

VA Benefits

Pension and Aid & Attendance

What is a Pension?

- Monthly tax free payment to needy wartime veterans
- New regulations effective October 18, 2018

Pension benefits

- ▶ **Monthly Pension Amounts**
 - Veteran with no dependents \$1127/month
 - Veteran with Aid & Attendance \$1880/month
 - Veteran with 1 dependent and A&A \$2230/month

- ▶ **Other Than pension**
 - Free Inpatient Care
 - Free Outpatient Care
 - Eligible for Burial Benefits
 - Prescription Benefit
 - VA Hospital and Pharmacy
 - VA Facilities (Hospitals, Ambulatory Care, Community Based Outpatient Clinics, Vet Centers, Nursing Homes, Residential Treatment Programs)

Eligibility Requirements

- Must be either:
 - 65 or older
 - Totally and permanently disabled
 - Residing in a nursing facility
 - Receiving SSI or SSDI

- Discharged under conditions “other than dishonorable”

- Served during wartime
 - Prior to 1980 - served 90 days active duty with 1 day during wartime

 - After 1980, served at least 24 months or full period and called to active duty with at least one day during wartime period

- Meets asset limit

- Based on need – income cannot exceed Maximum Annual Pension Rate (MAPR)

Eligibility Requirements: Serve in Time of War

- **Wartime Defined**

- Mexican Border Period (May 9, 1916 – April 5, 1917 for Veterans who served in Mexico, on its borders, or adjacent waters)
- World War I (April 6, 1917 – November 11, 1918)
- World War II (December 7, 1941 – December 31, 1946)
- Korean conflict (June 27, 1950 – January 31, 1955)
- Vietnam era (February 28, 1961 – May 7, 1975 for Veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 – May 7, 1975)
- Gulf War (August 2, 1990 – through a future date to be set by law or Presidential Proclamation)

New Pension Regulations

- ▶ Purpose – prevent fraud and preserve the integrity of the pension program”
- ▶ Establish a clear net worth limit of \$123,600 Includes assets of spouse
- ▶ No hardship exceptions
- ▶ Creates a rebuttable presumption that transferring an asset was for purpose of eligibility

Net Worth Asset Test

- ▶ Asset test – previously informal amount of \$80,000, but not applied uniformly. VA looked at life expectancy and income shortfall.
- ▶ Now bright line test – assets cannot exceed Community Spouse Resource Allowance (CSRA) of \$123,600.

When is net worth calculated

- ▶ An original pension claim is filed
- ▶ A new pension claim is filed after a period of non-entitlement
- ▶ A request to add a new dependent to award
- ▶ Other information is received that a Veteran's, his/her surviving spouse or child's net worth has increased or decreased

VA may deny a claim for net worth before determining if claimant meets other entitlement factors

How to Calculate Net Worth

$$\begin{aligned} &\text{Total Net Worth} + \text{Annual Income} \\ &\quad - \\ &\text{Prospective Annual Medical Expenses} \\ &\quad = \\ &\text{Calculated Net Worth} \end{aligned}$$

How to Calculate Net Worth?

- ▶ All countable assets + (annual gross income – allowable unreimbursed medical expenses)

▶ Example:

▶ \$100,000 countable assets
\$30,000 gross income
\$130,000

Exceeds allowable assets and not eligible for pension

- ▶ Can reapply when assets are depleted
- ▶ Veterans must notify VA if income changes; *watch out for overpayments*

Income

- ▶ Includes all income and resources except:
 - Home - with reasonable lot area (2 acres), conversion of exempt to countable if sold, unless reinvested by end of calendar year
 - Vehicle
 - Personal effects
 - Prepaid burials and burial plots
 - Unreimbursed Medical Expenses – must exceed 5% of MAPR (ex. for single veteran – 5% of MAPR is \$676.00)
 - co-payments
 - prescriptions
 - assisted living facilities
 - doctor/dentist visits
 - Medicare costs
 - housebound payments for assistance

Deductible Medical Expenses Defined

- ▶ Medical Expenses
 - Medically necessary and improve a disabled individual's functioning or that prevent, slow or ease an individual's functional decline
- ▶ ADLs and IADLs
 - Activities of Daily Living (ADLs) – Basic self care activities such as bathing, dressing, eating, toileting, transfers, and ambulation within the home
 - Instrumental Activities of Daily Living (IADLs) – shopping, meal preparation, housekeeping, laundry, managing finances, handling medication, using the telephone and transportation for non-medical purposes
- ▶ Custodial Care
 - Regular assistance with 2 or more ADLs or supervision because an individual with a physical, mental, developmental or cognitive disorder requires care or assistance on a regular basis to protect the individual from hazards or dangers incident to his or her daily environment

Unreimbursed medical expenses

- ▶ Previously no statutory definition
- ▶ Nursing home vs. care facility
 - Nursing home – extended care facility licensed by state to provide skilled or intermediate level nursing care
 - Care facility – other than a nursing home such as assisted living, must be staffed 24 hours per day with care providers (licensed or non-licensed)
 - Payments to independent living facilities are NOT medical expenses unless primary reason is to receive health care services
 - Medical expense deduction is based upon the type of care the claimant is receiving in the facility and necessity for individual to be there, not what type of facility it is

In Home Health Care Expenses

- ▶ Payments for assistance with ADLs and IADLs are medical expenses as long as the assistant provides the disabled individual with health care or custodial care.
- ▶ Attendant must be a health care provider unless
 - Disabled individual needs A&A or is housebound, or
 - A physician, physician assistant, certified nurse practitioner or clinical nurse specialist states in writing that due to a physical, mental, developmental, or cognitive disorder, the individual requires health care or custodial care
- ▶ An Adult family member can be paid under a Personal Service Contract to care for claimant if they need custodial care. Do not need to be a licensed care provider

Look Back period

- ▶ Look back period of 36 months
- ▶ Effective date 10/18/2018 – transfers prior to this date will not result in a transfer penalty
- ▶ Amount of assets transferred that **exceed** the net worth limit are subject to penalty
- ▶ Transfers for less than FMV
- ▶ Includes transfer to trust or annuity
 - Those which claimant retains control of and has ability to liquidate are transfers for FMA and not subject to a penalty period
 - Transfer to an irrevocable trust on or after 10/18/18 result in penalty period
- ▶ Penalty is based (for everyone) on MAPR for Aid & Attendance for a married veteran
 - Currently \$2169
 - Penalty starts month after transfer is made
 - 5 year cap on penalty

Look Back Period – Exceptions to Transfer Penalty

- ▶ Result of fraud or unfair business practice
- ▶ Transfer to trust for benefit of child disabled before age 18 and previously determined by the VA to be incapable of self-support
- ▶ Transfer of assets under the net worth limit
 - Example – Veteran has \$110,000. Before applying, he transfers \$100,000 into an irrevocable trust for his children and keeps \$10,000.
 - Transfer would not have made his net worth exceed the maximum of \$123,600, no penalty
- ▶ Full or partial cure of gift if made prior to application or within 60 days of notice of penalty

Effective Dates

- ▶ For entitlement or increased entitlement to pension
 - The day net worth does not exceed the limit
 - Certified statement from claimant needed received within one year from notice of decision from VA
 - Otherwise, effective date is the date VA receives a new claim for pension

- ▶ Reduction or Discontinuance
 - Last day of the calendar year in which net worth exceeds the limit

- ▶ Net Worth Decrease before the effective date
 - If net worth decreases to or below the limit before effective date of a pension award, VA will not reduce or discontinue the award

Calculating Pension

- ▶ Income cannot exceed the Maximum Annual Pension Rate (MAPR) set by Congress
 - For single veteran, current (2016) MAPR is \$13,535
 - Veteran with one dependent, MAPR is \$17,724

- ▶ Pension calculation:
 - Total 12 months estimated future income (countable income)
 - less* 12 months future, recurring medical expenses

- ▶ If adjusted income exceeds MAPR, no benefit

- ▶ If adjusted income is less than MAPR, veteran receives the difference as the benefit

Benefit Calculation: Examples

▶ **Single veteran with no income from any source**

Countable income (total 12 month future income)	0
MAPR	\$13,535
Benefit = entire amount	\$13,535
<i>Divided by 12: Monthly benefit = \$1097 per month</i>	

▶ **Single veteran with \$10,000 income from SSDI and medical expenses**

Medical expenses	\$1676
Less deductible	<u>\$ 676</u>
	\$1000
Total 12 month future income	\$10,000
Less countable medical expenses	<u>\$ 1000</u>
Countable income	\$9000
MAPR	\$13,535
Less countable income	<u>\$ 9000</u>
	\$ 4535

Divided by 12 = benefit of \$377 per month

Housebound/Aid & Attendance

- ▶ Additional benefits beyond the regular pension benefit ceiling to help cover additional costs associated with disabilities
- ▶ Cannot receive both Housebound & A&A
- ▶ Submit VA Form 21-2680 completed by physician
- ▶ Submit any other medical evidence available
- ▶ Housebound – substantially confined to your immediate premises because of permanent disability
- ▶ Includes someone who can leave house only with assistance

Aid and Attendance

- ▶ **Aid & Attendance – Must meet one of the following:**
 - Require the aid of another person in order to perform personal functions required in everyday living, such as bathing, feeding, dressing, attending to the wants of nature, adjusting prosthetic devices, or protecting yourself from the hazards of your daily environment
 - Disability requires remaining in bed apart from any prescribed course of convalescence or treatment
 - Patient in a nursing home due to mental or physical incapacity
 - Eyesight is limited to a corrected 5/200 visual acuity or less in both eyes; or concentric contraction of the visual field to 5 degrees or less

- ▶ **Must need regular (scheduled and ongoing) aid, not 24-hour need**

Housebound / Aid & Attendance Rates

- ▶ **Rates:**
 - Housebound rate –
 - \$16,540 annually for veteran - \$1378/month
 - \$20,731 veteran + one dependent - \$1727/month

 - Aid & Attendance
 - \$22,577 annually for a veteran - \$1881/month
 - \$26,766 veteran + one dependent - \$2230/month

Pension Rates for Housebound/Aid & Attendance

▶ Example:

Single veteran with \$48,000 income

Medical expenses for assisted living/nursing home	
\$6000/month	\$72,000
less deductible - 5% of MAPR	<u>\$ 1098</u>
	\$70,902
Countable income (total 12 month future income)	\$48,000
Less countable medical expenses	<u>\$70,902</u>
	0
MAPR w/ Aid & Attendance	\$22,577
Less countable income	0

Veteran is entitled to the maximum pension amount for Aid & Attendance

Benefits for Spouse/Family Members: **Survivors Pension**

- Also referred to as Death Pension or Improved Pension Program
- Pension for surviving spouse of wartime veteran
- Surviving spouse cannot have remarried
- Income based
- No deadline for applying; use VA Form 21-534EZ
- \$9078 MAPR single w/no dependents
- Cannot receive with other VA benefits

Other Benefits:

Dependency and Indemnity Compensation (DIC) benefits

- Surviving spouse of veteran whose death resulted from a service-connected disability OR
- Surviving spouse of veteran rated totally disabled 10 years prior to death
- \$1,319.04 per month
- Additional payments
 - Each dependent child - \$326.77
 - If veteran was rated at 100% or receiving TDIU for at least 8 years prior to death (and married for at least 8 years) - \$280.09
 - Housebound (surviving spouse)
 - Aid & Attendance (surviving spouse)

Other Benefits:

Disability Compensation

- “Service connected” disability
- Disability rated from zero to 100% (\$3057)
- For veteran only (but additional amount paid for spouse/children if over 30%)

Other Benefits: Disability Compensation

Special Monthly Compensation (beyond 100%/\$3700- \$8510)

- Housebound
 - Must be rated at 100% AND
 - Be permanently housebound due to a service connected condition OR
 - Have an additional rating of at least 60% unrelated to the 100% condition
- Rate is \$3228/month

Other Benefits: Special Monthly Compensation/ Aid & Attendance

- Must be rated at 100% and meet criteria of Special Monthly Compensation parts O or N ½
 - Examples:
 - Physical loss of both eyes and the loss of use of one foot (rated by the VASRD less than 50%)
 - Total blindness without the ability to see light and the loss of use of one foot (rated by the VASRD less than 50%)
 - Total blindness with only the ability to perceive light in one eye and the physical loss of the other eye and the amputation of one foot
- Require the help of another person everyday with dressing, cleaning, grooming, using restroom, feeding, adjusting prosthetic/orthopedic devices frequently, OR
- Disability requires that another person provide care to keep veteran from harming himself intentionally or accidentally, OR
- Veteran is bedridden – condition severe enough that it requires him to always be in bed
- Rates range from \$3804 to \$9136 per month

Other Benefits: Aid & Attendance

- Not provided if individual is hospitalized or in a nursing care facility
- 2 categories for rates
 - Veteran needs someone to assist but person does not have to be a professional
 - Veteran needs a licensed medical professional, and would need to be hospitalized without this care at home

Other Benefits

- ▶ Long Term Care: State Veterans Homes
 - ▶ Must be enrolled in VA health care before applying for long term care
 - ▶ Apply with VA Form 10-10EC or call 877-222-VETS (8387)
 - ▶ Each state establishes its own eligibility and admission criteria
 - ▶ Depends on availability
 - ▶ VA does not pay for room and board in Assisted Living Facilities or Adult Family Homes, but may provide other services

Other Benefits

- ▶ Home & Community Based Services
 - Adult day health care
 - Respite care – up to 30 days/year
 - Medical foster homes – private homes with caregivers
 - Skilled home health care (SHHC) services – short term healthcare for homebound veterans
 - Homemaker/home health aide (H/HHA) services – in home assistance with ADL's
 - Hospice services

QUESTIONS?