

NEWMAN ELDER LAW
www.NewmanElderLaw.com
(267) 288-5765; (267) 288-5764 (fax)
e-mail: Rich@NewmanElderLaw.com

Veteran's Pension Benefits

Unfortunately it appears that very few of the men and women who served in our armed forces are aware of the benefits to which they may be entitled. For example, one of the most useful and under utilized benefits is the Veterans' Pension Plan. This article will attempt to provide some information about program's benefits and the eligibility requirements.

Although the Veterans Administration calls it a "Pension" Plan, this program is actually more similar to a needs based program, such as Medicaid and Supplemental Security Income. The reason for this is because the Veterans' Pension Plan has financial eligibility requirements, just like those programs do. For those who do qualify, however, the benefits received can be a very useful source for paying the costs of long term care.

In order to be eligible for VA Pension Benefits a veteran must show that he or she:

- \$ Was discharged from service under other than dishonorable conditions, **and**
- \$** Served 90 days or more of active duty with at least 1 day during a period of war time, **and**
- \$ Had countable income and net worth below the established thresholds, **and**
- \$ Is permanently and totally disabled, **or**
- \$ Is age 65 or older

A dependent of a deceased wartime veteran is eligible to receive VA Pension benefits if he or she can prove that the:

- \$ Deceased veteran was discharged from service under other than dishonorable conditions, **and**
- \$ Deceased veteran served 90 days or more of active duty with at least 1 day during a period of war, **and**
- \$ Claimant is the surviving spouse or unmarried child of the deceased veteran, **and**
- \$** Claimant's countable income and net worth are below the established thresholds.

The wartime periods for eligibility are as follows:

- ! **World War II**
 - " December 7, 1941-December 31, 1946
 - " If the veteran was in service on December 31, 1946, continuous service before July 26, 1947 is considered World War II service.

- ! **Korean War:** June 27, 1950 - January 31, 1955

- ! **Vietnam War**
 - " August 5, 1964 - May 7, 1975
 - " February 28, 1961 - May 7, 1975 for veterans who served in Vietnam before August 5, 1964

- ! **Gulf War:** August 2, 1990 through such end date as prescribed by Presidential proclamation or concurrent resolution of the Congress, neither of which have yet occurred.

If the applicant has met the war time service requirement then the Veterans Administration will look at his or her net worth. The VA will not provide benefits if it determines that the applicant has sufficient resources to provide for his or her needs without VA assistance. While there is no hard and fast dollar amount that will trigger the denial of benefits, VA caseworkers are required to conduct a formal administrative decision if the net worth exceeds \$80,000. It is unlikely that the VA will issue a denial if the applicant's net worth is less than \$80,000.

It should be noted that in making its determination, the Veterans Administration will also include the net worth of the applicant's spouse. However, household objects and possessions, motor vehicles used for transportation and the principal residence are not included in making the net worth determination.

Unlike the situation confronting those applying for Medical Assistance (Medicaid), the Veterans Administration does not look back to see if and when an applicant transferred assets prior to applying. However, the VA will not consider assets to have been transferred (i.e., they

are considered to still be in the possession of the applicant) if the transfer was made to someone in the household. Furthermore, if the transfer was made to someone outside the household, the claimant must show that he or she has relinquished control of the asset.

Finally, the last requirement that an applicant must meet in order to be eligible for VA Pension Benefits is the income requirement. In making this determination, the VA will first look at the applicant's "maximum annual pension rate" (MAPR). The MAPR is based on the applicant's filing status (such as whether he or she is a veteran, surviving spouse or child), whether the applicant is eligible for housebound or aid and attendance (A & A) benefits and the number of dependants the applicant has.

The VA will then calculate the applicant's countable income (IVAP). This figure represents the applicant's income projected over 12 months. The difference between the claimant's income (IVAP) and the MAPR is the amount of benefits that he or she is entitled to. It is important to keep in mind that unreimbursed medical expenses are subtracted from the income figure in order to arrive at the applicant's IVAP.

Here is an example: A veteran is determined to be sufficiently disabled that he is eligible for aid and attendance benefits is married and earns \$25,000 a year and will have \$18,000 in unreimbursed medical expenses (such as assisted living costs and home health costs). His maximum allowable pension rate (MAPR) by law is \$23,396. The applicant's IVAP is \$7,000 ($25,000 - 18,000$). Therefore he is entitled to \$16,396 of VA pension benefits to be paid out over 12 months, or a monthly payment of \$1,366.

Obviously, the determinations as to an applicant's eligibility and the amount to which he or she is entitled are very complicated. The application process itself is even more complicated. Notwithstanding the complexities involved all veterans who have served within the Veterans

Administration's defined war time periods should look into whether they can receive this extremely helpful benefit. These veterans should contact the Department of Military and Veterans Affairs (215-345-3307 in Bucks County, 610-278-3285 in Montgomery County) or a qualified attorney.