

Guide to Veterans Benefits for Long-Term Care Expenses



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Cover Photo:

U.S. Army Staff Sergeant Irving Ziffer
Company A, 102nd Engineers, 27th Division
July 3, 1918 — Nov. 21, 2008
World War II Veteran
&
Beloved uncle of Attorney Joseph Karp

Recipient of:
Two Purple Hearts
The Presidential Unit Citation
American Defense Service Medal
Asiatic Campaign Medal with Bronze Star
New York State Conspicuous Service Cross and Star

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The information in this booklet is of a general nature. Consult with a Florida Elder Law Attorney who is accredited by the Department of Veterans Affairs in order to determine the best course of action for your particular circumstances.

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Veterans Benefits for Elderly and Disabled Veterans

The Veterans Administration provides cash benefits to elderly and disabled veterans and their widows/widowers.

Many elderly and disabled veterans are aware of Service-Connected Compensation, which is available to veterans who have incurred or aggravated a disability during military service. However, many veterans do not know that there is another kind of V.A. benefit that does not require the veteran to have sustained a disability during military service: *Non-Service Connected Compensation*.



V.A. Pension is considered Non-Service Connected Compensation. So is the V.A. Aid & Attendance program, which may help eligible veterans and their widows/widowers with the high cost of long-term care. Both Pension Benefits, and Aid & Attendance Benefits, are known as “Improved Pension.”

Unfortunately, because Improved Pension Benefits are not widely known and are so poorly understood, thousands of eligible veterans and their widows fail to apply.

This booklet informs you about the eligibility requirements for Improved Pension Benefits.

Eligibility Requirements for Improved Pension Benefits

To be eligible for Improved Pension, a veteran or veteran’s widow(er) must meet both basic requirements and net worth requirements.

Basic Requirements for Improved Pension Benefits

All of the following criteria must be met before a veteran or a widow(er) of a veteran can receive Improved Pension Benefits:

1. The veteran must have served at least 90 days of active service, with at least one day of service during a wartime period. (See chart below for classification of wartime periods.)
2. The veteran must have received a discharge that is other than dishonorable.
3. The veteran must have limited income and assets available.
4. The veteran must be 65 years of age or older, or have a permanent and total disability, and the disability must have occurred without the willful misconduct of the claimant.
5. The veteran or widow(er) must sign an application and submit the application to the Veterans Administration.

The claimant must meet all of the criteria above, except for widowed spouses who may be under the age of 65 and have no disabilities.

Table 1: Classification of Wartime Periods

Wartime Period	Dates
World War II	Dec. 7, 1941 – Dec. 31, 1946. Extended to July 25, 1947 <i>IF</i> the veteran was in service on Dec. 31, 1946. Continuous service before July 26, 1947 is considered World War II service.
Korean Conflict	June 27, 1950 – Jan. 31, 1955.
Vietnam Era	Aug. 5, 1964 – May 7, 1975. Feb. 28, 1961 – May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period.
Persian Gulf	Aug. 2, 1990 – yet to be determined.
National Guard	Does not count as military service unless under Title 10.
Merchant Marine	Dec. 2, 1941—Aug. 15, 1945.

Acceptable Service for Improved Pension

1. Full-time service in the Army, Navy, Marine Corps, Air Force, Coast Guard, Merchant Marines, Women's Corp, Nursing Corp (other than active duty for training).
2. Full-time service as a commissioned officer in the Public Health Service.
3. Full-time service as a commissioned officer at the Coast and Geodetic Survey, Environmental Services Administration, or National Oceanic and Atmospheric Administration (with certain additional qualifications).
4. Service as a cadet at a military academy.
5. Attendance by certain active-duty members at certain preparatory schools associated with military academics.
6. Includes authorized travel to or from such above-duty or service.
7. Certain civilians, serving on Wake Island during World War II, and others.

There are other unusual branches of service that may also qualify.

Additional Basic Requirements for Pension with Aid & Attendance Benefits

Improved Pension Benefits that include Aid & Attendance Benefits require the veteran or veteran's widow(er) to meet all the basic requirements above, plus ONE of these additional requirements:

1. The claimant must be blind.
2. The claimant must be living in a nursing home.
3. The claimant:

Must be unable to dress or undress and keep him/herself clean and presentable; or must be unable to attend to the wants of nature; or must have a physical or mental incapacity that requires assistance on a regular basis to protect the claimant from daily environmental hazards.

Requirements for the Veteran's Widowed Spouse

1. The widow's/widower's deceased spouse must have met all the military service requirements listed above.
2. Spouse must have been officially married to the veteran for at least one year OR had a child by the veteran.
3. Spouse must have been living with the veteran at the time of the veteran's death, unless the separation was for medical reasons or military reasons. Certain other circumstances, like marital abuse, may also be permissible reasons for separation.
4. Spouse must meet all the same requirements for the veteran, i.e., health condition, income and asset requirements.
5. Spouse may not have remarried.

Net Worth Limits

The net worth of the veteran and the veteran's spouse, or the widow(er) of the veteran, may not exceed **\$130,772** (effective Dec. 1, 2020). Net worth limit is based on the Community Spouse Resource Allowance and increases annually to correspond with Social Security and VA benefits increases. Net worth consists of countable assets, plus income (minus unreimbursed medical expenses (UME's)).



Primary Residence

The value of a claimant's primary residence will not be considered an asset even if, in some cases, the claimant is not residing in the primary residence. Accordingly, the VA will not deduct from a claimant's assets the amount of any mortgages or encumbrances on their primary residence. VA will only recognize one primary residence per claimant and the residential lot area cannot exceed 2 acres unless the additional acreage is not marketable. If the primary residence is sold, the VA will consider any net proceeds from the sale as an asset unless those proceeds are used to buy another residence within the same calendar year as the residence was sold.

Other Exempt Assets

1. Any asset that was gifted or transferred prior to October 18, 2018.
2. Prepaid funerals and burial plots.
3. Family transportation vehicles

Countable Assets

Countable assets include the following:

1. Fair market value of property owned by the applicant and if married, the applicant's spouse. Mortgages and other encumbrances are subtracted.
2. Any other asset, for example a trust or annuity, that the applicant has the right to liquidate.

Unreimbursed Medical Expenses (UME)

An applicant's projected 12-month unreimbursed medical expenses are deducted from countable gross income, and the actual payment of those expenses reduces assets. Thus, unreimbursed medical expenses that exceed income impact on total net worth. Unreimbursed medical expenses may include but are not limited to:

1. Medically necessary expenses that improve the functioning of a disabled applicant, or prevent, slow or ease the applicant's decline.
2. Over-the-counter drugs, vitamins, supplements prescribed by a health care provider.
3. Incontinence supplies.
4. Mileage to/from physicians and hospitals.
5. Dental care, eye care, hearing care.
6. Veterinary costs for service animals.

Net Annual UME: Definition

Net annual UME is the annual unreimbursed medical expenses minus 5% of the annual maximum pension amount that corresponds to the category of the applicant: single veteran, veteran with a dependent, surviving spouse, or surviving spouse with a dependent. See the chart on the next page for a list of maximum pension amounts for each applicant category.

Table 2: Veterans Pension and Aid & Attendance Rates
Effective Dec. 1, 2020 Number changes annually with COLA increases

Veteran's Family Situation	Maximum Pension	Maximum Pension with Aid & Attendance Benefits
Veteran	\$1,160	\$1,936
Veteran with 1 dependent	\$1,520	\$2,295
Widow of Veteran	\$778	\$1,244
Widow of Veteran with 1 dependent	\$1019	\$1,484
Veteran permanently Housebound	\$1,418	N/A
Veteran permanently Housebound with 1 dependent	\$1,778	N/A
Widow Permanently Housebound	\$951	N/A
Widow Permanently Housebound with 1 dependent	\$1,191	N/A

Look-Back Period & Penalty Period

There is a 36 month look-back period immediately preceding the date of application. Transfers of non-exempt assets made during this period will be examined. Transfers of non-exempt assets that reduced the veteran's net worth to below the current net worth limit will be used to calculate a penalty period, during which time the applicant is not eligible for benefits. The penalty period begins from the date the last gift was made, not the date of application. The penalty period cannot exceed 5 years.

Calculation of Penalty Period

The total dollar amount of transfers that reduced the applicant's net worth below the asset cap is divided by the monthly maximum Pension with Aid & Attendance for a veteran with one dependent (currently \$2,295 per month). This is the divisor used regardless of the family status of the applicant. The resulting number is rounded down to the nearest dollar.



Example: A veteran with 1 dependent has a net worth of \$180,000. He transfers \$80,000 to his daughter on Jan. 15, 2021. On Jan. 20, 2021 his net worth is \$100,000 and he applies for Aid & Attendance benefits. Had he not made the transfer, his net worth at time of application would be \$49,228 over the asset cap (\$180,000-\$130,772). The penalty period is 21 months (\$49,228 divided by \$2,295, the maximum monthly benefit for a veteran with 1 dependent.).

The Treatment of Trusts, IRAs

Trusts

If an applicant makes a transfer within the look-back to a trust that the applicant does not have the right to liquidate for his/her benefit, the transfer will be used to determine the penalty period. If an applicant has the ability to liquidate the trust, it is considered a countable asset and used to determine the applicant's net worth.

IRA's

Funds in an IRA are considered a countable asset. However, if was annuitized prior to October 18, 2018, resulting in the applicant's inability to liquidate it, it will not be considered a countable asset nor will it be used to calculate a penalty period. If the IRA is annuitized after October 18, 2018 and the applicant has the right only to the income distribution, the converted amount is included in the penalty period, assuming that the converted amount has reduced the applicant's net worth to below the net worth cap.

Exceptions to Transfer Rules

There are two exceptions when transfers do not count when determining penalty periods:

1. When the transfer by an applicant, whether the veteran or the surviving spouse, has been used to set up a special needs trust for the benefit of a dependent child. The child must have become disabled before age 18.
2. If net worth does not exceed \$130,772.

Coordinating V.A. & Medicaid Benefits

Many veterans and surviving spouses who apply for Improved Pension Benefits will likely want to apply for Medicaid benefits for long-term care in the future. It is important to note that the rules for Medicaid eligibility and Aid and Attendance eligibility are different. Therefore, strategies that may help an applicant become Medicaid eligible may negatively impact on Aid and Attendance benefits, and vice-versa. It is always wise to consult an experienced elder law attorney who is also accredited by the V.A. It can save you and your family thousands of dollars.



The Karp Law Firm Attorneys Can Help!

All of the lawyers of The Karp Law Firm are accredited by the U.S. Department of Veterans Affairs.

Our attorneys will help you make sense of the bewildering array of requirements, forms and applications so that you can get the benefits you deserve. Our attorneys will:

1. Chart a course and timeline for applying for benefits.
2. Analyze any of the relevant income tax, gift tax or estate tax issues.
3. Identify the care options available in the local community for both the veteran and spouse.
4. Review Veterans Benefits, Medicare Benefits, and Medicaid Benefits as they apply to your circumstances.
5. Review your personal, financial, and family resources.
6. Analyze the financial suitability of any asset with an eye toward preserving your assets.
7. Submit the V.A. claim form.

Note that the Veterans Administration does not permit anyone to charge for the filing of a V.A. Benefits application.



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