

TABLE OF CONTENTS

CHAPTER 1

Overview of Veterans Long Term Care Benefits

About Long Term Care	2
About the Department of Veterans Affairs	3
Facts about the Department.....	3
Chronological History of the Department of Veterans Affairs	4
Veteran Demographics and the Need for Long Term Care.....	5
Who Is a Veteran?.....	5
How Many Veterans Need Long Term Care?.....	5
Comments from the Armed Forces Veterans Homes Foundation	6
Percent Distribution of Veterans by Age and Gender	7
Percent Distribution of Veterans by Functional Limitation and Age	7
VA Disability Programs	8
Two Important Disability Programs	8
More about Pension	9
The VA Disability Survey	10
About State Veterans Homes	12
About Veterans Medical Care.....	12

CHAPTER 2

State Veterans Homes

About State Veterans Homes	14
The Appeal of Living in a State Veterans Home	14
Challenges for State Veterans Homes.....	16
History of State Veterans Homes.....	19
Challenges Facing the Construction of New Homes	19
Nursing Home Daily Rates	20
Services Available.....	20
Eligibility and Application Requirements for State Veterans Homes	21

CHAPTER 3

Veterans Health Care and Long Term Care Services

The Best Health Care System in America	24
Why the VA Health Care System Works so Well	26
What is Veterans Health Care?	28
Outpatient Pharmacy Services	29
Veterans Health Administration Long Term Care Benefits	30
Enrolling in the Veterans Health Care System	33
Copayments for Medical Services -- Veterans Means Testing	35

CHAPTER 4

Introduction to Compensation, DIC, Pension, Burial and Memorial Benefits and HISA Grants

About this Chapter	40
Disability Compensation and SMC	40
Dependency and Indemnity Compensation (DIC)	42
More about DIC	44
VA Pension	48
Death Pension	51
Burial and Memorial Benefits	52
HISA Grants	54

CHAPTER 5

Understanding Pension

What Is Pension?	60
Examples of How Pension Works	62
Questions and Answers about the Claims Process	70
Questions about Compensation Claims	72
Questions about Pension Claims	73

CHAPTER 6

Determining Income for Pension Application

PART I -- General Observations about Income for Pension Applications.....	78
What Is Income?	78
Pension Income Is Exempt.....	78
Treatment of Certain Other Proceeds According to VA Rules.....	78
Conversion of Assets Theory	79
The Special Case of Property Sales with No Marketable Value.....	79
What is IVAP?	80
Understanding the EVR	80
PART II -- Rules Governing the Treatment of Income from VA M21-1MR	81
Reporting Period for Improved Pension	81
Forms	82
Claimant Requirements for Submitting Information.....	82
Verification of Income.....	82
Developing for Interest Income from Net Worth.....	83
Time Limits for Responding to Information.....	83
Award Adjustments	84
Veterans Who Are Married to Each Other	85
Counting Income for the Benefit Period.....	85
Normally, irregular income is reported after the fact on the beneficiary's Eligibility	86
Verification Report (EVR).....	86
Counting the Income of Dependents	89
Gross Business Income Deductions	90
Deduction for Permanent and Total Disability	90
Income Inclusions	91
Income Exclusions.....	94
Death and Disability Income Exclusions	100
Income From a Mortgage or Contract for Deed	101
Indian Income.....	102
Income From the Sale of Property	104

CHAPTER 7

Reducing Income to Qualify for Pension

Introduction	109
The Importance of a Rating	110
The Special Case for Personal Service Arrangements	110
Rules Governing the Treatment of Medical Deductions from VA M21-1MR	111
Deductible Medical Expenses	111
Medical Expenses	112
Deducting Fees for In-Home Attendants.....	113
Deducting Insurance Premiums	114
Nonprescription Drugs.....	114
Developing for Unreimbursed Medical Expenses.....	114
Developing for Unreimbursed Funeral and Other Final Expenses.....	115
Rules for Medical Expense Deductions	117
Expenses Exceed Five Percent Deductible	118
List of Common Allowable Medical Expenses.....	119
Sources of Medical Expenses.....	120
Definition of Nursing Home	120
Medical Expense Deduction for Nursing Home Fees	121
Definition of Licensed Health Professional	121
In-Home Attendants for a Disabled Person Rated A&A or Housebound	121
In-Home Attendants for a Disabled Person Not Rated A&A or Housebound.....	122
Medical Insurance Premiums.....	123
Veterans in State Homes	123
Custodial Care, Including Assisted-Living Facilities	123
Adaptive Equipment.....	125
Medicare Part B Premiums.....	125
Adult Day Care, Rest Homes, or Group Homes	126
Processing Medical Expense Deductions.....	126
Allowing Medical Expenses Prospectively.....	128
Award Action to Allow Medical Expenses Prospectively	129
Reopening a Disallowed Claim	129
Claimant Notification for Prospective Medical Expenses	130
Adjusting an Award for a Reduction in Continuing Medical Expenses.....	130
Handling the Beneficiary's Failure to Confirm Recurring Expenses	131

Nonrecurring Medical Expenses.....	132
Overlapping EVR Periods.....	133
Effect of COLA or Change in Dependency Status on Improved Pension Rate	134
Reimbursed Medical Expenses	134
Renouncement of Claimed Medical Expenses	134
Verifying Medical Expenses	135
What Constitutes Acceptable Provider Proof	135
Cases Selected by Hines ITC for Provider Proof.....	135
Determining Whether Provider Proof Is Required for Cases Selected by Hines.....	135
Handling Cases When Medical Expense Proof Is On Record	137
Obtaining Proof of Expenses	138
Special Expense Verification Procedures for Claimants Affected by Natural Disasters ...	139
Annotating the Provider Proof Writeout	141
Considering Requiring Future Proof.....	141
Incidental Medical Expenses	141
Proof Not Required for Medicare Part B Premium.....	141
Acceptability of Photocopies	142
Provider Proof Maintained in Virtual VA	142

CHAPTER 8

Asset Rules for Pension

Providing Advice to Divest Assets to Qualify for Pension.....	147
The Need to Be Accredited.....	147
Protect Yourself from Liability Resulting from Asset Divestiture.....	148
Documentation of VA's Approach towards Using Net Worth for Qualifying	150
§3.274 Relationship of net worth to pension entitlement.....	150
§3.275 Criteria for evaluating net worth.	150
§3.276 Certain transfers or waivers disregarded	151
Specific Rules from M21-1MR	151
Definition of Net Worth.....	151
Purpose of the Pension Program and the Basis for Evaluating a Claimant's Net Worth	151
Handling a Pension Claim in Which Net Worth Is a Factor	152
Considering Net Worth in Improved Pension Cases.....	152
Requirement of Net Worth Administrative Decision	153
Initiating Follow-Up Development on Real Estate Values.....	153

EVR Forms for Developing Basic Income/Net Worth Information	154
Claimant Requirements for Submitting Information	154
Retroactive Restoration of Benefits	154
Net Worth Criteria	155
Impact of Net Worth of Children on Improved Pension	156
Evaluating Net Worth	156
Effect of Net Worth on Benefit Eligibility	156
Adjusting Improved Pension Awards Based on Changes in Net Worth	156
Discontinuance for Excessive Net Worth	157
When to Consider the Spouse's Net Worth	157
When to Consider the Child's Net Worth	157
Payment of Benefits Based on the Reconsideration of Net Worth	158
Excessive Net Worth as a Question of Fact	159
When a Net Worth Decision Is Required	159
Preparing Administrative Decisions	159
Reopening a Claim after Denial for Excessive Net Worth.....	160
38 CFR §3.660 Dependency, income and estate.	160
38 CFR §3.275 Criteria for evaluating net worth.....	162
Convertibility of Assets	163
Current Value of Property	164
Sources of Information about Property Value.....	164
Excluding the Value of a Single-Family Dwelling	165
Determining the Reasonable Lot Area	165
Dual-Use of Property	165
Effect of State Homestead and Exemption Statutes	166
Excerpts from M21-1 Previous Edition That Might Shed Additional Light.....	166
Life Expectancy Table.....	167
Summary of VA's Approach towards Using Net Worth for Qualification	168
Decisions by VA Are Based on Guidelines Instead of Specific Rules	168
Net Worth in Excess of a Reasonable Amount Will Disqualify for Pension	168
Reopening the Case with New Evidence.....	169
Assets Must Be Completely Divested Including No Life Estates.....	169
Exempted Assets	169
Converting Assets to Cash Should Not Result in Substantial Sacrifice.....	170
The Possibility of a 12 Month Look Back Penalty on Divestment of Assets	170
Planning Opportunities for Reallocating Assets to Qualify for Pension	171
Transfers At Least 12 Months Prior to Application	171

Converting Assets into an Income Annuity	171
Converting Assets into an Ownership Form with Little or No Cash Value.....	172
The National Care Planning Council Is Also Working on a Solution	172

CHAPTER 9

Dovetailing Pension with Medicaid

The Critical Importance of Medicaid Planning.....	175
The Issue of Advising Claimants to Divest Assets to Meet the Asset Test	175
A Brief Description of Medicaid	179
Divesting Assets for VA Triggers a Penalty for Medicaid	185
Medicaid Planning Often Seals the Deal.....	185
Trust or Similar Arrangement to Prevent Children from Spending the Assets.....	186
The \$90 Nursing Home Limitation.....	186
Concurrent Income from VA and Medicaid.....	188
Dual Applications for Medicaid and VA	192
Paying the Penalty Rather Than Restoring the Asset.....	192
Trigger the Penalty by Applying for Medicaid	193
Using Single Premium Immediate Income Annuities (SPIA)	194
Personal Service Arrangements.....	196
VA Manual 21-1MR for Understanding How Medicaid Dovetails with Pension... 196	
Medicaid Definitions	197
Covered by a Medicaid Plan.....	198
Identifying Medicaid-Approved Nursing Facilities.....	198
Applying for Medicaid	199
Determining Medicaid Eligibility.....	199
When Review and Confirmation Are Required.....	199
When a Medicaid Application Is Pending	199
Assumed Medicaid Coverage.....	200
Obtaining Information on Incompetent Veterans.....	201
Medicaid Coverage Terminated.....	201
Award Effective Dates When Medicaid-Covered Nursing Care Is Involved	201
Effective Dates for Reductions - Running Award	202
Beneficiary Liability for Overpayment	203
Beneficiaries without Dependents Receiving \$90 or Less	203
No Increase in Monthly Rate after Medicaid Coverage Begins	204

EVR Processing	205
Effective Dates for Restoration to the Full Rate of Pension.....	206
Considering Veteran Admitted to a VAMC	206
Awarding Compensation as the Greater Benefit	207
DIC or Death Pension.....	207
Awarding DIC as the Greater Benefit	207
Notice Provided to a Medicaid Beneficiary.....	208

CHAPTER 10

Understanding the Claims Process for Pension

1. Pension Rates	210
2. Defining Pension.....	210
3. Deciding Which Benefit in the Application Is Best	212
4. Claims Forms Provided in This Book and on the CD with the Book.....	213
5. A Substantially Complete Claim	213
6. Forms and Documents to Be Included in a Substantially Complete Claim	214
7. The Claims Process in the Regional Office	215
8. Where to Send Claims	217
9. Power of Attorney	219
10. Accreditation	220
11. Charging a Fee	221
12. Filing an Informal Claim	221
13. Leaving Blank Spaces	222
14. Priority Claims.....	222
15. Required Signatures.....	223
16. Submitting Original Documents	224
17. Effective Date and Payment of Award.....	225
18. Verification of Dates, Dependency and Death.....	228
19. Verification of Service	229
20. Verification of Income, Assets and Expenses -- Avoid Repayment	238
21. The Rating for Aid and Attendance or Housebound.....	241
22. The Importance of a Rating.....	243
23. The 12 Month Prospective Deduction of Recurring Medical Costs.....	244
24. Submitting Evidence for the Ratings	252
25. Benefit for a Healthy Veteran with a Non-Healthy Veteran Spouse.....	253
26. Veterans Who Are Married to Each Other.....	256
27. Special Rules for Death Pension	256
28. Definition of a Single Surviving Spouse	257
29. Checking the Medicaid Eligibility Box on the Application	259
30. Concurrent Income Benefits and Pension.....	259
31. Special Requests or Comments on the Application Form	265

32. Competency for VA Purposes	266
33. Fiduciary Program	270
34. Material Changes, Denials, New Application and Reopening the Case	284
35. Requirement to Notify VA	285
36. Accrued Benefits	285
37. The EVR	295
38. Overpayment or Erroneous Payment.....	302
39. VA Debt Collection -- Recovering Veterans Benefits Previously Paid	304
40. Notice of Disagreement and Appeals.....	314

CHAPTER 11

Becoming a Consultant for Pension

Chapter Summary	323
Part I -- Becoming a Consultant.....	324
What Is a Veterans Benefits Consultant?	324
33% of all Seniors May Qualify for Pension or Death Pension	324
What You Should Know about Organizing a Consulting Practice	327
Your Purpose in Helping Veterans to Be Aware of Their Benefits.....	327
Pension Applicants and the Importance of Dovetailing with Medicaid.....	328
The Attitude of Congress towards What You Do	328
Be careful about how you operate your service.	329
What type of clients should attorneys or financial practitioners expect?	330
Consultations for the Pension Benefit (Aid and Attendance)	331
Dealing with People Who Need the Benefit but Who Will Not Use Your Services ...	332
Finding a Solution for EVR's	333
Service Organizations and Service Officers	333
Personal Service Arrangements.....	335
Why You as a Consultant Should Be Involved in Personal Service Arrangements ..	335
The National Care Planning Council's Veterans Marketing Materials	336
Veterans Benefits Consultants Package	336
The Marketing and Promotional Tools in the NCPC Consultants Package.....	336
The "State Care Planning Council Marketing System" from the NCPC.....	338
Finding New Ways to Provide Your Services	338
The Council Marketing System	338
IThe State Care Planning Council Concept	339
1. Collaborative Networking - Gain from Giving.....	339
The Underlying Principle of Networking	339

Collaborative Networking Marketing	339
2. A Natural Idea That We Make Better	340
3. The National Care Planning Council.....	340
Description of the National Council Websites	341
Other State Websites	342
4. State Care Planning Councils	342
History of the State Care Planning Council Concept	342
Objectives of a State Care Planning Council.....	343
Membership in the National Care Planning Council Is Required	343
Benefits of Listing on Your State Care Planning Council Website	343
5. A Unique Marketing Advantage for Council Members.....	344
Opening Doors That Would Normally Be Closed	344
Producing Referrals That Normally Would Not Be There.....	344
Providing Opportunities for Presentations That Normally Would Be Unavailable..	344
PART II -- Representation for Claims	346
Accreditation Requirements	346
Who Needs to Be Accredited	346
Approved Continuing Education Courses.....	347
Discussion of Restrictions	348
Discussion.....	348
What is the definition of "claimant"?	349
The Provisions of 38 CFR 14.629 (Accreditation of Agents and Attorneys)	350
The Issue of Charging a Fee	353
The Provisions of 38 USC 5904.....	353
The Third Party Exemption -- 38 CFR 14.636	353
Using a Nonprofit Corporation as a Front for the Third-Party Exemption	356
A Subordinate Processing Claims Documents through an Accredited Attorney.	357
What about organizations that are using the third-party exemption and charging fees?	358
When can you charge a fee?	359
How reasonable are your attorney's fees?	360

CHAPTER 12

Case Studies Using the Software

- ◆ Asset Reduction Strategies
- ◆ Software Program for Benefit Estimates
- ◆ Case Studies Illustrating Claims & Software Details

Asset Reduction Strategies.....	364
Rules Governing Asset Transfers.....	364
The Effect of Asset Transfers on Medicaid Eligibility.....	364
Strategies to Transfer Assets and Reduce the Estate.....	365
Software Program for Benefit Estimates	368
Using Program to Estimate Pension Benefit and Maximize Income after Transfers ..	368
Instructions for Screen Entries	368
Case Studies Illustrating Claims and Software Details.....	371
The Ordered Process of Helping Clients Obtain Pension Benefits.....	371
Forms List from Support Packet.....	372
Planning Case #1	372
Planning Case #1 Worksheet	376
Planning Case #1 Software Screenshot.....	377
Planning Case #2.....	378
Planning Case #2 Worksheet	381
Planning Case #2 Software Screenshot.....	382
Planning Case #3.....	383
Planning Case #4.....	385
Medicaid Rules Governing Single Premium Immediate Annuities	388

APPENDIX I

Veterans Service Representatives	392
List of VA Approved Service Organizations.....	392
List of State and County Veterans Service Officers....	401

APPENDIX II

State Veterans Homes..... 638

APPENDIX III

Citations Pertaining to Representation for Claims..... 647

SUPPORT PACKET 691

Forms

VA Form 21-526 -- Veteran's Application for Compensation and/or Pension, Parts A,B,C, & D

VA Form 21-534 -- Application for Dependency and Indemnity Compensation, Death Pension and Accrued Benefits by a Surviving Spouse or Child (Including Death Compensation If Applicable)

SF 180 -- Request Pertaining to Military Records (Used to obtain discharge record)

VA Form 21-22a -- Appointment of Individual as Claimant's Representative (POA for claim)

VA Form 21-0779 -- Request for Nursing Home Information in Connection with Claim for Aid and Attendance

VA Form 10-10EZ -- Application for Health Benefits (Veterans receiving pension are guaranteed health benefits without copayment)

VA Form 10-0103 -- Veteran's Application for Assistance In Acquiring Home Improvement and Structural Alterations (HISA)

Form 1 -- Statement of Attending Physician (Used to determine rating for A&A or HB)

Form 2 -- Care Provider Report (Used to provide evidence of recurring medical expenses)

Form 3 -- Health Insurance Premiums (Used to provide evidence of recurring medical expenses)

Form 4 -- Claimant's Certification (verifies out-of-pocket costs for unreimbursed medical expenses)

Other Support Material

Pension Rates for 2010

Screenshot of Software Entry Page

Software Installation Instructions

Software Usage Instructions

Worksheet for Software

Steps in Making a Claim

The CD that comes with this book also contains a folder called "Forms". This folder contains copies of all the forms and documents that are used as samples in the textbook

Here is a listing of the files found in the "Forms" folder on the CD that comes with this book. The name of the file describes what form or support material is found in the file.

01 form 21-526-Veterans Claim Form.pdf
02 form 21-534-Death Benefit Claim Form.pdf
03 formSF-180-Request for Discharge Papers.pdf
04 form 21-22a-Power of Attorney.pdf
05 form 21-0779-Veteran or Spouse in a Nursing Home.pdf
06 Form 10-10EZ- Application for Health Care.pdf
07 Form 10-0103-HISA Application.pdf
08 Form 1-Statement of Attending Physician.pdf
09 Form 2-Provider Report for Recurring Medical Expenses.pdf
010 Form 3-Medical Insurance Premium Expenses.pdf
011 Form 4-Claimant Certification of Recurring Medical Expenses.pdf
012 Pension Rates for 2009.pdf
013 Screenshot.pdf
014 Software Installation Instructions.pdf
015 Software Usage Instructions.pdf
016 Worksheet.pdf
017 Steps in Making a Claim.pdf

- VA Form 21-527 Income, Net Worth and Employment Statement
- VA Form 21-4103 Information from Re-Married Widow
- VA Form 21-4165 Pension Claim Questionnaire for Farm Income
- VA Form 21-8049 Request for Details of Expenses
- VA Form 21-8416 Medical Expense Report (Typically used for EVR but can be used for original application)
- VA Form 21-22 Appointment of Veterans Service Organization as Claimant's Representative
- VA Form 21-0510 Eligibility Verification Report Instructions
- VA Form 21-0516 EVR Veteran with No Children
- VA Form 21-0517 EVR Veteran with Children
- VA Form 21-0518 EVR Surviving Spouse with No Children
- VA Form 21-0519s EVR Surviving Spouse with Children