

Offices in
Suffolk and
Virginia Beach, Virginia
Tel: 757-399-7506
Fax: 757-397-1267
Web: www.oasthook.com



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Editor
Sandra L. Smith,
Certified Elder Law Attorney

2012 ELDER LAW NUMBERS BY SANDRA SMITH, CELA

There are several figures of interest to seniors and their families for 2012. They include long-term care spousal standards, annual gift tax exclusion rates, long-term care premium deductibility limits, and Social Security benefit changes.

The Center for Medicare and Medicaid Services (CMS) has announced changes to the long-term care spousal standards that apply to a community spouse. A community spouse is a person who is not an inpatient in a medical institution or a nursing facility, but is married to a person who is an inpatient in a medical institution or a nursing facility (the institutionalized spouse). The standards that changed in 2011 or will change in 2012 include, but are not limited to, the Maximum and Minimum Spousal Resource Standards and the Maximum Monthly Maintenance Needs Allowance (MMMNA).

The Protected Resource Allowance (PRA) (often referred to as the Community Spouse Resource Allowance, but technically this is incorrect), is the amount of assets that the community spouse is allowed to retain when the institutionalized spouse is eligible for Medicaid. The PRA is the greatest of either: (1) the Spousal Share (one-half of the total amount of joint countable assets as of the first day of continuous institutionalization for the institutionalized spouse), or (2) the Maximum Spousal Resource Standard at the time of application, or (3) the amount actually transferred to the community spouse as court-ordered spousal support, or (4) an amount determined at a hearing by the Department of Medical Assistance Services (DMAS). The PRA can be no more than the Maximum Spousal Resource Standard and no less than the Minimum Spousal Resource Standard. The Maximum and Minimum Spousal Resource Standards increase each year based on changes in the Consumer Price Index. On January 1, 2012, the Maximum Spousal Resource Standard increased to \$113,640. The Minimum Spousal Resource Standard increased to \$22,728 on January 1, 2012.

The MMMNA has a minimum allowance amount and a maximum allowance amount. The MMMNA for 2011 was \$1,837.75, effective July 1, 2011, and this amount will remain as the minimum allowance for the first half of 2012. The maximum maintenance needs allowance was \$2,739 in 2011, and this amount will remain the same for the first half of 2012. The community spouse excess Shelter Standard for 2011 was \$551.63, and this amount will remain the same for the first half of 2012. The utility standard deduction (SNAP) changed from 2010 to 2011. For 1 to 3 household members, the utility standard deduction decreased from \$303 per month to \$274 per month effective October 1, 2011, and the utility standard deduction decreased from \$382 per month to \$345 per month for 4 or more household members. The Medicaid minimum home equity limit will be \$535,000, and the maximum will be \$786,000.

The annual gift tax exclusion will remain at \$13,000. This exclusion is the amount that a taxpayer can give to another individual without filing a gift tax return. The IRS established limitations for 2012 and future tax years for the deductibility of long-term care insurance premiums from federal taxes. Premium amounts above the limits are not considered to be a medical expense. For those 40 years of age or less, the maximum deduction is \$350; for those more than 40 years of age to 50 years of age, it is \$660; for those more than 50 years of age to 60 years of age, it is \$1,310; for those more than 60 years of age to 70 years of age, it is \$3,500; and for those over 70 years of age, it is \$4,370. In Virginia, premiums that are not deductible on the federal income tax return can be taken as a deduction on the Virginia state income tax return.

For those on Social Security, there will be a cost of living increase for 2012. The estimated average monthly Social Security benefit payable in 2012 will remain \$1,229. The maximum taxable earnings will increase to \$110,000, and the maximum Social Security benefit will remain \$2,513 per month. The Supplemental Security Income (SSI) federal payment standard will increase in 2012, and it will increase to \$698 per month for an individual and \$1,048 per month for a couple. Most Medicare Part B enrollees will see an increase in their Part B premium payments. The basic premium will be \$99.90 per month, and the maximum Part B premium will be \$319.70 per month (individuals with annual incomes of \$214,000 or more and married couples with annual incomes of \$428,000 or more). Premiums for other individuals will be between the minimum and maximum and will be determined based on annual income for 2012.

The attorneys at Oast & Hook can assist families with their estate, financial, insurance, long-term care, veterans' benefits, and special needs planning issues.

Sandra Smith is an elder law attorney with Oast & Hook, and she practices in the areas of estate planning, estate and trust administration, special needs planning, asset protection planning, long-term care planning, and Veterans' benefits. Ms. Smith is certified as an Elder Law Attorney (CELA) by The National Elder Law Foundation (NELF).

Ask Allie

O&H: Allie, we've heard about a good website for AAA members who have pets. Please tell us about it.

Allie: Sure! PetSpot.AAA.com is a new website that is designed to offer AAA members information and discounts on pet products and services. AAA members can save on products and services for their cats and dogs through the Show Your Card and Save program. Members enjoy 10% discounts on pet supplies at Target.com and 6 percent on Petsmart online orders. If you need prescriptions for your pet that can be filled at a traditional pharmacy, then you may be eligible for a AAA discount. PetSpot.AAA.com can provide pet families with information and tips on traveling with pets, including lists of pet-friendly places to stay as well as a list of emergency animal clinics in the U.S. For more information, please visit PetSpot.AAA.com. What a great idea! I'll have to make sure my mom sees this website; in the meantime I'll check it out myself. See you next week!

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Oast & Hook encourages you to share this newsletter with anyone who is interested in issues pertaining to the elderly, the disabled, and their advocates. The information in this newsletter may be copied and distributed, without charge and without permission, but with appropriate citation to Oast & Hook, P.C. If you are interested in a free subscription to the *Oast & Hook News*, then please e-mail us at mail@oasthook.com, telephone us at 757-399-7506, or fax us at 757-397-1267.

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