

108 CMR 5.00: DETERMINATION OF BENEFITS

Section

5.01: General Guidelines for Benefits Determination

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5.01: General Guidelines for Benefits Determination

(1) General Rule for Determination of Benefits. Only such amount shall be paid to or for any veteran or dependent as may be necessary to afford him or her sufficient relief or support and such benefits shall not be paid to any person who is able to support himself or herself or who is in receipt of income from any source sufficient for his or her support. The schedule of benefits shall be reviewed and revised periodically by the Secretary and adjusted to assure that the veteran or dependent is paid benefits as may be necessary to afford him or her sufficient relief or support.

(2) Repayment of Veterans' Benefits. The payment of veterans' benefits constitutes a grant of public assistance to the veteran or his or her dependent. In certain circumstances, veterans' agents shall place a recipient who has been overpaid in Refund status in accordance with 108 CMR 8.07 and no agreement for the repayment of such benefits by the veteran or dependent shall be permitted except as provided in M.G.L. c. 115 and in 108 CMR 8.03 and 8.07.

(3) Calculation of Applicant's Budget. The veterans' agent shall prepare a budget setting forth the amounts of the applicant's financial needs in various categories, as described in 108 CMR 5.02. On the basis of this budget, and after taking into consideration alternative sources of income available to the applicant as described in 108 CMR 6.00, the veterans' agent shall make a determination of the amount of benefits which shall be paid to the applicant, notify him or her of the amount and date of payment, and issue a Notice of Determination on a form prescribed by the Secretary.

(4) Pre-approval Living Expenses. The veterans' agent shall, prior to the date of the Secretary's approval of an applicant's application, grant to the applicant payments to meet his or her immediate basic living expenses, in accordance with the Secretary's budget directive. Provided that the veterans' agent has within ten regular days of the application obtained all copies of the veteran's discharge record, has verified the applicant's residence, and has made a substantial effort to obtain all other supporting documents, the payment made under 108 CMR 5.01 shall not exceed the amounts specified for various categories in the budget guides as set forth in the Secretary's Budget Amounts directive.

(5) Excessive Benefits. The veterans' agent may grant benefits to an applicant in excess of the amounts authorized or approved by the Secretary. However, DVS shall not be obligated to reimburse the amount by which the benefits payments exceed the Secretary's authorization or approval.

(6) Duration or Permanency of Applicant's Need. A veterans' agent's decision on granting of benefits shall not distinguish between cases on the basis of the apparent permanency, or duration of the applicant's need for veterans' benefits.

(7) Beginning and Termination of Benefits Payments. If the applicant was paid on a weekly basis while employed, payments shall begin on the 8th day following the applicant's receipt of final wages. If the applicant was paid on a bi-weekly basis, payments shall begin on the 15th day following the applicant's receipt of final wages. Benefits shall not continue beyond the day prior to the applicant's first receipt of wages following new employment. If the wages are inadequate for the applicants' needs in accordance with 108 CMR 5.02, his or her wages shall be supplemented based on the first pay-day.

108 CMR: DEPARTMENT OF VETERANS' SERVICES

5.02: Budget Standards

(1) Application of Budget Standards. In preparing budgets for applicants and recipients, the veterans' agent shall follow standards outlined in the chart at 108 CMR 5.02(2), and use the amounts provided in the Secretary's current Budget Amounts directive. DVS will not authorize or reimburse the amount by which benefits exceed these standards unless DVS has first approved the excess.

(2) Budget Standards Chart. Budgets shall be calculated by using the standards 108 CMR 5.02: Table 2 in combination with the Secretary's Budget Amounts directive.

TABLE 2

BUDGET 1 Applicant Alone	
Applicant Alone	Single Person Benefits
(a) Paying rent/mortgage or mortgage-free home	Shelter allowance
(b) Not paying rent/mortgage per 108 CMR 5.02(3)(b)	No shelter allowance
(c) Paying rent/mortgage with children	Shelter allowance plus children's allowance for each child
(d) Sharing expenses per 108 CMR 5.02(3)(a)	Applicant's share not to exceed budget standard
(e) Any of (a), (c) or (d) above paying fuel per 108 CMR 5.02(2)(10)	Fuel allowance for number of rooms
BUDGET 2 Applicant and Spouse	
Living Together	Receives Married Applicant Benefits
(a) Paying rent/mortgage or mortgage-free home	Shelter allowance
(b) Not paying rent/mortgage per 108 CMR 5.02(3)(b)	No shelter allowance
(c) Paying rent/mortgage with children	Shelter allowance plus children allowance for each child
(d) Sharing expenses per 108 CMR 5.02(3)(a)	Applicant's share not to exceed budget standard
(e) Any of (a), (c) or (d) above paying fuel per 108 CMR 5.02(2)(10)	Fuel allowance for number of rooms
BUDGET 3 Institutional Resident	
Residents of institutions as defined in 108 CMR 2.02, "Institution"	Receives Institutional Budget only, per 108 CMR 5.02(11)
BUDGET 4 Transitional Housing Resident	
Residents of Transitional housing as defined in 108 CMR 2.02, "Transitional Housing"	Receives Transitional Housing Budget, per 108 CMR 5.02(12)
BUDGET 5 Medical Only Budget	
Applicants or recipients of only medical benefits eligible for a medical budget per 108 CMR 5.02(13)	

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(3) Sharing Shelter Expenses.

(a) If at the time of an application, an applicant or recipient can submit proof that he or she is in fact sharing shelter and fuel expenses with one or more persons, that applicant receives a shelter allowance. For items that pertain to household such as rent and fuel, expenses shall be apportioned among all paying members of the household. The benefit paid to the applicant shall not exceed the maximum amount in the Secretary's Budget Amounts directive. Acceptable forms of proof include, but are not limited to leases, mortgage bills, cancelled checks, bank statements, money order receipts, and tax returns.

(b) If an applicant moves into an apartment or home, and cannot prove that he or she is in fact sharing expenses, then he or she shall not be entitled to a shelter allowance or fuel allowance.

(4) Dependent Children Living with Applicant. The applicant shall receive full allowance as published in the current Secretary's Budget Amounts directive for the first two dependent children living with the applicant, and a supplemental amount for each additional child.

(5) Retired or Elder Benefits Amount (REBA). Any applicant and spouse who is retired or totally and permanently disabled shall be entitled to REBA under the following circumstances. REBA allowances are limited to two per application (applicant and spouse).

(a) Those in receipt of the following are eligible:

1. Social Security, Social Security Disability and Supplemental Social Security Income.
2. Federal, State, County, City or Town pension.
3. VA non-service connected pension and widow's pension.

(b) Those who are not eligible: A REBA allowance shall not be granted to an applicant or spouse who is an inpatient in a medical facility or nursing home, and who is receiving payment for personal needs pursuant to 108 CMR 5.02(11).

(6) Shelter Allowance. Only that part of the property which the applicant occupies as a dwelling shall be considered in determining shelter allowances. Proof of shelter expenses shall be submitted with each original Form VS-1. Additionally, proof of shelter expenses shall be submitted with each change of address or rent increase or decrease.

(7) Renting. If the applicant is paying rent, he or she is entitled to the actual rent figure, not to exceed the maximum as listed in the Secretary's Budget Amounts directive.

(8) Paying Home Mortgage. If the applicant owner-occupies his or her home, he or she is allowed the following costs as shelter expense:

- (a) Principal on any mortgages secured prior to application.
- (b) Interest on mortgages secured prior to application.
- (c) Taxes (current and betterment)
- (d) Water and Sewer charges
- (e) Fire insurance premiums
- (f) Reasonable maintenance expense

However, the shelter allowance shall not exceed the maximum shelter figure in the Secretary's Budget Amounts directive. If the applicant owns the property with someone other than a spouse, the applicant shall receive a *pro-rata* share of such expenses.

(9) Shelter-allowance for Mortgage-free Dwelling. If an applicant or recipient inhabits and owns a mortgage-free dwelling, the shelter figure in his or her budget shall be calculated by adding the property taxes (current and betterment), water rates, fire insurance premiums, sewer charges, reasonable maintenance expense, related community association fees, and dividing the resulting total by 12. The figure which results from that division shall be the monthly amount paid to the applicant for shelter, not to exceed the allowable amount in the budget standard chart.

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(10) Fuel. The veterans' agent shall grant fuel benefits for the cost of heating the dwelling only in which the applicant resides. The veterans' agent shall grant fuel benefits for the dwelling accordance with the monthly amounts specified for various sized dwellings (by number of rooms) as indicated in the Secretary's Budget Amounts directive. Bathrooms shall be considered rooms.

(11) Institutional Resident.

(a) If a need is demonstrated, applicants who are institutional residents, as defined in "Institution" 108 CMR 2.02, are eligible to receive benefits payments for personal needs per Budget 3.

(b) In the case of an application by a veteran and a spouse, one of whom is temporarily hospitalized for not more than three months, and the other of whom has shown a need for benefits to cover ordinary living expenses, the veterans' agent shall prepare a full budget for veteran and spouse. However, personal needs benefits shall not be paid to the hospitalized spouse. The budget for the non-hospitalized spouse shall be Budget 1 when the other is hospitalized beyond three months.

(c) An applicant or recipient who lives on a long-term basis in a state-run or other institution shall be paid personal needs benefits, provided that such payments shall be discontinued for as long as the recipient's accumulated and unspent personal needs funds exceed three months' worth of personal needs payments.

(d) On every request for reimbursement of personal needs payments to an institutionalized applicant, the veterans' agent shall state the current balance in the applicant's accumulated personal needs funds account. The veterans' agent shall limit each personal needs request to no more than a three-month period.

(12) Transitional Housing. Residents of transitional housing, as defined in "Transitional Housing" 108 CMR 2.02 are eligible for the Transitional Housing Budget, and rent paid on their behalf by the veterans' agent directly to the transitional residence. The rent amount is set in the Secretary's Budget Amounts directive.

(13) Medical Only Calculation. An applicant or recipient who is over the budget allowance for ordinary benefits and fuel may be eligible for a Medical Only budget. The veteran's agent should calculate the total income from all sources of all family members receiving M.G.L. c. 115 benefits. If that calculation is equal to or less than 200% of the current federal poverty level (FPL) and the applicant or recipient is otherwise qualified, the applicant or recipient shall be eligible for a Medical Only budget. If that calculation is over 200% of the current FPL, the applicant or recipient is in a spend-down category. It is the applicant's or recipient's responsibility to meet that spend-down on a monthly basis, before becoming eligible for medical only budget. The veteran's agent shall also determine if the applicant or recipient is eligible for medical assistance under M.G.L. c. 118E and shall complete applications authorized by the Massachusetts Division of Medical Assistance (DMA) under M.G.L. c. 118E for any applicant or recipient applying for medical assistance under M.G.L. c. 115, and shall file the application for such recipient under M.G.L. c. 118E. The veterans' agent shall assist the applicant or recipient under M.G.L. c. 115 pending assistance from DMA. The Secretary may supplement healthcare assistance pursuant to M.G.L. c. 118E if it is necessary to afford the applicant or recipient sufficient relief and support.

(14) Medicare Part-B. In all cases, eligible applicants and recipients shall apply for Medicare-Part B.

(a) A recipient of veterans' benefits who has the Medicare-Part B premium deducted from his or her Social Security or private pension check shall be reimbursed the Medicare-Part B premium. The reimbursement shall not include any penalty fee or surcharge incurred for applying for Medicare-Part B after the age of 65.

(b) Any recipient of veterans' benefits whose Medicare-Part B premium is paid by a third party shall not be reimbursed the cost for their Medicare-Part B premium.

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(15) Medical Insurance. In all cases existing hospitalization insurance shall be kept in force for the recipient. On new cases where the outlook is for an extended period of time, the veterans' agent may consider payment of hospitalization insurance on a case-by-case basis. The responsibility for obtaining such insurance lies with the applicant.

REGULATORY AUTHORITY

108 CMR 5.00: M.G.L. c. 115.

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