

Utilizing VA Benefits to Help Veterans Age in Place

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April 25, 2022

Housekeeping

- All on mute. Use Questions function for substantive questions and for technical concerns.
- Problems getting on the webinar? Send an e-mail to NCLER@acl.hhs.gov.
- Written materials and a recording will be available at NCLER.acl.gov. See also the chat box for this web address.

About NCLER

The National Center on Law and Elder Rights (NCLER) provides the legal services and aging and disability communities with the tools and resources they need to serve older adults with the greatest economic and social needs. A centralized, one-stop shop for legal assistance, NCLER provides Legal Training, Case Consultations, and Technical Assistance on Legal Systems Development. Justice in Aging administers the NCLER through a contract with the Administration for Community Living's Administration on Aging.

About Justice in Aging

Justice in Aging is a national organization that uses the power of law to fight senior poverty by securing access to affordable health care, economic security, and the courts for older adults with limited resources.

Since 1972 we've focused our efforts primarily on populations that have traditionally lacked legal protection such as women, people of color, LGBT individuals, and people with limited English proficiency.

Key Lessons

- Assess Veteran for Pension and Service Connected Benefits
- Use Aid & Attendance, Housebound Allowance VHA Services to help Veterans Age in Place
- Understand How Social Security, Medicaid, and VA Benefits Interact

Veterans Benefits Basics

Advocating at the VA

You must be accredited to aid in the preparation, presentation, or prosecution of a VA benefit claim:

- Giving advice about VA benefits
- Filling out VA forms
- Filing claims on behalf of Veterans
- Calling the VA to follow up on Claims
- Exception under 38 CFR 14.630
 - (a) No compensation
 - (b) One claim only, unless exception granted by General Counsel

Accreditation How-To (1 of 2)

- Fill out VA Form 21a
- Attach Certificate of Good Standing from all State Bars in which you are a member.
- Mail: Office of the General Counsel (022D), 810 Vermont Avenue, NW, Washington, DC20420.
- Fax: (202) 495-5457 OR
- [Email OGCAccreditationMailbox@va.gov.](mailto:OGCAccreditationMailbox@va.gov)

Accreditation How To (2 of 2)

- Obtain a qualifying 3-hour CLE in the first 12 months of accreditation; an additional 3 hours in the first three years, and every two years thereafter.
- Submit a Certificate of Good Standing every year to renew.

VA Structure

Benefits Administration

- Home Loan
- Insurance
- Vocational Rehab
- Education
- Compensation & Pension
- VA Form 21-526EZ (SC)
- VA Form 21P-527EZ (P)

Health Administration

- Integrated Health Care System
- Hospital Services
- Outpatient
- Community Living Centers
- Vet Centers
- VA Form 10-10EZ

National Cemetery

- National Cemeteries, gravesites, national burial ground
- VA Form 40-10007

Eligibility for VBA Benefits

1. Served in active duty
2. Discharged under conditions other than dishonorable

Character of Discharge

- Eligible for benefits & VHA access only where discharge under conditions other than dishonorable
- Where Other than Honorable, Bad Conduct or Dishonorable—seek Discharge Upgrade or VA Character of Discharge determination

Veterans Disability Benefits

Service Connection

- Veteran with a current physical or mental health condition
- Linked to military service

Pension

Needs based benefit for

- low-income Wartime veteran/Surviving Spouse/child of wartime veteran
- Permanent and total disability OR
- Age 65+

Non-Service Connected (NSC) Pension: Permanent & Total Disability

- A. Total Disability: Impairment sufficient to render it impossible for the average person to follow a substantially gainful occupation (38 CFR 3.342)
- B. Permanent: is reasonably likely to continue throughout the life of the claimant. (38 CFR 3.340)
- Presumed: Receives SSI or SSDI; 65+ years; resides in a nursing home

NSC Pension: Service Requirement

- Wartime Service: Served 1 day during wartime
AND
 - If enlisted before 09/07/1980, served at least 90 days OR service-connected
 - If enlisted on/after 09/07/1980, served 24 months or time required at enlistment OR
 - ordered to active duty as an officer after October 16, 1981

NSC Pension: Wartime

- Mexican Border period: May 9, 1916, to April 5, 1917
- World War I: April 6, 1917, to November 11, 1918
- World War II: December 7, 1941, to December 31, 1946
- Korean conflict: June 27, 1950, to January 31, 1955
- Vietnam War era: November 1, 1955, to May 7, 1975, if served in the Republic of Vietnam; August 5, 1964, to May 7, 1975, if served outside the Republic of Vietnam.
- Gulf War: August 2, 1990 onward

Maximum Annual Pension Rate

Countable income must be below Maximum Annual Pension Rate (MAPR)

Veteran , No dependents	MAPR (2022)
Basic Pension	\$14,753
Qualify for Housebound	\$18,029
Qualify for Aid & Attendance	\$24,610

All payments count as income except those listed in
38 USC § 3.272

Countable Income

Countable Income =

Household Gross Annual Income - Exempt Income

Household	Exempt Income	Deductible Expenses
Veteran, spouse, and dependent children	Needs Based Public Assistance (SSI, TANF); in-kind & cash contributions for maintenance; tax refunds; benefits withheld to recover overpayments; IHSS payments to care for veteran; loans, cashed-in life insurance	Education expenses incurred by veteran; unreimbursed medical expenses

AND Assets [fair market value – debt+ income] under
\$138,489

Unreimbursed Medical Expenses

- The Veteran or Surviving Spouse Paid the expense
- The expense was incurred on behalf of veteran or relative of the veteran's constructive household
- Can deduct the total amount that exceeds 5% of the basic MAPR

UME Examples

- Hospital expenses
- Doctor's office fees
- Physical therapy
- Prescription/non-prescription drug costs
- Dental fees
- Vision care costs
- Hearing aid costs
- Medical insurance premiums
- Monthly Medicare deduction
- In-home care expenses
- Assisted Living costs
- Nursing home costs
- Expenses related to transportation to a hospital, doctor, or other medical facility
- Durable medical equipment

Service-Connected Benefits

1. Current diagnosed disability; AND
2. An in-service event, injury, or illness; AND
3. A medical nexus between the current disability and the illness.

Types of Service Connection Claims

- Direct Service Connection
- Presumptive Service Connection
- Secondary Service Connection
- Aggravation
- Service Connection based on 1151 Claims due to VA medical care

Aid and Attendance & Housebound Allowance

Special Allowance/Compensation

Aid and Attendance

- Need help to perform activities of daily living
- Bedridden when not receiving treatment
- Patient in nursing home
- Visual impairment

Housebound

- Greatly confined to the home
- Due to a single disability evaluated at 100%
- Single disability at 100% and a second at 60%

Fill out VA Form 21-2680

Annual Pension Special Compensation

Veteran, no Dependents	MAPR
Basic Compensation	\$14,753
Housebound Benefits	\$18,029
Aid & Attendance	\$24,610
Veteran, Spouse/Child	MAPR
Basic Compensation	\$19,320
Housebound Benefits	\$22,596
Aid & Attendance	\$29,175

Service Connection Special Compensation

Special Monthly Compensation in Rating Tables awarded where veteran disabled above 100%

	Basic Rate 100%	\$3,332.06
Choose one	SMC L	\$4,146.13-4,360.47
	SMC M	\$4,575.68-4,890.07
	SMC N	\$5,205.17
	SMC O	\$5,818.09
OR	SMC R1/R2-T (A&A)	\$8,313.61/9,535.91
	SMC S (Housebound)	\$3,729.64
AND	SMC K (loss/ampt.)	\$118.33

Service Connection SMC

SMC R: Aid & Attendance

- R1: Qualify for Level O or N ½+K AND Require help of another with ADLs
- R2: Require help of licensed professional
- T: due to TBI & institutional level care

SMC S: Housebound

- At least one 100% SC condition
- AND permanently cannot leave abode
- OR unrelated 2nd condition(s) at 60%

VHA Home & Community Based Services

Service Requirements for Health Benefits

- Enlisted after September 7, 1980, or entered active duty after October 16, 1981
- served 24 continuous months or the full period for which was called to active duty, unless:
- Discharged for a disability that was caused or made worse by active-duty service, or
- Discharged for a hardship or "early out," or
- Or Served prior to September 7, 1980

Reserves or National Guard

- Called to active duty by a federal order and completed the full period for which the person was called, or
- Ordered to active duty. Active-duty status for training purposes only, does not qualify for VA health care.

VHA Geriatric and Extended Services

- Homemaker services
- Home health aide care
- Adult Day Health care
- Home Based Primary Care
- Veteran Directed Care
- Medical Foster Home
- Hospice/Palliative/Respite Care
- Skilled Home Health Care
- Remote monitoring
- PACE
- Under Veteran Health Administration
- Co-pay & availability based on priority grouping

Long-Term Care

Community Residential Care

- Do not need hospital or nursing home care,
- But cannot reside alone and have no family to provide care
- Rent not paid for by VA
- VA may pay for needed extra services: psychiatric care, primary care, medication supervision, and self-care supervision

Types of Facilities

All facilities are VA-inspected and approved

- Community Residential Care Settings
- Assisted Living
- Adult Family Homes
- Medical Foster Homes

Service and Non-Service-Connected Veterans

Service-Connected Veterans

- Community Living Centers
 - Paid for by VA for medically and psychiatrically stable Veterans.
- Community Nursing Homes
 - Covered by VA for certain service-connected Veterans.
- State Veterans Homes for Veterans and their spouses
 - Co-pay may apply.

Non-Service-Connected Veterans

- Community Living Centers
 - *When space available* for medically and psychiatrically stable Veterans. Co-pays apply.
- Community Nursing Homes
 - Not covered by VA.
- State Veterans Homes for Veterans and their spouses
 - Co-pays apply.

VHA Priority Groups

- Eight priority Groups, determine co-pays and waitlist for services
- Depends on military service history, disability rating, income level, whether qualify for Medicaid and Pension, or receive A&A
- Group 7-8: Gross income is above income level & pay copays

NSC Pension, SSI, Medicaid, & IHSS

Benefits Table

Social Security Benefits	VA Service-Connected Compensation	VA Non-Service-Connected Pension
Social Security Title II Benefits SSDI SS Retirement SS Survivors	BEST OPTION Can receive both concurrently No offset	Can receive both concurrently Pension offset \$1 for \$1 by Social Security income
SSI (Supplemental Security Income)	Can receive both concurrently SSI offset \$1 for \$1 by Compensation	Can receive both concurrently, but SSI may be terminated

SSI & NSC Pension

- Pension is countable income under SSI rules, with a \$1 for \$1 offset
- A&A is not countable income for SSI
- Unreimbursed medical expense reduction in MAPR income is not countable income for SSI purposes.

NSC Pension & Medicaid

- Can receive NSC Pension, VHA health care, and Medicaid concurrently if meeting eligibility guidelines
- Aid & Attendance is not countable income
- Pension income is countable except for Medicaid programs that exclude disability income

NSC Pension & In-Home Supportive Services (IHSS)

- IHSS can supplement VHA extended care benefits
- Can Receive A&A and IHSS together to maximize hours
- Look to Spousal Impoverishment protection in your state

Waiver of Debt & Copays

- Within 180 days of notice for timely request
- Financial Status Report VA Form 5655 + Hardship Statement

Pension & SC Debt

- Request within 90 days for aid paid pending
- Submit every 6 months unless change in circumstance
- To VBA Pension or SC Intake Office

VHA Copays & Debt

- Financial hardship waiver or exemption of copay
- Form 10-10HS to VA medical center for future copay relief
- To VHA Medical Center

Resources for Navigating VA Benefits

- [National Veterans Law Center Program \(NVLSP\)](#)
- [Veterans Consortium](#)
- [Public Counsel](#)
- [Swords to Plowshare](#)

Questions?

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Case consultation assistance is available for attorneys and professionals seeking more information to help older adults. Contact NCLER at ConsultNCLER@acl.hhs.gov.