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## 10 Common Mistakes in Estate Planning - Avoid the Pitfalls

Estate planning seems like it should be simple. It can be deceptive, though. Here are ten mistakes people commonly make that can cause chaos for you and/or your family later.

### Mistake #1: Procrastination and Failure to Plan at All

Many people know they should have a proper estate plan in place but think they are too young, do not have enough assets to worry about, or will just get to it later. The truth? Everyone over the age of 18 should have their estate plan in place which should include, at a minimum, the following documents:

1. Health Care Power of Attorney. This is a document which designates someone to make medical decisions for you if you cannot.
2. Living Will. This is a document which specifies what kind of medical treatment you would or would not want, particularly in an end-of-life circumstance.
3. Financial Power of Attorney. This is a document which authorizes someone to manage and handle your financial matters and affairs (outside of a Trust) either with you or if you cannot, depending on how you set up the power of attorney.
4. Last Will and Testament or Trust. A Will is effective on death and nominates someone after your death to marshal your estate assets, pay valid debts and expenses, and distribute the net estate, if any, to the person(s) or organization(s) you designate in the Will. By contrast, the most common type of Trust used for estate planning and probate avoidance purposes is effective during lifetime and thereafter. This is a written agreement where you (Trustor) establish the Trust, transfer ownership of assets to the Trust, and designate a Trustee (typically yourself) and successor Trustees to manage Trust assets for your benefit during your lifetime. The Trust will also designate the beneficiaries of the Trust after your death, just like a Last Will and Testament.

If you die without a Will, Arizona intestate laws designate your heirs, which may or may not be the person(s) you assume or desire. You should choose your heirs, not the legislature.

### Mistake #2: DIY - Do It Yourself Planning

Estate planning is more than just creating documents. It involves understanding the whole picture of your finances, family dynamics, and personal goals and then determining the best legal structure(s) to accomplish your objectives. You cannot properly plan your estate on your own using software or internet forms. You should also beware of documents prepared by “trust mills” or other non-lawyers. Unless you are a licensed electrician, you wouldn't likely consider re-wiring your own home. Similarly, if you are not an estate

planning attorney, you should not consider preparing your own estate planning documents. Often times, the mistakes are discovered too late and result in what would otherwise be unnecessary legal proceedings and/or litigation, or the equivalent of burning the house down.

**Mistake #3: Failure to Update Estate Planning Documents**

Over time, your family dynamics, testamentary wishes, assets, and tax laws will likely change. If you do not routinely review and update your estate plan accordingly, your estate plan may not actually work the way you initially intended and/or the "wrong" person(s) may inherit from you!

**Mistake #4: Failure to Coordinate Non-Probate Assets with the Overall Plan**

Your Will or Trust will only distribute assets which they control. For example, your Trust only controls the testamentary distribution of assets owned by the Trust. Similarly, your Will only controls the distribution of assets that are titled to you, individually, at your death that are not otherwise controlled by joint ownership, transfer on death, pay on death, or beneficiary designation. In other words, the Will only controls distribution of assets that are not first otherwise told where to go at death by title or beneficiary designation. The distribution of life insurance, annuity and retirement proceeds simply must be coordinated with the entire estate plan to avoid unintended results and provide estate liquidity, where necessary. By way of example, if you have a Will that provides that upon your death, your estate shall be distributed to your two (2) children, in equal shares, but your life insurance policy designates only one (1) child as 100% primary beneficiary, that child will inherit the insurance proceeds, not both children.

**Mistake #5: Failure to Properly Fund Your Trust**

If you have a Trust, it can only be used to manage Trust-owned assets. If you die with your home or other assets titled in your name, individually, and not titled to the Trust, a probate may still be required. In Arizona, a probate is required if an individual dies with more than \$75,000.00 in personal property (i.e., bank and brokerage accounts, vehicles, etc.) or more than \$100,000.00 in equity in real property in their name, individually.

**Mistake #6: Failure to Plan for Contingencies, Such as People Dying "Out of Order"**

All governing documents (including the Will, Trust, and all beneficiary designations on retirement assets, annuities and life insurance policies) should cover contingent situations such as a predeceasing spouse or children. If minors or incapacitated persons could conceivably inherit, a Trustee or custodian should be considered.

**Mistake #7: Failure to Deal with Blended Family Issues and Potential Contests**

"I won't have any trouble with my husband's kids when he dies -- I get along great with his kids."

"I have an estranged child that I haven't spoken to in years and he will not show up after my death and create a problem."

Please, don't count on it! Plan for the worst and then hope for the best.



**Mistake #8: Failure to Plan for Potential Incapacity**

Unfortunately, a common perception is that estate planning is only for death planning. However, proper estate planning is for both life and death planning. A Financial Power of Attorney will allow you to select in advance who will handle your financial affairs in the event of your later incapacity. Likewise, a Health Care Power of Attorney will allow your selected person to arrange for medical care if you become incapacitated. Failure to have these two documents could mean that a costly guardianship or conservatorship court proceeding(s) would be necessary. If you do not want to be kept alive on life support if your condition is terminal or irreversible, you should also be certain to have a Living Will.

**Mistake #9: Failure to Consider Using a Trust as Part of Your Estate Plan**

Many people believe they do not have enough money to justify using a Trust. However, proper estate planning does not necessarily depend just on how much you have. Rather, it is about how you handle what you do have, your personal circumstances, goals and objectives. A Trust can be a very valuable tool to minimize estate tax liability for married couples, avoid probate if properly "funded", and provide the best vehicle to authorize someone to manage your assets for you during your lifetime if you cannot (Successor Trustee vs. Agent under power of attorney). A Trust can also protect you against financial exploitation and mismanagement should you later become incapacitated for any reason, such as dementia or Alzheimer's disease.

**Mistake #10: Failure to Leave the "Bread Crumbs"**

So, let's say you have great estate planning documents in place. If you do not, however, advise your designated successors in charge (Agent, Personal Representative, or Trustee) of all information regarding the identity and location of your assets (real property, life insurance policies, bank and brokerage accounts, annuities, vehicles, etc.) or let them know where they can locate said information, you are making their job increasingly difficult. They may not even locate all assets, particularly digital assets with passwords. To prevent this, make sure you have a list of assets and all online user names and passwords, and that the appropriate family member, professional, or trustee has access to the information. If your goal is to make the transition and post-death estate or Trust administration as easy as possible for your family, this is where a trusted advisor and/or estate planning attorney can bring added value.

**You owe it to yourself – and more importantly to your family – to avoid mistakes and get a proper estate plan in place by working with an experienced estate planning attorney. Otherwise, the legacy you leave may be one of chaos for your family to clean up.**

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### *Arizona Long Term Care System (ALTCS): Frequently Asked Questions*

**What is ALTCS?** Arizona Long Term Care System (“ALTCS”) is part of the Arizona Health Care Cost Containment System (“AHCCCS”). AHCCCS is the state program that implements the Federal Medicaid program which is a health care program for the poor. ALTCS provides acute and long term care services for persons who are elderly (over age 65), physically disabled or developmentally disabled. Nationwide, the Medicaid program pays for over half of all nursing home costs.

**What does ALTCS pay for?** ALTCS offers a complete array of acute medical, skilled nursing, assisted living, home health, behavioral health services, home and community based services, and case management services to all eligible persons. Services are coordinated and provided by an ALTCS program contractor selected by the applicant.

**Who qualifies for ALTCS benefits?** Unlike Medicare, eligibility for ALTCS (Medicaid) is needs based. Applicants must be medically and financially needy to qualify for benefits. In addition to meeting the medical and financial criteria, an applicant must also meet the following conditions to receive benefits:

1. Age (65 or older or under 18), blindness, or disabled;
2. Be a U.S. Citizen or lawful resident alien;
3. Be an Arizona resident (physical presence and intent to stay);
4. Must apply for all other potential benefits, such as pensions or VA benefits, and;
5. Be in an ALTCS approved type of living arrangement.

**What is the medical criteria?** Elderly or disabled applicants must be at risk of institutionalization, and require substantial assistance with activities of daily living. Medical eligibility is determined by a pre-admission screening (PAS) conducted by an AHCCCS nurse and/or social worker. The pre-admission screening consists of both a functional and medical assessment. The primary consideration is the applicant’s ability to perform his/her activities of daily living (ADL’s). These include mobility, transferring, toileting, dressing, feeding, bathing and grooming. The applicant’s diagnosis, sensory function, orientation, emotional/cognitive behavior and needed medical services and treatments are also scored. Typically, individuals who meet ALTCS medical criteria frequently present with a combination of the following needs or impairments: require skilled nursing care; require regular medical monitoring, require prompting, supervision, or hands-on assistance for ADL’s due to cognitive impairment (e.g., Alzheimer’s disease and/or dementia) or physical disability, incontinence, and/or psychosocial deficits.



**What is the 2019 financial criteria?** ALTCS applicants must meet BOTH the income and resource criteria, dependent on marital status.

### **2019 Income Criteria**

Single persons will qualify if gross monthly income is less than \$2,313.00. Married persons will qualify if the applicant spouse's gross monthly income is less than \$2,313.00, or if both spouses' gross monthly income is less than \$4,626.00.

*What if the income is greater than above?* The applicant may still qualify by establishing and properly using an Income Only Trust (also known as a Miller Trust). If you require an Income Only Trust, be certain to seek advice of legal counsel.

### **2019 Resource Criteria**

*Countable Assets:* Countable assets generally consist of bank, investment, and retirement accounts, life insurance (cash value), stocks, bonds, cash on hand, and real property and/or land that is not also the applicant's primary residence. A single applicant cannot have more than \$2,000.00 in countable resources to qualify for ALTCS. The rules are more complex for a married. For a married couple, all countable assets are added together (regardless of which spouse is the owner) as of the first month the applicant spouse met medical criteria, and that total is divided in one-half. This is the allowable Community Spouse Resource Assessment ("CSRA"). Note, however, that the CSRA may not exceed the maximum of \$126,420.00, or be below the minimum of \$25,284.00. In addition to the half that the spouse may retain, the applicant may also retain \$2,000.00 in resources. Under most circumstances, if both spouses in a marriage are applicants, then each is limited to \$2,000.00 in resources.

*Non-countable Assets:* Certain resources are considered excluded and therefore may be retained in addition to the allowable countable resources described above. In general, these resources include the primary residence (applicant's interest may not exceed \$585,000.00), one automobile, certain burial funds or irrevocable burial plans, burial plots, household goods and personal effects, special needs trust (established under 42 USC 1396(p)(d)(4)), Medicaid compliant annuities<sup>1</sup>, and a few other items.

**Do I need an attorney?** Yes. If you or your loved one is currently receiving skilled care, assisted living, adult care home or home health care or may be in the future and you are concerned about affording such care you should seek the legal advice of an attorney with knowledge and experience in Medicaid planning. Despite popular myth, Medicare has very limited long term care benefit (100 days max in skilled nursing facility) and no benefit paid for memory care, assisted living, or on-going non-medical home health care. Medicaid (ALTCS) benefits can be vital to affording qualify long term care services whether at home or in a facility setting. *Proper legal advice can make the difference between impoverishment and financial stability in the face of long term care expense.*

***More specifically, you should seek advice of counsel in the following circumstances:***

1. You need an Income Only Trust (also known as a Miller Trust);
2. You own real property;

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<sup>1</sup> Do not purchase a Medicaid compliant annuity without prior consultation of an experienced elder law attorney: the federal and state laws are very strict, and non-compliance will result in a transfer penalty (i.e., ineligibility).

3. You have any amount of “excess” countable resources;
4. You are considering making any gift/transfer of assets, or the ALTCS applicant has made a gift/transfer in the last 5 years;
5. You have already submitted an ALTCS application, and were denied;
6. The ALTCS applicant is married and preservation of assets is desirable to provide for the “well-spouse”.
7. You would like to avoid AHCCCS Tefra lien and/or estate recovery rights.
8. You want to ensure your ALTCS application is not denied, as most (over 70%) are.

**What happens if my parents give away or transfer excess assets to qualify for ALTCS?** A person who gives or transfers an asset for less than fair market value 5 years prior to applying for AZ ALTCS must disclose the gift/transfer at time of application; this is known as the “look back period”. The actual penalty, or number of months the applicant will be ineligible for services depends on the value of the gift/transfer. AHCCCS then calculates a period of ineligibility by dividing the total amount transferred by the average monthly cost of care in the county as determined by ALTCS, which is currently \$7,134.44 in Maricopa, Pima, or Pinal Counties, and \$6,307.44 in all other Arizona counties. The resulting figure is the number of months of ineligibility, beginning the month of application.

There are limited instances in which gifts/transfers do not result in a period of ineligibility, such as transfers to/from a spouse, transfers to a disabled child or to a trust for a disabled child’s benefit, transfers to a Special Needs Trust pursuant to 42 U.S.C. 1396p(d)(4)(A) or (C) for disabled persons under age 65, transfer of an excluded resource other than a home, and gifts/transfers not made with the intent to qualify for Medicaid/ALTCS benefits. In addition, any gift made prior to 60 months before applying for ALTCS benefits will not result in the imposition of a period of ineligibility.

In some instances, gifts/transfers can be a valuable asset preservation strategy. However, any gifts/transfers for purposes of Medicaid planning should not be made without legal advice.

*If there have been or you contemplate making gifts/transfers prior to applying for ALTCS benefits it is imperative you seek advice of experienced legal counsel.*

**Will ALTCS take my house?** Not necessarily. In most instances and with proper advance planning lien and estate recovery against real property can be avoided.

ALTCS has certain limited rights to recover against the applicant’s home property, known as: (1) TEFRA lien, and (2) estate recovery program.

### **Liens**

Arizona may impose liens for ALTCS recipients who are permanently institutionalized (i.e., residing in a skilled nursing facility) for at least 90 days. AHCCCS may place a lien on the recipient’s interest in real property during their lifetime, including property owned by a life estate deed and/or subject to a beneficiary deed. AHCCCS shall seek to recover the lien upon the sale or transfer of the real property subject to the lien. However, a lien may not be imposed or a claim recovered on a member’s home if any of the following individuals are lawfully residing in the home: spouse, individual’s child under the age of 21, or blind or disabled child, or an individual’s sibling (who had an equity interest in the home), and who was residing in such individual’s home for a period of at least one year immediately before the date the individual was admitted to a medical institution. In addition, AHCCCS shall not seek to recover the



lien or attempt recovery against any real property subject to the lien so long as the member is survived by the member's spouse, child under the age of 21, or disabled child. AHCCCS shall also not seek to recover a lien on an individual's home if the member is survived by a sibling who resided in the deceased member's home and who was residing in the home for at least one year before the member's institutionalization, or a child resides in the home who lived there for at least two years immediately before the admission to a nursing home and provided care to the parent, which allowed the parent to reside at home rather than in an institution.

### **Estate Recovery**

If a person has received services through the ALTCS program after the age of 55, then AHCCCS will have a claim to recover the cost of services rendered to that individual during his or her lifetime against assets subject to probate. ALTCS will only recover against the probate estate as defined by Arizona law and will not recover against joint tenancy property, life insurance proceeds or designated beneficiaries on pension plans or IRA's. ALTCS will not implement any estate recovery if applicant is survived by a spouse or disabled child of any age.

#### **May I purchase non-countable assets to "spend down" the excess assets?**

Yes, you may pay off debts and purchase non-countable assets in order to spend down to your allowed countable resource limit.

**Will ALTCS decide where I will live?** No, the applicant or his legal representative will determine where the applicant resides and receives services. Note, however, that if the applicant resides outside the home, the placement selected must be an ALTCS certified living arrangement.

**If I receive ALTCS, will the state take over my social security and pension?** No, the state does not literally take over your monthly income or accounts. The ALTCS program rules will, however, prescribe how much is required to be paid in share of cost, room and board, out of pocket medical expenses, spousal allowance (if applicable), and/or spending allowance.

**How much will I have to pay for my care while on ALTCS?** Persons receiving ALTCS paid services may be obligated to pay a portion of their income towards their care. The state recognizes that the ALTCS recipient will need their income when they reside at home. Therefore, the state allows the recipient to keep their income to help pay for the costs to live at home and receive ALTCS paid services, unless an Income Only Trust is required and then perhaps a share of cost would be charged. However, when the recipient is in a residential setting like a skilled nursing center, or an assisted living facility, the recipient must pay a portion of their monthly income for services. If the recipient is in a skilled nursing center this amount is called "Share of Cost" and it is determined by ALTCS. If the recipient resides in an alternative setting (e.g. adult care home, assisted living, or adult care home), this amount is called the "Room and Board", and is determined by the program contractor.

The share of cost/room and board amount will vary from person to person, depending on the amount of the recipient's monthly income, out of pocket-medical expenses, marital status, and living arrangement. Generally speaking, single recipients pay the facility the amount of their monthly income, less medical insurance costs, out-of-pocket medical expenses, and Personal Needs Allowance (PNA) of \$112.50. With married persons, the recipient's spouse may also be entitled to keep a portion of the recipient's income, known as the community spouse monthly income allowance (CSMIA). A community spouse is entitled to a monthly income of at least \$2,057.50 and no more than \$3,160.50, depending on certain

facts and so long as the income is actually made available to the community spouse. If the spouse does not earn enough on his/her own to cover this amount, then the spouse is entitled to draw enough money from the recipient's income to make up the difference. All of the recipient's remaining monthly income, after payment of the PNA, CSMIA, medical insurance costs, and out-of-pocket medical expenses shall be paid to the recipient's placement. Note, Share of Cost/Room and Board is never assessed against the spouse's income.

**At Bivens & Associates, P.L.L.C., we have helped hundreds of clients qualify for ALTCS benefits to protect and preserve their hard-earned assets while ensuring they receive quality care. Experience and compassion matters! Call us to schedule an appointment today.**

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***NOTE:** This is a basic general outline only and the numbers and rules are always subject to change. These numbers are effective as of 1/01/2019.*



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## 2019 VETERANS AID AND ATTENDANCE PENSION BENEFITS

### I. What are Veterans Aid and Attendance (A&A) Pension Benefits?

The "Aid and Attendance Pension" is a little known cash benefit paid in addition to low income pension to certain wartime veterans or their widows, who have *non-service connected disabilities*. This Pension benefit was established in 1952 under Title 38 U.S.C. to provide qualified veterans and their surviving spouses with a tax free pension benefit to help defray the cost of long-term care in assisted living facilities or at home. The Veterans Aid and Attendance Pension benefits can make a big difference in the ability of the Veteran or Veteran's surviving spouse to afford basic costs of living, an in-home caregiver in order to be able to stay at home, or to afford to live in an assisted living facility of their choice.

The VA has established minimum income limits and if the Veteran's or surviving spouse's "net" income after deducting medical expenses is under the established amount, the VA will pay the difference to bring the Veteran or surviving spouse up to the established amount. In general, if medical expenses exceed 5% of that limit, they can be deducted to reduce income and increase level of pension.

### II. What are the qualifications for A&A Pension Benefits?

There are three criteria for qualifying for A&A benefits:

- A. Qualifying Military Service
- B. Medical Necessity
- C. Financial Eligibility: Net Income and Net Worth

### III. Qualifying Military Service

Generally, the Veteran must have the following military service:

- A. Veteran was discharged from service under conditions other than dishonorable, **AND**
- B. Veteran served at least 90 days of active military service, one (1) day of which was during a war time period.

War Time Periods:

**World War I.** April 6, 1917, through November 11, 1918, inclusive. If the Veteran served with the United States military forces in Russia, the ending date is April 1, 1920. Service after November 11, 1918, and before July 2, 1921, is considered World War I service if the Veteran served in the active military, naval, or air service after April 5, 1917, and before November 12, 1918.

**World War II.** December 7, 1941, through December 31, 1946, inclusive. If the Veteran was in service on December 31, 1946, continuous service before July 26, 1947, is considered World War II service.

**Korean conflict.** June 27, 1950, through January 31, 1955, inclusive.

**Vietnam era.** The period beginning on February 28, 1961, and ending on May 7, 1975, inclusive, in the case of a Veteran who served in the Republic of Vietnam during that period. The period beginning on August 5, 1964, and ending on May 7, 1975, inclusive, in all other cases.

**Persian Gulf War.** August 2, 1990, through date to be prescribed by Presidential proclamation or law.

**IV. Medical Necessity**

Veteran/widow age 65 or older, or if younger, permanently and totally disabled may be eligible for A&A when:

- A. The Veteran/widow requires the aid of another person in order to perform personal functions required in every day living, such as bathing, feeding, dressing, attending to the wants of nature, adjusting prosthetic devices, or protecting himself/herself from the hazards of his/her daily environment, **OR**,
- B. The Veteran/widow is bedridden, in that his/her disability or disabilities requires that he/she remain in bed apart from any prescribed course of convalescence or treatment, **OR**,
- C. The Veteran/widow is a patient in a nursing home due to mental or physical incapacity, **OR**,
- D. The Veteran/widow is blind, or so nearly blind as to have corrected visual acuity of 5/200 or less in both eyes, and concentric contraction of the visual field to 5 degrees or less.



## V. Financial Eligibility

### A. Income.

**Income** includes income received by the Veteran and his or her dependents, if any, from most sources. It includes earnings, disability and retirement payments, interest and dividends, and net income from farming or business.

### B. Net Worth

**Net worth** limit for claimant and their dependent, if any, is \$127,061.00. Net worth is the value of the Veteran's and dependent's countable assets plus the annual net income. Net annual income is the equivalent of the claimant and their dependent's gross annual income, less all applicable deductible medical expenses.

Example: Single Veteran has \$120,000 in assets and net annual income of \$9,000. The total of \$129,000 exceeds net worth limit of \$127,061. Veteran is not eligible.

## VI. Look Back and Transfer Penalty Rules

*\*VA will disregard asset transfers made before October 18, 2018\**

**Look Back Period is 3 years\*:** Claimants must disclose any asset transfer that occurred within 3 years prior to application.

**Transfer Penalty Period\*:** The amount of the transfer which is subjected to penalty is known as the "Covered Asset". Covered asset is the asset that was part of claimant's net worth (\$127,061.00), that was transferred for less than fair market value, and if not transferred would have caused or partially caused the claimant's net worth to exceed the net worth limit.

Example: Single Claimant has no income and assets total \$115,900. He gifted \$30,000 to a friend. If he had not transferred the funds, his net worth would have been \$145,900. The "covered asset" amount is \$18,839, because this is the amount over the limit (\$127,061).

**Annuities:** The VA considers annuities as instruments where resources are transferred for less than fair market value. Any assets moved into an annuity to help spend down net worth will now be penalized and factored into the three-year look back period if the annuity is incapable of being liquidated. The monthly payments will also be counted as income. If the annuity can be liquidated, then the total annuity amount will be included in total assets.

**Penalty calculation:** Length of Penalty is the equivalent of the amount of "Covered Asset" divided by the maximum pension rate for a veteran in need of A&A with 1 dependent in effect as of the date of the claim, divided by 12, and rounded down. Penalty begins the first day of the month following the gift/transfer.

Exceptions: Fraud, misrepresentation, or unfair business practice related to the sale or marketing of financial products or services for purposes of establishing entitlement to VA pension, or transfer to certain trust for disabled child.

Example:  $\$18,839 \div \$2,230 = 8$  months penalty

**The maximum penalty is five (5) years.**

## VII. How Does VA calculate the A&A pension amount?

The annual A&A pension is calculated by first totaling all of the countable income. Then, any allowable deductions for unreimbursed medical expenses (UME) are subtracted from that total. The remaining countable income is deducted from the appropriate annual A&A pension limit, which is determined by the number of dependents, if any. This amount is then divided by 12 and rounded down to the nearest dollar. This gives the amount of the monthly payment.

If unreimbursed medical expenses (UME) exceed 5% of the maximum benefit amount, they can be deducted to reduce income. The expense for a state-licensed nursing home/assisted living facility is typically the most significant expense. Nursing home expenses are 100% deductible as UME. By contrast, the cost of assisted living or independent living will only be deducted as UME if: (1) the assisted living facility provides “custodial care” which is defined as assistance with at least 2 activities of daily living (ADL’s), or (2) if the facility does not provide assistance with the ADL’s, the claimant contracts with a third-party provider for assistance with ADL’s and the claimant’s physician states in writing that the claimant must reside at that facility to separately contract for said custodial care. General “room and board” expenses are not deductible. Deductible expenses also include Medicare premiums (part B and/or D, in-home care (medical), hygienic supplies (Depends, etc.), adult day care, and supplemental health care premiums. Expenses for the spouse (Veteran’s Pension) are also countable. If he or she is in a care facility, only the medical portion of the costs is a deduction and the portion for room and board is not. In-home care that is medical in nature is also deductible, but housekeeping, laundry, cooking, and shopping assistance are not.

### 2019 Maximum Benefit Amounts

<b>2 Veterans/Spouses</b>	<b>\$2,984 per month</b>	<b>\$35,813 annually</b>
<b>Married Veteran</b>	<b>\$2,230 per month</b>	<b>\$26,766 annually</b>
<b>Single Veteran</b>	<b>\$1,881 per month</b>	<b>\$22,577 annually</b>
<b>Surviving Spouse</b>	<b>\$1,210 per month</b>	<b>\$14,529 annually</b>

#### Examples:

Single Veteran receives \$1,500.00 per month in income, consisting of Social Security retirement and pension. He has \$10,000.00 in savings, plus his home and car. He pays for home health care, costing \$2,000.00 per month. After deducting the \$2,000.00 in medical expense from the \$1,500.00 in income, his net monthly income is zero (no negative numbers). Since he is a single Veteran, his monthly income per the VA should be \$1,881.00. Thus, the VA will pay him \$1,881.00 per month in A&A pension benefit.

Married Veteran and his spouse receive combined incomes of \$3,000.00 per month. They have \$50,000.00 in savings, a house, and a car. The Veteran’s medical expenses total \$2,000.00 per month. After deducting the medical expenses of \$2,000.00, the net income is \$1,000.00. Since a



Married Veteran should be entitled to \$2,230.00 per month, the VA will pay the difference of \$1,230.00 per month in A&A pension benefit.

## VII. How Do You Apply for A&A Pension Benefits?

The application process is long and complicated. It is best to get help before application is submitted. Applications may be submitted as follows:

1. Apply online using VONAPP (<https://benefits.va.gov/benefits/vonapp.asp>) Do not use VONAPP if you:

- already receive compensation or a pension
- are applying for an increase in benefits
- have a pending application
- want to notify the VA about dependency or income changes.

2. Download and fill out the documents and send to the regional VA office.

<https://www.va.gov/vaforms/>

- Veterans should use VA Form 21-527EZ (large file)
- Surviving Spouses should use Pension of VA Form 21-534EZ (large file) or

3. Contact a Veterans Service Officer at a regional VA office or call toll free 1-800-827-1000

## VIII. How can we help you?

We can help you determine whether you meet eligibility criteria. If your net worth exceeds the limit we can advise you on the planning options available so you can preserve assets and still qualify for this valuable tax-free income benefit. We can also assist you with the application process. Call our office to schedule an appointment.

***NOTE:*** *This is a basic general outline only and the numbers and rules are always subject to change. These numbers are effective as of 1/01/2019.*

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## BASIC ESTATE PLANNING CHECKLIST

The majority of Americans have not done any estate planning. Of those that have, many plans are outdated. If you want to leave a legacy and not a mess, then ensure your estate plan is in place. Review and update your estate plan with legal counsel every few years, or earlier in the event of certain life changes, including marriage, divorce, birth or loss of a family member. By establishing a relationship with an experienced estate planning attorney and completing your estate plan, you can set forth your wishes for medical and financial management in the event of your incapacity, provide for your heirs upon your death without probate, and minimize family conflict, estate taxes, and legal fees. With advance planning, you may also be able to better protect your assets against the cost of long term care.

The following are a list of estate planning documents everyone over the age of 18 should have:

- Durable Financial Power of Attorney
- Health Care Power of Attorney
- Mental Health Care Power of Attorney
- Living Will
- HIPPA Statement
- Last Will & Testament and Personal Property List

Depending upon your estate, goals, and objectives you may also wish to use either of the following:

- Revocable Trust
- Beneficiary Deed to real property
- Burial Plans Portfolio



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However, documents are not enough. You need to carefully review ownership, pay on death, transfer of death, and beneficiary designations (primary and contingent) on all assets, accounts and policies, as the case may be, to be certain they reflect your testamentary wishes, and coordinate properly with your overall estate plan. Note, if you have a revocable trust you need to retitle certain assets to the trust for probate avoidance; seek advice of counsel. In general, you need to review **all** of your assets, such as the following:

- IRAs, 401(k)s, and other Retirement Assets
- Life Insurance
- Annuities
- Bank and Credit Union Accounts
- Brokerage Accounts
- Stock and bond certificates
- Pension survivorship benefits
- Vehicles
- Real property deeds
- Oil and gas leases and interests
- Time shares
- Business interests

**Bivens and Associates, PLLC is one of the most experienced elder law, estate planning, and special needs planning law firms in the Valley. We can prepare the right estate plan for you, whether simple or complex, to meet your goals and objectives. We also routinely handle probate and trust administration matters, and estate litigation. Please call us or email [info@bivenslaw.com](mailto:info@bivenslaw.com) to schedule an appointment if we can be of assistance to you, and check out our website [www.bivenslaw.com](http://www.bivenslaw.com) for more information and upcoming educational events. NOTE: This checklist does not provide legal or tax advice or constitute an attorney-client relationship; it is designed to provide basic information only regarding the types of basic legal documents you may use to create your estate plan. It also serves as a reminder the documents alone are not sufficient; the ownership and/or beneficiary designations on your assets, accounts, and policies must coordinate and not conflict with you overall plan.**