

Understanding the Department of Veterans Affairs Aid & Attendance Program and How It Could Save Your Family Thousands

REVEALS:

The Important Information
You Need to Know to Qualify
for this Little-Known
Veterans' Benefit

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Long-Term Care Planning Attorney
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DEPARTMENT OF VETERANS AFFAIRS
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Introduction: Why Should You Read THIS Book?

Contrary to what many ads might have us believe, getting older isn't always a walk in the park. If you are like most people, you worry about how the costs of home care, assisted living or a potential nursing home stay will impact you and your family. You have questions. You've talked to friends, neighbors or relatives about your concerns and just wind up more confused.

The average cost of care today ranges from \$5,000 to \$10,000 per month, per person. That's an average cost of \$60,000 to \$120,000 per year! At this rate, the average middle class family would go broke in less than 2 years!

The sad reality is this: what you intended to go towards your happy golden years and a legacy for your family ends up going to the constantly increasing costs of long term care. But armed with the information in this report, you'll know important information about a little-known benefit for veterans and their surviving spouses that could save you and your family thousands!

Why I Wrote This Book

Simple. I'm tired of seeing people unknowingly harming their chances to receive financial assistance from the Veterans Administration, Medicaid or other programs before they have a chance to talk to an attorney.

I am also tired of hearing the on-going myths and misperceptions surrounding paying for long term care. You know the type—"I heard from a friend, whose neighbor said, that their mother just did (fill in the blank) and she received benefits in no time!" I call that the "coffee shop and hair salon law". And most of the time, it's just plain wrong and could lead to disastrous consequences.

I wrote this book so that you could have good, honest, useful information to review and study in the comfort of your own home.

No Hype.

No pressure.

Frankly, this book also saves me time. I get many calls each month from people asking questions regarding long term care and nursing home expenses. I've packed a ton of information into this book and it saves me many hours by providing a vehicle to share this important information with potential clients. If I gave a "free consultation" for each new potential client that called our office, there simply would not be enough time to get any work done and it wouldn't be fair to my existing clients.

Writing this book gives me a chance to "talk to you" about what you need to know about the Veterans Aid and Attendance pension program so that you can make an informed decision about what steps to take with *your* planning. Even if you do not ultimately become my client, I would like you to be educated about the process so you don't fall victim to losing your hard-earned life savings to the devastation of constantly rising nursing home expenses.

Who does this report apply to?

When most people hear the phrase "veterans benefits" they assume that it is something for servicemen or women who were wounded or disabled while serving in the military. For the most part this is true, but what you may not realize is that there are also substantial benefits for qualified wartime veterans who are now seniors and facing the overwhelming burden of long term care due to various illnesses such as Alzheimer's, dementia, Parkinson's, Lou Gehrig's Disease, and many others. It's estimated that millions of wartime veterans and their spouses may be eligible for these benefits and they may not even realize it!

Wartime veterans, or their surviving spouses, may become eligible for this special benefit if they are over the age of 65 years, are permanently disabled and unable to work, are housebound, or they need the regular aid and attendance of another individual on a regular basis—whether at home, in assisted living, or in a nursing home. The program is also based on financial need for assistance, so there are income and asset limitations that must be met to qualify.

The purpose of this report is to help you get started in understanding the benefits available, how qualification works, and to help you determine if you or a loved one might be eligible for this important benefit that can help significantly in offsetting the high costs of long term care.

The maximum benefits available under this program can be a TREMENDOUS help in offsetting the cost of long term care for a veteran or their surviving spouse.

Why do so few people know about this program? Because the VA has built a wall around it. There are only three categories of people that are authorized to assist veterans with filing a claim for veterans benefits:

1. Attorneys licensed to practice law in your state and accredited with the VA.
2. Veterans service organizations (VSOs) such as Amvets, American Legion, VFW, etc.
3. State or county officials of the Department of Veteran Affairs in your state.

Unfortunately, not many attorneys have knowledge with respect to veterans benefits because the VA prohibits attorneys from charging a legal fee for providing assistance in the filing the claim for benefits. This has deterred many attorneys from devoting the time, money and resources to learning about this program.

VSOs have limited resources and struggle to provide sufficient support and guidance to the multiple generations of veterans that they serve, so it is frequently difficult for a veteran or their surviving spouse to get the help that they need to file their claim for benefits.

And, sadly enough, in 2005 it was reported that, “a veteran who turns to the VA for information about veterans benefits might want to get a second opinion. According to the VA’s own data, people who call the agency’s regional offices for help and advice are more likely to receive completely wrong answers than completely right ones.” YIKES!

Another common way that people learn of this benefit is from annuity salespeople who sometimes refer to themselves as “financial advisors” or “Veterans Benefit Consultant” or similar titles. They offer “free” assistance to help you learn about the program and filing your claim for benefits. So what’s the catch? To help you become eligible for the benefits, they frequently recommend that you purchase an annuity and transfer assets to children—both of

which could be disastrous to you in the long run. And guess what? They get paid a commission from the annuity company for selling that annuity to you. Now sometimes an annuity can be a good tool, depending on the circumstances, but I would strongly recommend that you seek independent advice before purchasing such an annuity because frequently they can backfire in the long run.

The VA Benefits trap that could wind up COSTING your family THOUSANDS...

So what's the potential problem with using an annuity or gifting to children to qualify for VA benefits? Well, it's important to understand the elder care journey that the veteran or surviving spouse is likely to take. While they may be at home now or receiving care in an assisted living facility, there is a great likelihood that with time, they are going to need a higher level of care and eventually require nursing home care. The average cost of nursing home care in our area is more than \$6,300 per month, or over \$75,000 per year!

Even with the benefits from the VA program, most veterans or their spouses would still have to come up with \$50,000-60,000 per year. And frankly, most veterans or surviving spouses that would qualify for the VA benefits are not going to be able to afford an additional \$50,000-60,000 per year out-of-pocket. So while the VA benefit is a great program, it is likely at some point that the veteran or surviving spouse will wind up turning to Medicaid for assistance in paying for nursing home care.

While we will see later in this report that there are various techniques available to help get qualified for the VA benefits, it is important to begin with the end in mind. The Medicaid rules are drastically different from the VA benefits rules. Thus, a thorough long term care plan analysis should consider not just how to help you get qualified for VA benefits today, but also whether your plan should also account for the possible need for Medicaid benefits in the future and how to obtain them as quickly as possible.

Teaching the entire ins and outs of the Medicaid program is beyond the scope of this report, but know that there are penalties imposed for certain gifts and transfers (meaning that that you will be denied benefits for some period of time) and that the annuities used for VA qualification purposes may backfire when it

comes to Medicaid eligibility. Thus, in the long run, these tools could wind up costing your family thousands of dollars if they cause you to be denied for Medicaid benefits.

If you'd like to learn more about the Medicaid program and paying for nursing home care, I highly recommend that you check out my book on the subject. You can request a copy here: <http://carolinafep.com/LearnMore/guides.html> or you can purchase it at [Amazon.com](https://www.amazon.com)

But what will it cost?

A frequent question on peoples' minds is "How much will it cost for me to receive legal advice in this area?" Of course, the answer is going to vary depending on your circumstances. As indicated before, if the attorney that you hire assists you with filing the veterans benefit application, the attorney cannot charge a fee for that work. However, the attorney can charge their usual and customary fees for work related to estate planning, counseling you regarding eligibility, reviewing financial planning options, Medicaid planning, tax planning or other concerns. Thus, the fee is going to vary according to the services that you require. But know this: you should only be paying an attorney for those services if you feel that it is a fair return on investment.

For example, an elder law attorney can help you protect your hard-earned life savings, while also helping you to qualify for VA benefits and planning for future qualification for Medicaid benefits—and the costs might be equivalent to one or two months of nursing home care or less. Compared to the benefits that will be received, most would consider that a fantastic return on investment and well worth the money spent.

In other cases, it might turn out that you are already qualified for benefits and little work might be required. As such, the fees would be lower. Before hiring any attorney, you should have a clear idea of the services that they will be providing and the fee for those services so that you can make a fair judgment as to the value of the services being provided.

What's included in this report:

Okay, I know you're anxious to get on to the "meat" of this report. Here's what you'll find inside:

- ✓ Understanding VA compensation vs. pension benefits
- ✓ The basics of the VA Aid & Attendance pension program
- ✓ Maximum benefits available
- ✓ Understanding the income and asset qualification tests
- ✓ Possible medical expenses
- ✓ Who can help you file a claim?
- ✓ Planning Techniques
- ✓ VA benefits checklist

Disclaimer: This Book is NOT Legal Advice

If you become my client, then we will be in this together. I am not allowed, however, to give legal advice in this book. I can offer suggestions and identify traps for the unwary, but please do not construe anything in this book to be legal advice about your case until you have agreed to hire me AND I have agreed, in writing, to accept your case.

This book is intended to explain the basics of the Veterans Administration pension program, also known as "Aid and Attendance." It is not intended as a do-it-yourself manual, nor should it be considered a substitute for professional legal guidance.

Throughout the book you will see references to various Veterans Administration numbers, figures and rules. It is important to understand that these numbers are adjusted periodically and that the interpretation of various rules is subject to change. While we try to keep this book updated with the most recent facts or figures, you should always consult with your elder law attorney to verify that you have the most up-to-date information.

For advice regarding your specific circumstances, you should always consult with a qualified elder law attorney in your state of residence.

Understanding VA Compensation vs. Pension Benefits

There are a long list of VA benefits available to veterans through the Veterans Administration that provide assistance with items such as education, life insurance, health care, home loans, and burial benefits. Two of the largest categories of benefits are compensation and pension.

Service-Connected Disability Compensation

“Compensation” as the term is used by the VA, is a benefit for veterans that have a disability caused by or exacerbated by their military service. Disability compensation is available to qualified veterans regardless of their income level.

Once a veteran establishes that he or she is disabled because of their military service, the VA will determine a disability rating (for example, 25% disabled) and the amount of compensation benefits will be based up the disability rating assigned. If the condition worsens, the veteran can apply to be reevaluated to increase their disability rating.

In certain circumstances, when the disability is severe, there may be special monthly compensation benefits in addition to the base amount. The compensation paid under this program can vary anywhere from around \$127 per month to over \$3,000 per month, depending on the disability rating and number of dependents. As of the writing of this report, the most recent compensation figures can be found here: <http://www.vba.va.gov/bln/21/Rates/comp01.htm>

There is also something known as “Dependency and Indemnity Compensation” or DIC. This is for survivors of a deceased disabled veteran that have not remarried and/or unmarried children under the age of 18 years (or up to age 23 ending school). Disabled children are also eligible. As of the writing of this report, the DIC payments are \$1,195 per month (or greater in certain circumstances). The most recent figures can be found here:

<http://www.vba.va.gov/bln/21/Rates/comp03.htm>

Non-Service Connected Disability Pension

In VA ‘lingo’, a pension is a benefit for veterans with low income who are permanently and totally disabled, but the disability is not related to their military service. You may sometimes see it referred to as a “Special Monthly Pension” or “Improved Pension” but many simply refer to it as the “Aid and Attendance program” for simplicity. Throughout most of the rest of the report, we will refer to it as the “Aid and Attendance program.”

For purposes of the pension, a veteran is considered permanently and totally disabled if they are (1) a patient in a nursing home for long-term care because of a disability; (2) receiving Social Security disability benefits; (3) unemployable as a result of a disability that is reasonably certain to continue throughout their lifetime; OR (4) suffering from any disease or disorder that renders them permanently and totally disabled as determined by the Secretary of the Department of Veterans Affairs.

The rest of this report will focus on the pension program benefits and qualification requirements.

Veteran's Aid & Attendance: The Basics

In its most basic form, the pension is intended, when combined with the veteran's other income and social security income, to bring the veteran's income up to a certain minimum income level established by Congress.

To qualify for the program, the veteran upon which the pension is to be based must meet certain service-connected requirements, along with certain asset and income tests.

Service-Connected Requirements

To be eligible for the program, the veteran must have served on active duty for at least 90 days. Out of those 90+ days, at least one of them must have been during a designated active war time. Note that this does not require that the veteran actually served on the front lines or in combat. Rather, it merely requires that the veteran was in service and on active duty during the designated war time, and was honorably discharged.

War/Conflict	Beginning/End Dates
World War II	December 7, 1941 to December 31, 1946
Korean Conflict	June 27, 1950 to January 31, 1955
Vietnam Era	August 5, 1964 to May 7, 1975; (For veterans that served in Vietnam: February 28, 1961 through May 7, 1975)
Gulf Wars	August 2, 1990 to Date Not Yet Determined (to be set by future law or Presidential Proclamation)

In addition to active duty veterans from the armed services, there are several other little-known groups that also meet the active duty qualification for VA pension purposes. See the end of this section for a list of other eligible groups.

Medically Needy Test

If the veteran is under the age of 65, he or she must be permanently and fully disabled to qualify for the pension. If the veteran is age 65 or older, there is no

disability requirement. If the applicant is a surviving spouse of a veteran, it does not matter whether the veteran was disabled.

Benefit Levels

The lowest level of the program is referred to as “basic pension,” but there are higher benefit levels that provide additional income if a veteran qualifies. The next step above basic pension is known as “*housebound*” pension.

If a veteran qualifies as being housebound due to his or her disability, then the veteran may qualify for the housebound level of the pension.

And if the veteran or surviving spouse is (1) blind or nearly blind; (2) a patient in a nursing home or skilled nursing facility due to mental incapacity or physical incapacity; or (3) otherwise proves the need for another person to assist the applicant with performing basic daily functions such as bathing, feed, dressing and toileting, then the applicant may qualify for the highest pension level, otherwise known as “*aid and attendance*.”

To qualify for the housebound or aid and attendance benefit levels, the applicant will be required to obtain a medical review and approval by the VA.

As of writing of this book, the benefit levels compensations are:

Applicant	Basic	Housebound	Aid & Attendance
Single Veteran	\$1,037/month \$12,448/year	\$1,269/month \$15,231/year	\$1,731/month \$20,793/year
Married Veteran	\$1,359/month \$16,340/year	\$1,590/month \$19,091/year	\$2,054/month \$24,648/year
Surviving Spouse	\$696/month \$8,359/year	\$851/month \$10,217/year	\$1,113/month \$13,362/year

There may be additional allowances if the veteran has dependent children (generally this means having children that are disabled or mentally retarded).

If the applicant is a surviving spouse of a veteran, the surviving spouse must have been married to the veteran at the time of the veteran's death and must not have remarried since the veteran's death (unless the surviving spouse remarried and then divorced before November 1, 1990).

Income Test

Okay, this part can start to get a bit confusing, but let me try to break it down. The Maximum Allocable Pension Rate (MAPR) is the maximum annualized benefit for each category you see in the benefit table in the prior section (i.e., the MAPR for a Single Veteran, Basic Level Pension is \$12,555, the MAPR for a Married Veteran Aid & Attendance Level Pension is \$24,238).

The basic rule is that if your countable income for VA purposes (we'll call it the IVAP) exceeds the MAPR, you will not be eligible for benefits.

How is the IVAP determined? Basically it will include income from all sources including social security and pensions. *BUT*, if you have qualified unreimbursed medical expenses, those can be subtracted from your income for purposes of determining the IVAP. Examples of such expenses include recurring prescription costs that are not covered by health insurance, and the cost of home care being provided by a professional, family member (other than spouse) or friend. Or, if the veteran is in an assisted living facility, part of the facility fee may be designated as "medical services" and part will be designated as "room and board." The "medical services" portion qualifies as a medical expense. A list of other eligible medical expenses is provided later in this report.

The VA calculates a general medical expense deduction that is equal to 5% of the MAPR. Any medical expenses in excess of that deduction will reduce the IVAP.

Here's an example to give you an idea of how this works:

Let's assume we have a married veteran that has qualified for the Aid & Attendance medical rating. The veteran and spouse have combined monthly income of \$4,100 from social security and pensions. Thus, our starting annual income is \$49,200 per year. Now, let's assume that the veteran is living in an assisted living facility at a monthly cost of \$3,750. The veteran went through a medical evaluation and was medically rated as needing assisted living care. As such, the entire amount will count as a recurring medical expense. In addition, the couple is paying \$125 out of pocket per month for prescriptions. In total, the couple has out-of-pocket medical expenses of \$3,875 per month or \$46,500 per year.

The MAPR for a married couple is \$24,238. Thus, the medical expense deduction is \$1,211.90 (5% of \$24,238).

Subtract the deduction of \$1,211.90 from the couple's annualized medical expenses of \$46,500 per year and the allowable medical expenses are \$45,288.10.

Subtract the allowable medical expenses from the couple's annualized income (\$49,200 - \$45,288.10) to determine the IVAP: \$3,911.90

To calculate the pension benefit, subtract the IVAP from the MAPR: $\$24,238 - \$3,911.90 = \$20,326.10$ per year (or about \$1,693 per month).

If after running the calculations the resulting IVAP is equal to zero or is a negative number, this means that the applicant qualifies for the maximum pension amount for that particular category.

For example, let's assume that instead of annual income of \$49,200 per year, the couple had annual income of \$40,000 per year. Subtract the allowable medical expenses of \$45,288.10 from \$40,000 and the result is (-\$5,288.10), meaning that the couple would qualify for the full aid and attendance pension amount of \$24,238 or \$2,019 per month.

Asset Test

Unlike the Medicaid rules which have clearly specified asset limits, the asset limits for VA purposes are not as clear cut. Frequently in materials about the Aid & Attendance program, you'll see reference to \$80,000. That is because the VA manual requires that if a Veterans Service Representative approves benefits for a household with assets exceeding \$80,000, it is subject to review and the representative must file additional paperwork justifying their decision.

The true rule is a little bit more fuzzy. It basically says that the veteran (or widow) needs to have less than "sufficient means." Thus, for a single veteran or a veteran with a low life expectancy, it could be possible for the VA to establish a lower asset limit.

In general, the VA program is similar to Medicaid in that it will let you treat your home, automobile and personal property as non-countable. There are some slight variances here and there, such as determining what constitutes the home place if it is part of a larger tract of real estate.

Retirement accounts such as IRAs receive a somewhat unfavorable treatment under the VA rules. The total account will be considered a countable asset, but if you are over the age 70 ½ and are taking Required Minimum Distributions (RMDs), the RMDs will be considered countable income. This generally can be mitigated through the use of an annuity, which we will discuss later in this report.

Other Groups Who Qualify

If you belong to any of these groups and received a discharge by the Secretary of Defense, your service meets the active duty requirement for benefits:

- Recipients of the Medal of Honor
- Honorably discharged veterans, surviving spouses, or children of any military, naval or air service person
- Merchant Marines from WWII (Ocean-going service)
- Women Air Force Service Pilots (WASPs)
- WWI Signal Corps Female Telephone Operators Unit
- WWI Engineer Field Clerks
- Women's Army Auxiliary Corps (WAAC)
- Female clerical employees of the Quartermaster Corps serving with the American Expeditionary Forces in WWI
- Civilian employees of Pacific naval air bases who actively participated in defense of Wake Island during WWII
- Reconstruction aides and dieticians of WWI
- Male civilian ferry pilots
- Wake Island defenders from Guam
- Civilian personnel assigned to OSS secret intelligence
- Guam Combat Patrol
- Quartermaster Corps members of the Keswick crew on Corregidor during WWII
- U.S. civilians who participated in the defense of Bataan
- U.S. merchant seamen who served on block ships in support of Operation Mulberry in the WWII invasion of Normandy
- American merchant marines in oceangoing service during WWII
- Civilian Navy IFF radar technicians who served in combat areas of the Pacific during WWI
- U.S. civilians of the American Field Service who served overseas under U.S. armies and U.S. army groups in WWII

- U.S. civilian employees of American Airlines who served overseas in contract with the Air Transport Command between 12/14/1941 and 8/14/1945
- Civilian crewmen of certain U.S. Coast and Geodetic Survey vessels between 12/7/1941 and 8/15/1945
- Members of the American Volunteer Group (Flying Tigers) who served between 12/7/1941 and 8/14/1945
- U.S. civilian flight crew and aviation ground support of TWA who served between 12/14/1941 and 8/14/1945
- U.S. civilian flight crew and aviation ground support of Consolidated Vultee Aircraft Corp. who served overseas between 12/14/1941 and 8/14/1945
- Honorably discharged members of the American Guard, Eritrea Service Command, between 6/21/1942 and 3/31/1943
- U.S. civilian flight crew and aviation ground support of Northwest Airlines who served overseas between 12/14/1941 and 8/14/1945
- U.S. civilian female employees of the U.S. Army Nurse Corps who served in the defense of Bataan and Corregidor from 1/2/1942 to 2/3/1945
- U.S. civilian flight crew and aviation ground support of Braniff Airways who served overseas in the North Atlantic between 2/26/1942 and 8/14/1945
- Chamorro and Carolina former native police who received military training in the Donnal area of central Saipan and were placed under command of Lt. Casino of the 6th Provisional Military Police Battalion to accompany U.S. Marines on active, combat patrol from 8/19/1945 to 9/2/1945
- The operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management, which served overseas with the U.S. Army Corps from 12/7/1941 to 8/15/1945
- Honorably discharged instructions of the Alaska Territorial Guard during WWII

But remember, to qualify the applicant must have served in active duty for at least 90 consecutive days, at least one of which was during a period of war. However, that does NOT mean that they had to have served overseas or on the frontlines - they just had to serve, either at home or abroad, during the specified war times.

Veteran's Aid & Attendance: Possible Medical Expenses

The list below shows many of the common allowable medical expenses, but it is not all-inclusive. The VA will allow expenses that are directly related to medical care. Also, note that most medical expenses must be prescribed by a physician to be deductible from gross income for VA benefit qualification purposes.

- Medicare Premiums deducted from Social Security
- Supplementary medical insurance (Part B) under Medicare
- Premiums for health, medical, long-term care, or hospitalization insurance
- Abdominal supports
- Acupuncture service
- Ambulance hire
- Anesthetist
- Arch supports
- Artificial limbs
- Back supports
- Braces
- Cardiographs
- Chiropodist
- Chiropractor
- Convalescent home (for medical treatment only)
- Crutches
- Dental services
- Dentures
- Dermatologist
- Eye glasses
- Food or beverages prescribed by doctor for treatment of illness
- Gynecologist
- Hearing aids & batteries
- Home health services
- Hospital expenses
- Insulin Treatment
- Insurance premiums (medical)
- Invalid chair
- Lab tests
- Lip reading lesions (in connection with disability)
- Neurologist
- Nursing services
- Occupational therapist
- Ophthalmologist
- Optician
- Optometrist
- Oral surgery
- Osteopath
- Pediatrician
- Physical examinations
- Physician
- Physical therapy
- Podiatrist
- Prescriptions and drugs

- Psychoanalyst
- Psychologist
- Psychotherapy
- Radium therapy
- Sacroiliac belt
- Seeing-eye dog
- Speech therapist
- Splints
- Surgeon
- Telephone/teletype for deaf
- Transportation expenses (41.5 cents per mile effective January 1, 2009, plus parking and tolls or actual fares for taxi, buses)
- Vaccines
- Vitamins prescribed by doctor
- Wheelchairs
- Whirlpool baths for medical purposes
- X rays

Veteran's Aid & Attendance: Planning Techniques

Transfers

The good news is that the VA currently does not impose a penalty period if you transfer or gift assets (though it is rumored that they may change this in the future). However, the gifts or transfers must be made to someone that does not reside in the veteran's household.

The bad news is that many people get so excited about qualifying for the VA program that they make substantial gifts or transfers to qualify. A few months or years later, their health gets worse and they need to be in a nursing home and apply for Medicaid—only to be slapped with a hefty penalty period by Medicaid for the gift or transfer they made for VA planning purposes. Thus, it is strongly recommended that you consult with an elder law attorney to find the appropriate balance between planning for VA Aid & Attendance and future Medicaid benefits.

No Life Estates or Income Only Trusts

While life estates and income-only trusts will work for Medicaid purposes, the VA takes a very strict approach—the applicant cannot retain any ownership interest over the asset. Thus, if the applicant retains a life estate in real estate or moves assets to a trust from which he has the right to take income, the VA will account all of the real estate or assets.

Irrevocable Trusts

In certain instances, if the veteran and/or spouse are willing and able to permanently transfer assets to an irrevocable trust, then this can be a great planning technique. The use of trusts for VA planning purposes must be done very carefully, however, as the VA takes a very strict view of trusts.

If used properly, an irrevocable trust can be designed to accommodate both VA pension and Medicaid qualification. An added benefit of using a trust over a transfer or gift to children or other family members is that the trust can be designed in such a way as to “undo” the transfer - if Medicaid eligibility is needed sooner rather than later, and we need to undo the penalty period.

Add Others to Your Accounts

The VA does not impose transfer restrictions or penalty periods. One method to quickly reduce assets is to add children or other family members to your accounts.

But be forewarned - this creates other risks. First, although the VA will not impose a transfer restriction, if Medicaid benefits are later needed, then under the Medicaid rules, this will constitute a gift and a penalty period would be imposed—i.e., you'd be denied for a certain period of time which would cost you thousands. Second, it exposes your accounts to your children's lawsuits, creditors, divorce and indiscretions. Finally, there is always the risk that your child will not be able to resist temptation and will spend some or all of the funds.

Annuities

Another effective technique is to use excess assets to purchase an annuity. This turns the excess assets into an income stream. So long as the annuity is irrevocable (i.e., the applicant can't get a refund on part or all of his original investment), then it will not be a countable asset. Rather, the payments will count as income for qualification purposes.

But again, be forewarned. First, you must be sure that the income stream created by the annuity doesn't increase your income such that you no longer qualify for the VA pension, or that the amount you qualify for is not severely diminished.

Second, the VA's rules regarding annuities are much more flexible than the Medicaid rules. Unfortunately, there are many so-called "financial advisors" that do nothing more than peddle annuities for VA planning purposes. If these annuities are not Medicaid-compliant, this strategy can really back-fire in the long run and could wind up costing you and your family thousands!

VA Compensation & VA Pension Benefits

If an applicant is already receiving VA compensation, they cannot receive both the compensation and the pension benefit. Rather, they will receive whichever benefit is greater.

VA Pension Benefits & Medicaid

If Medicaid benefits are later applied for and received, the VA pension benefit will be reduced to \$90 per month. Generally, if eligible, Medicaid benefits will exceed the VA pension benefits, so although the pension amount is reduced, the applicant generally comes out in a better position. As an example, suppose the applicant receives total income of \$1,500 from Social Security after allowing for his Personal Needs Allowance. He is in a nursing home that costs \$6,000 per month. Under such a scenario, the monthly VA pension benefit of \$1,703 per month will not go nearly as far as Medicaid potentially paying the entire \$4,500 “gap” between the applicants’ cost of care and monthly excess income.

Veteran's Aid & Attendance: Who Can Help You File A Claim?

A few words about who can prepare the application: First, the applicant can prepare his or her own application. Or, an agent acting under a power of attorney can prepare the application on the applicant's behalf. Certain Veterans service organizations (American Legion, Veterans of Foreign Wars, Disabled American Veterans), veterans benefits counselors, and agents accredited by the VA may assist with the preparation of the application. And, attorneys that have been accredited by the VA may also complete the application on behalf of an applicant.

If someone (other than an agent under a power of attorney) is assisting you with the preparation of your application, they must be VA accredited, so be sure to ask.

Finally, the VA prohibits the charging of a fee for assisting in the preparation of the VA application for benefits. To clarify—an attorney may charge fees associated with other work such as estate planning, legal advice regarding Medicaid and VA qualification, or planning to help you become eligible for benefits - but they cannot impose a fee for the actual preparation of the application.

A qualified, VA-accredited elder law attorney can assist you with determining whether you are eligible for benefits, or what planning options are available for you and your family to become eligible for benefits, and how to navigate the cumbersome application process. Furthermore, it is extremely critical that if you are contemplating transferring or gift assets, purchasing an annuity, or otherwise rearranging your assets, that you consult with an elder law attorney experienced in Medicaid planning to ensure that such actions won't jeopardize your eligibility for much needed nursing home assistance in the future.

Veteran's Aid & Attendance: VA Pension Application

To receive benefits under the VA pension program, a completed application must be submitted along with required documentation and attachments. This can be fairly intimidating and stressful to assemble.

In addition, the time it takes to receive approval of benefits can vary greatly. Occasionally an application will be approved in as little as two to three weeks, but most of the time it takes months - frequently as long as 9 to 12 months.

Once approved, the benefits will be retroactive to the date of application. Thus, if it takes the VA 9 months to complete their review of your application and approve you for benefits, your first check will be a lump sum for 9 months of retroactive pension benefits.

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Veteran's Aid & Attendance: VA Benefits Checklist

If you anticipate filing a claim for pension benefits, you'll need to gather the following:

- Birth Certificate (for husband and wife, if married)
- Social Security Card (for husband and wife, if married)
- Marriage certificate, if married or widow/widower
- Veteran's DD-214 or Discharge Papers
- Health insurance cards, including Medicare and any supplemental policies, along with verification of premiums for any supplemental policies
- If married or widow/widower, death certificate or divorce decree if either spouse was previously married
- If widow/widower, veteran's death certificate
- Annual Social Security Award letter received in January *or* other documentation to verify your income
- Proof of all other income sources
- A printout from your pharmacy of three months of expenses
- Copies of all current bank statements and other asset statements such as stocks, bonds, IRAs, annuities, or other retirement accounts and valuations, including letters from your insurance company regarding the cash value of any life insurance policies, and copies of any real estate deeds

(continued on next page)

Additional forms that must be filled out and filed with the claim for benefits:

- Form VA 21-526 (if veteran is alive) or Form VA 21-534 (if surviving spouse of veteran)
- Statement of attending physician
- Authorizations and Consent to Release of Information to the VA for each physician of the veteran or spouse
- Care Provider Report
- VA Form 21-8416 Medical Expense Report (reporting out of pocket medical expenses)

Other documentation that may be needed:

- Listing of all contents of safe deposit box
- Copy of automobile registration and statement of current miles
- Copy of burial/funeral arrangements and burial plot contracts, if any for both husband and wife, if married
- VA Form 21-0779 – Nursing Home Information Report, if disabled person is a patient
- Confirmation of any other VA benefits being received by veteran or spouse (such as disability, retirement benefits, or prescription drugs)

Veteran's Aid & Attendance: Closing Remarks

Congratulations! Armed with the information in this report, you may have already determined that you or your loved one is currently eligible for benefits and you have enough information to file the claim on your own. If that's the case, then we're so glad that we were able to provide you this important resource for helping our nation's veterans receive the benefits they earned by helping to defend and protect all of us.

If after reading this report, you've decided that you need the help of an attorney that concentrates in the area of assisting seniors, then please give us a call at **919-443-3035**.

Our priority is to make sure that our clients maximize their resources and hard-earned life savings so they never run out of money or options for as long as they live. If you're like most, then we believe that you would greatly benefit from having a trusted advisor to help you properly apply the information in this report to you or your loved one.

We provide service and guidance in the following areas:

- Estate planning, including powers of attorney, health care directives, wills, and trusts
- Income, estate and gift tax planning
- Care options available in our community
- Review of Medicare and Medicaid as it applies to your situation
- Available programs and benefits to provide financial assistance in paying for long-term care
- Various asset protection tools to protect life savings from nursing homes, Medicaid, taxes, lawsuits, creditors and divorce
- Planning techniques to qualify for VA benefits, Medicaid and similar programs

To better educate our community about the various planning tools and programs, we offer FREE workshops on a regular basis. For upcoming workshops and dates, please visit: <http://www.carolinafep.com/library/events/>

About the Author



Jackie Bedard

*Estate Planning &
Long-Term Care Attorney*

Jackie Bedard's estate planning and elder law practice is focused on guiding clients through the complicated, often confusing, maze of balancing long term care planning, family protection, wealth preservation, and cherished family values in the planning process.

Jackie is also the author of *How to Avoid Nursing Home Poverty and Save Your Family Thousands*, a book for North Carolina residents on paying for nursing home and securing North Carolina Medicaid assistance to offset the cost of nursing home care, as well as several other books, reports and resources available at www.CarolinaFEP.com. She is a member of the National Network of Estate Planning Attorneys, the National Academy of Elder Law Attorneys, and the Medicaid Planning Network. Locally, Jackie is on the board of directors of Guiding Lights Caregiver Support Center and she is a member of the North Carolina Bar Association, and the Wake County Bar Association.

Jackie earned her Bachelor's of Science degree in Economics at the Massachusetts Institute of Technology, and graduated law school *magna cum laude* in the top 7% of her class at the University of Richmond School of Law.

Jackie resides in Cary with her husband, Dan, and their two dogs, Kylie and Nelly. She is actively involved in the community, a women's investment club, and civic and networking groups. Jackie also enjoys CrossFit, reading, hiking, cycling, music, and more.



Veteran's Pension Reference (Updated as of 1/1/2013)

WARTIME VETERAN (SINGLE)		
Type of Benefit	Maximum Pension	Maximum Pension
Basic Pension	\$1,037 per month	\$12,448 per year
Housebound Pension	\$1,269 per month	\$15,793 per year
Aid & Attendance Pension	\$1,731 per month	\$20,466 per year

WARTIME VETERAN (MARRIED)		
Type of Benefit	Maximum Pension	Maximum Pension
Basic Pension	\$1,359 per month	\$16,340 per year
Housebound Pension	\$1,590 per month	\$19,091 per year
Aid & Attendance Pension	\$2,054 per month	\$24,648 per year
Veteran Married to Veteran (Aid & Attendance)	\$2,676 per month	\$32,112 per year

SURVIVING SPOUSE OF WARTIME VETERAN		
Type of Benefit	Maximum Pension	Maximum Pension
Basic Pension	\$696 per month	\$8,359 per year
Housebound Pension	\$851 per month	\$10,217 per year
Aid & Attendance Pension	\$1,113 per month	\$13,362 per year

Receive a FREE Benefit Analysis

If you found this book enlightening and you would like to discuss your own eligibility or planning options available, then we'd be happy to conduct a free benefit analysis to North Carolina residents within a 30 mile radius of our Cary-based office.

To receive your FREE
Benefit Analysis, visit

http://www.carolinafep.com/library/Benefits_Analysis_Form.pdf

Complete the requested information and mail or fax to our office.

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We also publish a print newsletter with additional information on estate planning and long-term care planning. If you don't already receive it, call us and we'll sign you up, or photocopy the form below and fax or mail it to us. Or, send us a list of names and we'll send them the newsletter, along with a note telling them that you've helped make it available to them. Don't worry, we don't spam! If they don't want it, they can call us at any time to be removed from the free subscription list.

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