires that the Veteran remain in bed. The fact that the Veteran has voluntarily taken to bed or that a physician has prescribed rest in bed for the greater or lesser part of the day to promote convalescence or cure does not suffice. It is not required that all of the disabling conditions enumerated in this paragraph be found to exist before a favorable determination of A&A may be made. The particular personal functions which the Veteran is unable to perform need to be considered in connection with the Veteran's condition as a whole. It is only necessary that the evidence establish that the Veteran is so helpless as to need regular A&A, not that there be a constant need. Determinations that the Veteran is so helpless as to be in need of regular A&A are not based solely upon an opinion that the Veteran's condition requires the Veteran to be in bed; they must be based on the actual requirement of personal assistance from others.

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3. The Veteran must meet the definition of “permanently housebound” as defined by 38 CFR 3.351(d). The maximum rate of pension with HB is used to determine exemption from medication co-payment requirements and eligibility for beneficiary travel benefits. In addition to having a single permanent disability rated 100 percent disabling under the Schedule for Rating Disabilities, the following applies to HB.

a. The Veteran must:

(1) Have an additional disability or disabilities independently ratable at 60 percent or more, separate and distinct from the permanent disability rated as 100 percent disabling and involving different anatomical segments or bodily systems; or

(2) Be substantially confined to the Veteran’s dwelling and the immediate premises; or

(3) If institutionalized, be confined to the ward or clinical area.

and

b. It is reasonably certain that the Veteran’s disability, or disabilities, and resultant confinement will continue throughout the Veteran’s lifetime.