



Don't Overlook Veterans Benefits for Long Term Care

Every day our office meets with folks who want to prepare for the future, whether that's through estate planning or asset protection from long term care costs. When we talk to Veterans, it is almost always unclear to them the benefits that could be available through the Veterans Aid and Attendance Pension Benefits program.

Veterans or widow(er)s of veterans may be entitled to a non-service connected monthly pension to offset long term health care costs such as home health care, or care in assisted living or nursing facilities. Many veterans are unaware of this benefit or assume they don't qualify because they didn't retire from the military.

**AN EXTRA \$1,830 TO \$2,169 A MONTH
IN TAX FREE INCOME IS NOT
SOMETHING TO IGNORE.**

Earlier this month, the VA published new and final rules governing financial eligibility for the program, effective October 18, 2018. The new rules significantly alter how net worth is calculated, apply a penalty when assets are transferred within 3 years of application (commonly referred to as the lookback period), and provide new guidance for income exclusions.

Who Qualifies?

The main requirements for a pension for a veteran or widow(er) are:

- ♦ the veteran served at least 90 days of consecutive active duty service, one day of which was during a declared war-time period;

- ♦ the veteran's discharge was not dishonorable;
- ♦ the claimant's net worth is under certain limits; and
- ♦ the claimant is age 65 or older, or has a permanent and total disability.

Net Worth

Effective October 18th, 2018, a Veteran and his dependent's combined net worth is limited to \$123,600. When calculating a claimant's net worth, the VA considers both assets and annual income. Some assets (i.e.; primary residence on limited acreage, vehicle and prepaid funeral) are excluded from the claimant's net worth. Annual household income is included. However, if unreimbursed medical expenses equal or exceed the annual income, the annual income is excluded from the claimant's net worth.

Lookback and Penalty Rules

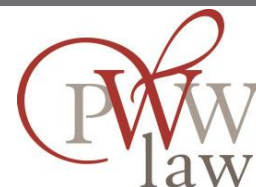
Gifts (transfers for less than fair market value) made on or after October 18, 2018, will be subject to a 3 year lookback period. This means that if a claimant gifted assets within 3 years of applying for the pension, he must disclose the value of the gift and the VA will calculate and apply a penalty. A penalty is simply a period of time in which the VA will withhold the pension despite the claimant otherwise being

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Continued from previous page...

immediately eligible. The VA will calculate the penalty by dividing the total value of gifts (cumulative, within 3 years) by a penalty divisor (currently \$2,169). This will generate a period of months of penalty. The penalty period starts on the date of the gift. For example, if a Veteran and his wife gifted \$75,000 to their eldest child on November 1, 2018 and the Veteran applied for the pension on November 1, 2020, the VA would impose a penalty totaling 34 months, beginning on November 1, 2018. The penalty would not end (and the Veteran would not receive the pension) until September 1, 2020.

Disability

To meet the disability requirement, the claimant's doctor must confirm that the claimant is housebound and in need of assistance from another individual. The disability does not have to be service related. People aged 65 or older are presumed to be disabled and are not required to be rated as disabled under the VA schedule.

Benefits

There are three types of tax free pensions available, each with different eligibility requirements and each paying different amounts. The maximum non-service connected pension is called Aid and Attendance, and is available to a veteran or widow (er) who is either blind, living in a nursing home, or in need of assistance to manage the activities of daily living.

2018 Maximum Pension Rates for Aid and Attendance

Single Veteran \$1,830 per month

Married Veteran \$2,169 per month

Widowed Spouse \$1,176 per month

If the claimant transitions to a higher level of care in a skilled nursing facility and is receiving Medicaid benefits, the maximum pension rate is reduced to

\$90 per month.

A veteran who qualifies for a non-service connected pension can also apply for benefits through the VA health care system, such as prescriptions, medical equipment, glasses, hearing aids and incontinence supplies.

Takeaways

An extra \$1,830 to \$2,169 a month in tax free income is not something to ignore.

If you are a healthy senior veteran or widow(er) concerned about the future cost of long term care, you should take proactive steps to maximize protection of your assets at least three years before a long term care event. This can be accomplished by creating and aligning your assets with a carefully drafted Irrevocable Asset Protection Trust. The Trust can be designed to satisfy VA eligibility requirements as well as Medicaid requirements. Notably, Medicaid has a five year lookback period, so proactive transfers are ideally accomplished five years prior to a long term care event in order to protect the assets under both benefit programs.

If you or your loved one are service-eligible and are in immediate need of long term care, now is the time to get started gathering the necessary information, implementing an appropriate plan and filing a claim. It can take six months or longer for a claim to be processed, but once a claim is approved, payments will be retroactive to the month after the claim was filed, as long as the claimant survives the application process.

How to Apply?

A person can learn more about the application process by calling the VA at 1-800-827-1000 or visiting their website at www.ebenefits.va.gov. If advance planning is needed to qualify for benefits, the veteran or surviving spouse should consult with a qualified elder law attorney who specializes in long term care asset protection planning.

TIME OUT — STAFF PROFILE

Kaitlin H. Bratten, Client Concierge

ON THE CLOCK: Kaitlin was born and raised in Millsboro, Delaware. She is a 2012 Sussex Central High School graduate and completed her A.A.S. in Criminal Justice from Delaware Technical and Community College in 2016. She joined Procino-Wells & Woodland as an Administrative Assistant in February 2018 with the opening of the Berlin, MD office. Kaitlin's thoughtful demeanor made her a perfect fit for the transition into the role of Client Concierge in June. She currently handles the intake process for our clients, including gathering their information, scheduling their appointments and meeting with them upon their arrival in our Seaford office.



OFF THE CLOCK: Kaitlin and her fiancé Darien recently purchased their first home in the Georgetown area and have also adopted a German Shepherd named Kenzie. Although Kenzie takes up most of her free time, Kaitlin still enjoys spending time with her family, traveling, cooking and going to the beach.

UPCOMING EVENTS

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| 11 | Estate Planning & Elder Law Workshop |
| | 6:00 - 7:30 pm |
| Oct | Crossroad Community Church, Georgetown, DE |
| 18 | Elder Law Workshop |
| | 5:30 - 7:00 pm |
| Oct | Berlin First Baptist Church, Berlin, MD |
| 25 | Off the Clock - Elder Law Q&A Session |
| | 6:00 - 7:00 pm |
| Oct | Milford Place Assisted Living, Milford, DE |
| 29 | Three Part Elder Law Series (also on 11/5 & 11/12) |
| | 10:00 - 11:30 am |
| Oct | Ocean City Golf Club, Ocean City, MD |
| 1 | Special Needs & Estate Planning Workshop |
| | 6:00 - 8:00 pm (Dinner Provided) |
| Nov | Evolution Public House, Salisbury, MD |
| 8 | Elder Law Workshop |
| | 5:30 - 7:00 pm |
| Nov | St. Matthews By-the-Sea UMC, Fenwick Island, DE |
| 5 | Elder Law Workshop |
| | 10:30 am - 12:00 pm |
| Dec | Lewes Library, Lewes, DE |

LEGAL MUMBO JUMBO

Legal Language in Layman's Terms

DO-NOT-RESUSCITATE (DNR) ORDER

A medical order written by a doctor that instructs health care providers not to perform CPR if patient's heart stops beating or if the patient stops breathing. It does not specify instructions for any other care.

A note from the attorneys...

We recently returned from a 4-day trip around the globe where we dined on international cuisine, sipped wine, and enlightened our senses. If you've ever visited the Food & Wine Festival at Epcot, then you know it's an unforgettable experience. But, what really brought us to this location was the Disney Institute, where we identified the values that drive us and how to align those values with our vision for our team, clients, and community. Our biggest takeaway – how to be intentional about living our legacies each and every day! In Walt's words, "We keep moving forward, opening new doors and doing new things, because we're curious and curiosity keeps leading us down new paths."

Michelle, Owen & Justin



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Planning today to protect your family's tomorrow.



OFF THE CLOCK

We would like to thank our featured referrer of the month:



Procino-Wells & Woodland, LLC is a proud member of:



This newsletter is intended for informational purposes only and does not constitute legal advice. For legal advice, consult a licensed attorney. The examples used are simplified for ease of understanding and illustration of general concepts.