



National Organization  
of Veterans Advocates



Senior Veterans  
Council

## VA Benefit Update Independent Living Bulletin

VA issued a new Fast Letter (12-23) dated October 26, 2012 which clarifies the Department's policy concerning the deductibility of independent living expenses as Unreimbursed Medical Expenses (UME) used to offset income for Pension qualification. Attached is a copy. After a cursory review, and discussion with VA Case Workers at the Philadelphia Pension Center, here is my summary:

1. VA appears to be clamping down on independent living type cases where meals, emergency pull cords, 24-hour staffing, locked exterior doors etc. are being used as the basis to claim that room and board expenses paid to such facilities are valid UMEs.
2. Under the new policy clarification and in order to deduct room and board expenses (rent) paid to a facility other than a nursing home or assisted living facility, VA is requiring that the facility provide "custodial care". Based on the Department's interpretation of the term under the Medicare regulations, VA considers a facility to provide "custodial care" if it assists a resident with two or more ADLs provided by the attending physician on VA Form 21-2680.
3. Therefore, the cost of room and board at a residential or independent living facility is only a UME if:
  - a. the facility directly provides and bills for "custodial care" to the individual, or
  - b. the individual's physician states in writing that the claimant must specifically reside in that facility in order that "custodial care" (and ADL services) be provided with a third-party provider.
4. As stated in the Fast letter, ***"If the facility does not provide the claimant custodial care, or the claimant's physician does not prescribe care by a third-party in that facility, VA will not deduct room and board paid to the facility but will deduct the cost of any medical or nursing services obtained from a third-party providers."***
5. The new Fast letter applies to all original claims pending on or filed after the date of the letter (October 26, 2012). For running awards, benefits will not be terminated solely based on the elimination of room and board expenses paid to a facility other than a nursing home or assisted living facility, which VA previously counted as a valid UME. That said, if a claimant relocates to a different facility other than a nursing home or assisted living facility, the new procedures will apply.

David Cole  
VA Accredited Agent #18147  
(877) 787-3434 Ext 328  
[davidcolenc@gmail.com](mailto:davidcolenc@gmail.com)