

Improved Wartime Pension: Tax-free income for qualified veterans

BY: Michael Fowler Esquire

POSTED: 12:17 PM, Apr 24, 2013

UPDATED: 12:17 PM, Apr 24, 2013

TAG: [st. lucie county \(/topic/st.+lucie+county\)](#)

PORT ST. LUCIE - The availability of monthly cash assistance to veterans whose unreimbursed medical expenses are depleting their income is a little-known and often misunderstood benefit. The benefit we are referring to here is not disability compensation which is paid by the VA to veterans with a service related disability.

The benefit we want to discuss in this brief article is often referred to as low-income, low-asset, improved wartime pension and can provide payments of up to \$2,054 to a married veteran (higher if both spouses are veterans), \$1,732 per month to a single veteran and \$1,113 per month to the surviving spouse of a veteran.

In order to be eligible the veteran must have served at least 90 days of active duty, at least one day of which was during a declared wartime period. The veteran must also have other than a dishonorable discharge.

There is a basic pension amount and then there are increases (or "improvements") in the amount of the payment if the veteran is housebound and a further increase if the veteran needs "the aid and attendance of another human being to avoid the hazards of daily living."

Once we have ascertained that the veteran needs "Aid and Attendance," we then need to look at the assets and income limitations. From an asset standpoint, the veteran is expected to use a certain amount of net worth to pay for his own care, but the VA also recognizes that the veteran should be allowed to retain a certain amount of net worth to sustain himself for the rest of his life and still qualify for the pension.

There is a common misconception that all veterans are allowed to retain \$80,000 of net worth and still qualify for pension (please keep in mind that the residence and certain other items do not count as part of net worth for this purpose). The truth of the matter is that in practice, the standard is much more subjective and varies with the age of the veteran. In other words, the older the veteran, the less net worth needs to be retained to sustain himself for the rest of his life.

Generally, for planning purposes, we try to reduce the veteran's net worth to as low a number as the veteran can be comfortable with so as to maximize the probability of approval of the application.

One of the things to keep in mind in this regard is that, unlike Medicaid qualification, there is currently no look-back period with respect to asset transfers. We oftentimes use irrevocable trusts to which excess assets are transferred so as to qualify the veteran for pension. A trust is not absolutely necessary, the excess assets can be transferred to children or other loved ones, but this is generally not recommended because the assets are not as well protected.

For example, what happens if the child dies, gets divorced, is sued, develops a substance abuse problem, loses their job – you get the point.

The other advantage of this type of planning is that the irrevocable trust can be structured in such a way that the assets are not available resources for Medicaid purposes after the expiration of five years. With respect to a veteran or spouse needing aid and attendance, this type of planning puts the veteran in a position that if they needed skilled nursing care after the expiration of the five years, they would be qualified for Medicaid payment of the skilled nursing facility at that time.

The considerations in the last two paragraphs illustrate one of the reasons why it is generally preferable to use a skilled elder law attorney for this type of planning (please note that the author is double board certified by the Florida Bar in Elder Law and in Wills, Trusts and Estates and is an Accredited VA Attorney – please also note that you can go to the VA website to determine whether persons discussing pension with you are accredited by the VA).

Now, from an income standpoint, if the veteran already has an income of \$2,054 per month or more, the initial VA reaction will be that the veteran cannot get pension, his income already exceeds the maximum pension rate. The key here is to determine "income for VA purposes,"

which is gross income less unreimbursed medical expenses.

For example, if the veteran is in an assisted living facility with cost of care of \$3,500 per month, as long as the income was less than that amount, the veteran would qualify for the maximum pension rate.

If the veteran is not in an assisted living facility, but requires assistance at home, the expenses for that care, unless covered by Medicare, Medicaid, or insurance, are also unreimbursed medical expenses that reduce income for VA purposes.

Sometimes the veteran needs assistance from a child or other relative who does not live in the same household. In that situation, we can help the veteran and the care provider enter into a written personal care agreement and the payments under a properly drafted agreement will also qualify as unreimbursed medical expenses to enable the veteran to receive the pension check.

The Estate, Trust and Elder Law Firm, P.L. in St. Lucie West has free material available. Available material includes, a long-term care planning guide, an estate planning guide, a VA benefits fact sheet, a Medicaid fact sheet, a DVD of the firm's Dec. 5, 2012, seminar discussing Medicaid and VA Aid and Attendance pension benefit. Also available is a CD of recorded audio from an August 2012 teleseminar discussing VA Aid and Attendance pension planning.

To request any of the mentioned materials, please contact Ally Stewart at 772-878-7271 or by email at ally@etelf.com (<mailto:ally@etelf.com>).

This story is contributed by a member of the community and is neither endorsed nor affiliated with TCPalm.

[Print this article](#)