

Guide to Veterans Benefits for Long-Term Care Expenses



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The information in this booklet is of a general nature. Requirements for eligibility and the rules regarding assets and income change frequently. For up-to-date information, visit The Karp Law Firm website:
<https://www.karplaw.com>

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Cover Photo:

U.S. Army Staff Sergeant Irving Ziffer
July 3, 1918 — Nov. 21, 2008
Beloved uncle of Attorney Joseph Karp

Company A, 102nd Engineers, 27th Division
World War Two Veteran
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 & Star

Veterans Benefits for Elderly & 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 poorly understood, thousands of eligible veterans and their widows fail to apply.

This booklet informs you about the 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 financial requirements.

Basic Eligibility Requirements

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 on next page 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 claimant 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 provide the application to the Veterans Administration.

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 – January 31, 1955.
Vietnam Era	August 5, 1964 – May 7, 1975. November 1, 1955 – May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period.
Persian Gulf	August 2, 1990 – yet to be determined.
National Guard	Does not count as military service unless under Title 32.
Merchant Marine	December 2, 1941—August 15, 1945.

Acceptable Service For Improved Pension

1. Full-time service in the Army, Navy, Marine Corps, Air Force, Coast Guard.
2. Merchant Marines, Women’s Corp, Nursing Corp (other than active duty for training).
3. Full-time service as a commissioned officer in the Public Health Service.

4. Full-time service as a commissioned officer at the Coast & Geodetic Survey, Environmental Services Administration, or National Oceanic & Atmospheric Administration (with certain additional qualifications).
5. Service as a cadet at a military academy.
6. Attendance by certain active-duty members at certain preparatory schools associated with military academics.
7. Includes authorized travel to or from such above-duty or service.
8. Certain civilians serving on Wake Island during World War II, and others.

(Other unusual branches of service that may also qualify.)

Additional Basic Requirements

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 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 the same requirements as the veteran, i.e., health condition, income and asset requirements.
5. Spouse may not have remarried.

Financial Requirements

Net Worth Limits

The net worth of the veteran and the veteran's spouse, or the widow(er) of the veteran, may not exceed **\$138,489** (effective Dec. 1, 2022). Net worth limit is based on the Community Spouse Resource Allowance and increases annually to correspond with Social Security and V.A. 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 is not considered an asset even if, in some cases, the claimant is not residing in the primary residence. Accordingly, the V.A. will not deduct from a claimant's assets the amount of any mortgages or encumbrances on the primary residence. The V.A. will only recognize one primary residence per claimant. The residential lot area cannot exceed 2 acres unless the additional acreage is not marketable. If the primary residence is sold, the V.A. considers any net proceeds from the sale to be an asset, unless those proceeds are used to buy another residence within the same calendar year.

Other Exempt Assets

1. Any asset gifted or transferred three years or more prior to the application for benefits.
2. Prepaid funerals and burial plots.
3. Family transportation vehicles.

Countable Assets

Countable assets include the following:

1. Fair market value of property (excluding primary residence) 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. Unreimbursed medical expenses that exceed income can thus reduce net worth and help a claimant qualify for Aid and Attendance benefits.

Long-Term Care As Unreimbursed Medical Expenses

This is often the largest unreimbursed medical expense and may include:

Nursing Home: A nursing home is considered to be any facility that provides extended term, inpatient medical care.

In-Home Aides: The in-home aide must provide some medical or nursing services for the claimant, but need not be a licensed medical professional. Fees paid to the aide for personal care and the immediate environment, such as cooking and cleaning, are also deductible. Personal services contracts entered into with third parties, such as family members, are considered long-term care expenses if they provide necessary services and the party is compensated. Services must be contractually agreed upon and legitimate.

Assisted Living: The cost of an assisted living facility may be deducted from gross income. The facility must show that it is providing "managed health care assistance" or "medical management." Even the cost of an independent living facility may be deductible under certain circumstances.



Other Unreimbursed Medical Expenses

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. Prescriptions: These must be recurring prescriptions, not just the result of an incidental health problem.
4. Insurance premiums for health insurance, Medigap policy premiums, long-term care policy premiums.
5. Transportation to/from doctor's appointments and therapy sessions.
6. Mechanical and electronic devices that are necessary in view of the claimant's disability.
7. Fees for physicians and dentists.
8. Eyeglasses.
9. Day care center expenses so long as the facility provides some medical or nursing services for the disabled—for example, Alzheimer's Day Care.
10. Veterinary costs for service animals.
11. Incontinence supplies.



Net Annual Unreimbursed Medical Expenses: Definition

Net annual UME is determined by totaling annual unreimbursed medical expenses and subtracting 5% of the annual maximum pension that corresponds to the claimant's family situation. If a claimant qualifies, the V.A. will provide benefits sufficient to elevate the claimant's income to the maximum amount.

See the chart on the next page for the maximum pension amounts for each claimant category.

Veterans Pension and Aid & Attendance Rates
Effective Dec. 1, 2022

Veteran's Family Situation	Monthly Maximum Pension	Monthly Maximum Pension with Aid & Attendance Benefits
Veteran	\$1336	\$2229
Veteran with 1 dependent	\$1750	\$2642
Widow of Veteran	\$896	\$1,432
Widow of Veteran with 1 dependent	\$1173	\$1,709
Veteran permanently House-bound	\$1633	N/A
Veteran permanently House-bound with 1 dependent	\$2046	N/A
Widow Permanently House-bound	\$1095	N/A
Widow Permanently House-bound with 1 dependent	\$1371	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 the 36 months 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. The penalty period is the period of time 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 1 dependent (currently \$2642/month). This is the divisor used regardless of the family status of the applicant. The resulting number is rounded down to yield the number of months of ineligibility.

Treatment of Trusts

If an applicant makes a transfer within the look-back period 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.



Treatment of Annuities

Any transfer of assets into an annuity made during the look-back period that reduces the claimant's net worth will be considered a transfer and will be used to calculate the penalty period, if the annuity cannot be liquidated. If it was transferred more than three years prior to application, and is properly annuitized, the monthly payments will count as income and be applied to the applicant's net worth. If it can be liquidated, then the entire value of the annuity is considered an asset and is not considered a transfer.

Exceptions to Transfer Rules

There are two exceptions when transfers do not count in 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 \$138,489.

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. Because Medicaid eligibility rules and Aid and Attendance eligibility rules differ, strategies that may help an applicant become Medicaid eligible may negatively impact on Aid & 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 Karp Law Firm lawyers are accredited by the U.S. Department of Veterans Affairs. We 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.

Call our firm for assistance at (561) 625-1100

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





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