Module 6 – Understanding Pension and How to Apply

Topics Covered in This Module

- Entitlement to Pension
- Veterans Pension and Survivors Pension
- The Income and Asset Limits for Pension
- Ratings for Aid and Attendance or Housebound
- Unreimbursed Medical Expenses and Custodial Care
- The Net Worth Limit, Look Back and Penalty
- Case Study
- Using the Senior Veterans Service Alliance Method for Claims
- If the Claimant Dies before a Decision Is Issued

Eligibility – Service Requirements, Disability and Survivors

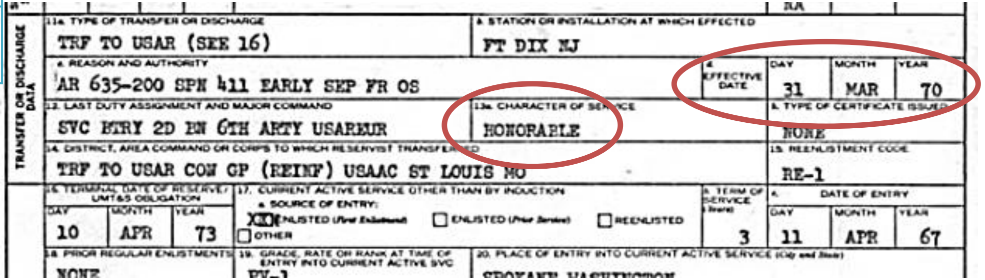
- Veteran – 90 days active duty with at least one day during a period of war
- Veteran – No requirement for combat
- Veteran – Other than dishonorable discharge
- Veteran – If younger than age 65 must be totally disabled, but for 65 and older this is not a requirement
- Benefit for surviving spouse – Must have been continuously married to and living with the veteran at death and not remarried since, even if currently single (There are some exceptions)
- Survivor benefit does not require surviving spouse to be totally disabled prior to age 65

Period of War	Beginning and Ending Dates
World War II	December 7, 1941 through December 31, 1946
Korean Conflict	June 27, 1950 through January 31, 1955
Vietnam Era	August 5, 1964 through May 7, 1975; for veterans who served "in country" before August 5, 1964, February 28, 1961 through May 7, 1975
Gulf War	August 2, 1990 through a date to be set by law or Presidential Proclamation

Entitlement to Pension – A Means Tested Program

Selected 2019 Income Limits for Pension	Annual
Veteran without Spouse	$13,535
Veteran without Spouse, Housebound	$16,540
Veteran without Spouse , Aid and Attendance	$22,577
Veteran with Spouse	$17,724
Veteran with Spouse, Housebound	$20,723
Veteran with Spouse , Aid and Attendance	$26,766
Surviving Spouse	$9,078
Surviving Spouse, Housebound	$11,095
Surviving Spouse, Aid and Attendance	$14,509

- Compensation and Survivors DIC are not means tested, but Pension is
- Income test – Examples of income limits depending on marriage status and disability ratings
- There are more than these 9 income limits, but these are the most common
- Net worth test for 2019 – $127,061
- DD 214 for service requirements



Demonstrating Entitlement by Calculating the Benefit

Veteran and Spouse – Veteran Receiving Paid Long Term Care at Home	
1. Total 12-month, future family gross income from all sources	$37,500
2. Less 12 months-worth, prospective, unreimbursed medical expenses	$28,104
3. Subtract 5% of basic MAPR for this category	$886
4. Medical Expenses Adjusted for Deduction	$27,218
5. IVAP (Income for VA Purposes) (Future income less future medical costs)	$10,282
6. Couples Pension MAPR with Aid and Attendance	$26,766
7. Less IVAP	$10,282
8. Calculated Yearly Pension Amount	$16,483
9. Monthly Pension Award (yearly divided by 12 and rounded down)	$1,373

1. Combined 12 future months (from month of application) of anticipated gross household income from all members of the household who are providing for household maintenance. Special rules for dependent children

2. Subtract 12 future months of anticipated recurring UME's for all household members (from month of application)

3. Subtract a deductible amount prescribed by regulation

4. This step results in medical expenses adjusted for the prescribed 5% deduction

5. Subtract adjusted medical expenses from gross family income in step #1. This yields an amount labeled by VA as "Income for VA Purposes" or IVAP. If the result is a negative amount, IVAP is considered $0. <u>IVAP is also used to calculate net worth</u>

6. Find the applicable Maximum Annual Pension Rate for this category which is the amount for a couple with aid and attendance

7. Subtract IVAP from the applicable MAPR above

8. This step results in the calculated yearly Pension benefit which under the next step #9 is divided by 12 and rounded down to produce the monthly Pension benefit whether for a living veteran or a surviving spouse where applicable

Ratings for Aid and Attendance or Housebound

- Special disability ratings are defined in 38 CFR Part 3 that pay additional income with Compensation, DIC, Pension and SMC
- Normally don't deal with "Housebound Ratings" for Pension claims and focus entirely on "Aid and Attendance" ratings
- The A & A rating generally requires assistance with 2 or more activities of daily living or alternatively: a patient in a nursing home, nearly blind, bedridden or who has a mental or physical incapacity that represents a hazard. VA Form 21-2680 for rating
- The aid and attendance rating produces the largest Maximum Allowable Pension Rate for any given category and is also required for deducting certain medical expenses

Unreimbursed Medical Expenses

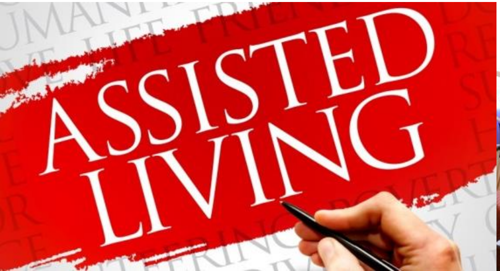
Allowable Expenses for an Initial Claim

- Sum of future 12 months of health insurance premiums from date of application to include Medicare Part B, LTC insurance and Medicare supplement plans and Advantage plans
- Sum of 12 months of recurring future care costs to include home care, assisted living and nursing home costs and potentially, independent living costs
- Any other future , monthly recurring, annual medical costs that can be proven to be recurring

Expenses for an Ongoing Claim

Any out-of-pocket nonrecurring expenses to include:

Medications, medical supplies, deductibles, co-pays, medical equipment, medical food, vitamins, supplements, adaptive equipment, transportation expenses and smoking cessation products



Custodial Care

- The need for custodial care is important for deduction of food and lodging as medical expenses in independent living and assisted living and for deduction of services of non-licensed , in-home attendants
- Custodial care means assistance with two or more ADLs; or supervision because an individual with a physical, mental, developmental, or cognitive disorder requires care or assistance on a regular basis to protect the individual from hazards or dangers incident to his or her daily environment. Custodial care does not require an A & A rating
- ADLs (Activities of Daily Living) include bathing or showering, dressing, eating (feeding), toileting or transferring and ambulating within the home or living area
- Instrumental Activities of Daily Living (IADLs) are not considered part of custodial care and as such do not trigger by themselves medical deductions, although they can be included as care costs when custodial care is provided in conjunction with IADLs

Medical Deduction Rules for In-Home Care

- Services of licensed health care providers or assistants or aides of these providers are deductible as medical expenses
- Services of non-licensed, in-home attendants such as family or friends or privately hired caregivers are deductible as medical expenses if the claimant is rated for "Aid and Attendance" and the attendants are providing custodial care. There is a presumed reasonable hourly rate although the rate is not specifically proscribed
- If the conditions above are met, all other services provided by non-licensed individuals that are reasonably needed for the claimant are also deductible as medical expenses
- Out-of-pocket cost for state licensed – or in those states where licensing is not required – non-medical home care companies are also deductible as medical expenses

Medical Deduction Rules for Independent Living

Independent living is typically not licensed for custodial care and there are no medical deductions except as follows:

1. Any unreimbursed medical expenses provided by licensed health providers or non-licensed family members – if there is a rating for aid and attendance – are deductible
2. The cost of food and lodging is not deductible as a medical expense except under the following conditions:
   - The facility provides or contracts for 3rd party health care or custodial care which the claimant uses **OR**
   - The claimant arranges for his or her own 3rd party care **AND**
   - An M.D., PA or NP states in writing that the individual must reside in that particular facility and must separately contract with a third-party provider for health care or custodial care

Medical Deduction Rules for Assisted Living

- For a resident in need of custodial care, the cost of the custodial care as well as the cost of food and lodging is a deductible medical expense
- For a resident who is not receiving custodial care, there is no deduction
- For a married couple, both residing in assisted living, where one is receiving custodial care and the other is not, the custodial care for that person as well as the cost of the food and lodging is deductible. The cost of food and lodging for the noncustodial care resident is not deductible

Medical Deduction Rules for Nursing Homes

- Any claimant who is a patient in a nursing home is automatically awarded a rating for aid and attendance and all out-of-pocket costs for the nursing home are deductible
- Any claimant who is not considered a patient in a nursing home does not meet the requirement for deductibility
- For a veteran claimant, VA Form 21-0779 is used to confirm the veteran is a patient
- For a non-veteran claimant other verification as a patient is used
- Federal regulations define what is considered a nursing home for VA purposes

The Net Worth Limit

Net Worth = IVAP + Assets   *(IVAP is never less than $0.00)*

IVAP = [Gross Income] - UMEs + [5% of Basic MAPR]

- Subsequent slides will cover what assets are
- 2019 yearly limit = $127,061
- Limit changes every year on December 1 based on the CPI increase for Social Security
- The limit is the same whether the claimant is 65 years of age or 95 years of age

- Application for Pension with net worth over the limit results in a denial of entitlement
- If net worth goes below the limit within one year of application, no new initial application is required
- The most important issue with planning for pension entitlement is to try to make sure that IVAP is reduced to $0.00



Exclusions from Net Worth

- The value of personal effects suitable to and consistent with a reasonable mode of life, such as appliances and family transportation vehicles are exempt from counting as assets
- VA will not consider a child to be a veteran's or surviving spouse's dependent child for Pension purposes if the child's net worth exceeds the net worth limit
- The primary residence of the claimant and up to 2 acres on which it sits is exempt as an asset
- VA will not include a claimant’s primary residence as an asset even if the claimant resides in a nursing home, medical foster home, other care facility, or the home of a family member for health care or custodial care.
- Net proceeds from the sale of a primary residence while the claimant is receiving benefits are considered assets
- If the property is greater than 2 acres, VA will accept a certified statement that the extra acreage cannot be sold, as evidence for exempting the larger lot



The 3 Year Look Back and Penalty for Transfers

- Claimant may not create Pension entitlement by transferring covered assets
- Covered assets are assets transferred for less than fair market value in excess of the net worth limit and within the previous 36 months or October 18, 2018 whichever comes first. Considering the inconsistency of the 36 month look back question on the application form
- A transfer for less than value is any voluntary asset transfer to or purchase of any financial instrument that reduces net worth and includes annuities and the establishment of trusts
- VA assumes that any transfer within the look back period, regardless of intent, is an attempt to reduce net worth
- If application is made within the look back period, a penalty is assessed by dividing the covered amount by a divisor. For 2019 the divisor is $2,230 a month and this result is the number of months rounded down that VA will deny entitlement from the date of the transfer or transfers
- VA Form 21-0969 is required if certain issues are checked on the application
- Penalty starts the first day of the month following the month of the transfer

Understanding How the Penalty Is Calculated – Part 1

- The claimant had $230,000 in assets in 2018 and legally transferred, under previous rules, $50,000 of those assets in June 2018. Another $40,000 of assets was transferred for less than value on December 15, 2018, leaving $140,000 in total assets
- The look back only goes to October 18, 2018 and thus only applies to the transfer of $40,000 in December 2018. The transfer of $50,000 is disregarded as it was done properly
- The claimant submits application in May 2019 and has done some asset reduction planning to spend another $20,000 on legitimate purchases to reduce his assets to $120,000 on the date of claim
- The claimant is in assisted living and his income is somewhat more than the cost of assisted living. After deducting all medical costs and adjusting for 5% of basic MAPR, his IVAP is $6,000 a year

Understanding How the Penalty Is Calculated – Part 2

- Prior to application the claimant wants to meet the net worth limit and make sure that the transfer for less than value of $40,000 creates the smallest penalty.
  The calculation is as follows: [$120,000 of remaining assets] + [$40,000 of transfer for less than value] + [IVAP of $6,000] = $166,000 - $127,021 = $38,979 over the net worth limit.
- All $38,979 over the limit is considered a covered amount for penalty as it is less than the $40,000 transferred for less than value. Additional excess net worth over $40,000 would also further bar benefits
- The claimant increases his deductible medical costs by an additional $8,000 a year thus reducing his IVAP to $0.0
- After recalculating for the reduced income, the covered amount subject to penalty is now $32,979
- The penalty is calculated by dividing $32,979 by $2,230 a month and rounding down, which results in 14 months of penalty. The penalty starts on the first day of the month following the month of the last transfer which is January 1, 2019
- Application is in May 2019. 4 months of the penalty have elapsed; 10 months remain

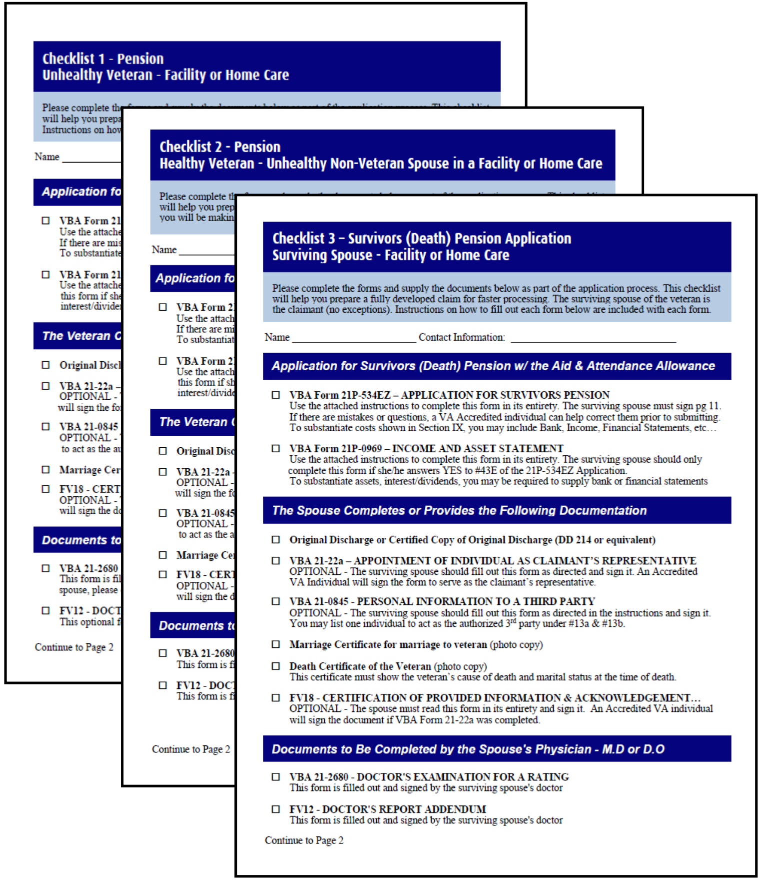
Allowable Ways under the Rules to Meet the Net Worth Limit

- Purchases for personal items and services at fair market value such as improvements to the personal residence, a new car, paying off debt, buying appliances or furniture or purchasing a funeral plan. These are purchases for personal effects that are exempt
- Increase deductible medical costs
- Let the potential penalty for transfers run out before applying
- Pre-plan transfers now in order to get beyond the 36 month look back when the benefit might actually be needed
- Start the clock ticking with the penalty by applying earlier even though not yet ready. Don't do this if penalty is greater than remainder of look back
- Privately pay through the penalty period using half a loaf
- Trigger involuntary transfers to income annuities from retirement plans if they are available

Ideas from Planners That Have Not Been Tested

- We are not personally liable or responsible for these ideas. We are only passing them on from others who think they might work
- Prepay deductible medical costs in advance
- Purchase a number of exempt personal effects and then gift them to members of the family
- Gift title to the personal residence – which is considered exempt – either prior to applying or while on claim
- Transfer property or cash through an installment sale

Our Checklist Approach to Submitting Claims



Checklist 1 - Pension
Unhealthy Veteran - Facility or Home Care

Checklist 2 - Pension
Healthy Veteran - Unhealthy Non-Veteran Spouse in a Facility or Home Care

Checklist 3 - Survivors (Death) Pension Application
Surviving Spouse - Facility or Home Care

Please complete the forms and supply the documents below as part of the application process. This checklist will help you prepare a fully developed claim for faster processing. The surviving spouse of the veteran is the claimant (no exceptions). Instructions on how to fill out each form below are included with each form.

Name ________________________ Contact Information: ________________________

Application for Survivors (Death) Pension w/ the Aid & Attendance Allowance

- ☐ VBA Form 21P-534EZ – APPLICATION FOR SURVIVORS PENSION
  Use the attached instructions to complete this form in its entirety. The surviving spouse must sign pg 11.
  If there are mistakes or questions, a VA Accredited individual can help correct them prior to submitting.
  To substantiate costs shown in Section IX, you may include Bank, Income, Financial Statements, etc…
- ☐ VBA Form 21P-0969 – INCOME AND ASSET STATEMENT
  Use the attached instructions to complete this form in its entirety. The surviving spouse should only complete this form if she/he answers YES to #43E of the 21P-534EZ Application.
  To substantiate assets, interest/dividends, you may be required to supply bank or financial statements

The Spouse Completes or Provides the Following Documentation

- ☐ Original Discharge or Certified Copy of Original Discharge (DD 214 or equivalent)
- ☐ VBA 21-22a – APPOINTMENT OF INDIVIDUAL AS CLAIMANT'S REPRESENTATIVE
  OPTIONAL - The surviving spouse should fill out this form as directed and sign it. An Accredited VA Individual will sign the form to serve as the claimant's representative.
- ☐ VBA 21-0845 - PERSONAL INFORMATION TO A THIRD PARTY
  OPTIONAL - The surviving spouse should fill out this form as directed in the instructions and sign it.
  You may list one individual to act as the authorized 3rd party under #13a & #13b.
- ☐ Marriage Certificate for marriage to veteran (photo copy)
- ☐ Death Certificate of the Veteran (photo copy)
  This certificate must show the veteran's cause of death and marital status at the time of death.
- ☐ FV18 - CERTIFICATION OF PROVIDED INFORMATION & ACKNOWLEDGEMENT…
  OPTIONAL - The spouse must read this form in its entirety and sign it. An Accredited VA individual will sign the document if VBA Form 21-22a was completed.

Documents to Be Completed by the Spouse's Physician - M.D or D.O

- ☐ VBA 21-2680 - DOCTOR'S EXAMINATION FOR A RATING
  This form is filled out and signed by the surviving spouse's doctor
- ☐ FV12 - DOCTOR'S REPORT ADDENDUM
  This form is filled out and signed by the surviving spouse's doctor

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- We provide 3 checklists to make sure that every step is followed in the claim process
- Checklist 1 – Veteran in a Facility or Home Care. This is for application for a living veteran where the veteran is experiencing the need for care
- Checklist 2 – Veterans Unhealthy Spouse, Facility or Home Care. This is for application for a living veteran where the veteran is healthy but the spouses experiencing the need for care
- Checklist 3 – Survivors Pension, Facility or Home Care. This is for application for a surviving spouse

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Submitting Claims for Pension

- Use the textbook for step-by-step instructions on how to do it correctly
- All pertinent forms, including those from the Department of Veterans Affairs and FV forms that we have designed for more effective handling, are on the "Claim Support Disc"
- Pension Management Centers
- The issue with submitting an Intent to File
- Don’t submit copies of statements not required
- The issue with original or copied DD 214’s

10-10HS Request for Hardship Determination.pdf
21-22a Appointment of Individual as Claimants Representative.pdf
21-0779 Request for Nursing Home Information.pdf
21-0845 Authorization to Disclose Personal Information to a 3rd Party.pdf
21-2680 Examination for Housebound Status or Permanent Need for Regu
21-4138 Response to an Incompetency Proposal.pdf
21-4138 Statement in Support of Claim.pdf
21P-527EZ Application for Pension.pdf
21P-530 Application for Burial Benefits.pdf
21P-534EZ Application for DIC, Death Pension, Accrued Benefits.pdf
21P-601 Application for Acrued Amounts Due a Deceased Beneficiary.pdf
21P-0847 Request for Substitution of Claimant.pdf
21P-0969 Income and Asset Statement.pdf
21P-8049 Request for Details of Expenses.pdf
21P-8416 Medical Expense Report.pdf
24-0296 Direct Deposit Enrollment.pdf
Incompetency Notice Response.pdf
SF 180 – Request Pertaining to Military Records.pdf

Checklist 1 - Pension - Veteran in Facility or Home Care.pdf
Checklist 2 - Pension - Veterans Unhealthy Spouse - Facility or Home Care.pdf
Checklist 3 - Survivors (Death) Pension - Surviving Spouse - Facility or Home Care.pdf
VA 2019 Aid and Attendance or Housebound Allowances.pdf
VA 2019 Pension Rates.pdf
Where to Send Formal & Intent to File Claims for Pension.pdf

FV22 - INDEPENDENT LIVING COMMUNITY CERTIFICATION OF SERVICES.pdf
FV18 - CERTIFICATION OF PROVIDED INFORMATION & ACKNOWLEDGEMENT OF UNDERSTANDING.pdf
FV13 - CARE PROVIDER CERTIFICATION OF SERVICES.pdf
FV12 - DOCTOR'S REPORT ADDENDUM.pdf
FV11 - Cover Letter for Submission.doc.docx
FP106 - SAMPLE CARE SERVICE INVOICE.doc
Attendant Affidavit.pdf