

THE NUTS AND BOLTS GUIDE TO VETERANS' BENEFITS

An introductory tour of the Special Monthly Pension available for wartime veterans and/or survivor spouses who are age 65 or older OR permanently and totally disabled.



THE LAW FIRM OF
CHRISTOPHER W. DUMM
Protecting You and the Ones You Love

PROTECTINGWEALTH.COM
888.616.2062

Most people think of veterans' benefits as being only for servicemen & women who were wounded or disabled while serving in the armed forces.

By and large, that is true.

But—we have learned that there are substantial benefits that may be available to wartime veterans who are now senior citizens and are facing the burden of long term care due to a host of diseases such as Alzheimer's, Parkinson's, MS, Lou Gehrig's disease, and many others. In fact, the Veterans Administration estimates that millions of wartime veterans and their spouses may be eligible for Special Monthly Pension benefits, and not even be aware of it!

Wartime veterans, or their surviving spouses, become eligible for the Special Monthly Pension benefit when they are over 65 years of age, are permanently disabled and unable to work, are homebound, or need the regular aid and attendance of another—whether at home, in assisted/supportive living, or in a nursing home. The program is based on actual financial need for assistance, so there are income and asset limitations.

There is widespread misunderstanding regarding how to determine qualification for this important benefit. It is the goal of this *Nuts and Bolts Guide* to give you a start in understanding the ins and outs and the ups and downs of the VA benefit maze commonly referred to as "Aid and Attendance." Even though finding your way through the maze can be extremely difficult, it is worth the effort to assist wartime veterans and their surviving spouses during times of great need.

The maximum benefit available can provide significant help in paying for long term care costs, either for the homebound and/or nursing home veteran/surviving spouse.

There are only three types of persons who are authorized to provide a veteran with assistance filing a claim for veterans' benefits:

1. An attorney licensed to practice law in your state
2. A veterans' service organization such as VFW, American Legion, Amvets, etc.
3. A state or county official of the Dept. of Veterans Affairs in your state

Unfortunately, there are few attorneys who have knowledge in this particular area of legal practice due to the fact that it is illegal to charge a veteran a legal fee for providing assistance in filing a claim for benefits. Veterans Service Organizations (VSOs) are often hard-pressed to have sufficient resources to assist multiple generations of veterans, so it is often difficult for a veteran or his/her surviving spouse to get help in filing a claim. Sadly, the *Knight-Ridder Newspapers* reported on December 30, 2005 "a veteran who turns to the VA for information about veterans benefits might want to get a second opinion.

According to the VA's own data, people who call the agency's regional offices for help and advice are more likely to receive completely wrong answers than completely right ones.

VA General Counsel's advice on legal fees & VA claims:

"To the extent that after consultation the veteran expressed to the attorney an intention to file a specific claim for VA benefits, if the attorney charged the veteran for preparing the claim, the attorney did so in violation of Section 5904... The better practice would have been to charge the veteran for the pre-filing consultation and simply prepare the claim on a pro bono basis. "

(The above is a quote from a letter written by Tim S. McClain, General Counsel of the Dept. of Veterans Affairs, to The Honorable Lane Evans of the U.S. House of Representatives Committee on Veterans Affairs, dated May 24, 2004.)

The only other common source of information regarding this benefit generally comes from annuity salespeople who often offer to consult with veterans and their families for free. This “free” offer is based on the strategy of counseling the veteran to meet the asset and income limitations of the benefit by buying an annuity and giving away their assets to their children. The offer is that the annuity sales organization will assist the veteran in filing for the VA benefit claim. They also promise to provide any necessary estate planning work at no charge. In reality, the annuity company for selling a financial product to the veteran is compensating the annuity salesperson. An annuity may be an excellent financial decision or a poor one, depending on the facts and circumstances. All we are saying is this: You should seek independent advice before making a decision to purchase an annuity.

A Medicaid trap...

Another important factor that one must consider when thinking about trying to meet the VA asset limitation test is that giving away cash or other things of value can create terrible problems for senior citizens if or when they later need to apply for Medicaid to assist them with skilled nursing home care. Giving away assets can create a long penalty period of ineligibility for Medicaid benefits. Any senior facing long-term care needs to seek capable legal advice from an attorney who is skilled in the areas of estate planning, financial planning options, Medicaid, Medicare, income tax, and gift tax, as well as having experience regarding VA rules.

The big question for many families will be, “What will it cost me to seek advice in this area?” Although an attorney who chooses to actually file a claim for veterans benefits must do that portion of his/her work for free, the attorney may charge the usual fees related to any estate planning, financial planning options, Medicaid, Medicare, income tax, or gift tax work, as well as the determination of the financial suitability of filing for a veterans benefit claim. No one should pay an attorney fee unless receiving a fair return on his/her investment.

After reading this *Nuts and Bolts Guide*, we strongly recommend that you contact an elder law attorney such as those at The Law Firm of Christopher W. Dumm to determine if you qualify. An elder law attorney can assist you and your family by explaining many difficult-to-understand things about long-term care. Qualification for a VA benefit is only one of several concerns that must be considered. As you struggle to provide dignified long term care for a wartime veteran and/or surviving spouse, we can help you understand the options. We are your advocates, and we want to help you stretch your hard-earned dollars further. VA benefits are only one part of the puzzle. We will hold your hand and guide you every step of the way as we consider all of your family’s resources and needs.

WHAT’S INCLUDED IN THIS GUIDE:

- ✓ Fact sheet: Veterans Administration compensation and pension benefits
- ✓ Veterans benefits at a glance
- ✓ The benefits available
- ✓ Who can help you file a claim?
- ✓ Official dates for periods of war
- ✓ Other eligible groups
- ✓ Excerpts from *Knight-Ridder* article
- ✓ VA benefits checklist
- ✓ Listing of possible medical expenses
- ✓ The wrap-up



Veterans Administration Compensation and Pension Benefits

There are many types of VA benefits available to veterans through the Veterans Administration for things such as education, life insurance, health care, home loans, and burial benefits. Two major categories of benefits, however, are compensation and pension.

Service-Connected Disability COMPENSATION

Compensation is a benefit that veterans receive when the veteran has a disability caused by, or exacerbated by, military service. Disability compensation is available to a qualified veteran regardless of their level of income. Once a veteran can show that they are disabled because of their military service, their level of disability is rated by the Veterans Administration (for example, 20% disabled) and the amount of compensation paid depends on the rating assigned. A veteran can apply for increases in the percent rating if the condition worsens. A rating above 100% disabled will qualify the veteran for special monthly compensation that could more than double the normal benefit. During 2015, monthly compensation payments ranged from \$133 for a veteran with no dependents and a 10% disability rating, to \$3,069 for a veteran with a spouse and a 100% disability rating. Special monthly compensation benefits can raise the maximum monthly payment over \$5,000.

Non-Service-Connected Disability PENSION

A pension is a benefit for veterans with low incomes who are permanently and totally disabled, when that disability is not related to military service. This is sometimes referred to as a “Special Monthly Pension” (or sometimes an “Improved Pension”). A veteran will be considered permanently and totally disabled if they are, (1) a patient in a nursing home for long-term care because of disability; (2) receiving Social Security disability benefits; (3) unemployable as a result of a disability that is reasonably certain to continue throughout their life; or (4) suffering from any disease or disorder that renders them permanently and totally disabled as determined by the Secretary of the Department of Veterans Affairs.

In 2015, the maximum disability pension rate for a veteran with no dependents is \$12,868, or \$1,072 per month. The rate for a veteran with one dependent, or for two veterans married to each other is \$16,851, or \$1,404 per month. Each additional dependent child adds \$2,198, or \$183 per month, to the pension.

The VA pays a death pension to low-income surviving spouses and unmarried dependent children of deceased wartime veterans. In order to be eligible, a spouse must not have remarried, and a dependent must be under age 18, or must be under age 23 if attending a VA-approved school. Dependents who are permanently incapable of self-support because of disability before age 18 are also eligible for the death pension. For 2015, the maximum death pension for a surviving spouse is

\$8,630, or \$719 per month. If the spouse has a dependent child, the maximum pension is \$11,296, or \$941 per month. If the spouse has more than one dependent child, the benefit for each dependent child is \$2,198, or \$183 per month. The pension for a surviving child is \$2,198, or \$183 per month.

The amount of the Special Monthly Pension will be increased if the permanently disabled veteran is also housebound. A person is housebound if they are permanently and totally disabled and, either (1) have an additional disability or disabilities ratable at 60% or more; or (2) are substantially confined to their residence or the immediate premises due to a disability that is reasonably certain to remain throughout their lifetime. In 2015, the maximum pension for a housebound veteran with no dependents is \$15,725, or \$1,310 per month. If the housebound veteran has one dependent, the maximum pension is \$19,710, or \$1,642 per month.



If a surviving spouse is housebound, the maximum pension is \$10,548, or \$879 per month. With a dependent child, the maximum pension is \$13,209, or \$1,100 per month. Again, each additional dependent will increase the pension \$2,198, or \$183 per month.

If the veteran is in need of regular aid and attendance, the maximum Special Monthly Pension is increased further to \$21,466, or \$1,788 per month if the veteran has no dependents. With one dependent, the maximum pension is \$25,448, or \$2,120 per month. If the surviving spouse is in need of regular aid and attendance, the maximum pension is \$13,744, or \$1,144 per month. If the surviving spouse has a dependent child the maximum pension is \$16,456, or \$1,371 per month. Again, each additional dependent will increase the pension \$2,198, or \$183 per month. To be in need of regular aid and attendance, the veteran or spouse must be permanently and totally disabled and (1) a patient in a nursing home; (2) blind, or nearly blind; or (3) needing the regular aid and attendance of another person to perform basic activities of daily living, such as dressing, bathing, and attending to the wants of nature.

Attaining age 65 – Service Pension

A low-income, wartime veteran who attains the age of 65 is also entitled to a pension, known as a Service Pension, whether or not they are disabled. The amount of the maximum pension is the same as the Special Monthly Pension.

Low Income and Net Worth Requirements

In order to be eligible to receive any of the above non-service connected **PENSIONS**, the veteran must meet income and net worth requirements. First, the annual maximum pension amount is decreased, dollar for dollar, by the veteran's countable income. Income that is countable is, in general: all the veteran's income, including that of a spouse or any dependents, MINUS unreimbursed medical expenses. Unreimbursed medical expenses include doctor's fees, dentist's fees, Medicare premiums and co-payments, insurance premiums, transportation to physicians' offices, and the costs of assisted living facilities or in-home aides.

So, for example, if a veteran has \$20,000 in income and \$10,000 in unreimbursed medical expenses, their countable income is \$10,000. Their \$10,000 in countable income is deducted from the maximum annual Special Monthly Pension of \$12,868 for a benefit of \$2,868.

As another example, suppose the veteran is in a nursing home (and so qualifies for the additional pension for aid and attendance) and has an income of \$50,000. If their unreimbursed medical expenses for the nursing home are \$5,000 per month, or \$60,000, the veteran’s countable income is negative \$10,000. Any negative income is counted as an income of \$0 and the veteran will be eligible for the maximum annual Special Monthly Pension for aid and attendance of \$21,466.

In addition to low income, the veteran must also have a limited net worth. The VA has not specifically defined “limited net worth”—however, a general guide is that the veteran must have a net worth lower than \$50,000 if single or \$80,000 if married. A veteran’s net worth is calculated by adding all the value of all personal and real property owned by the veteran (and their spouse), not including a home and car. Items included in the calculation of a veteran’s net worth would include things such as CDs, savings accounts, and bonds.

Veterans Benefits at a Glance

The focus of this *Nuts and Bolts Guide* is the “non-service-connected pension” which may provide money to assist a wartime veteran or surviving spouse who now faces substantial medical costs due to Alzheimer’s, Parkinson’s, MS, or other “non-service-connected” diseases.

Table 1: Disability Compensation

VETERAN

- Must have a disability caused by, or worsened by, military duty
- The amount of money paid to the veteran is not based on need/income/net worth of the veteran

SPOUSE/DEPENDENTS

- Eligible for Dependency and Indemnity Compensation (DIC)



Table 2: Non-Service-Connected Pension

VETERAN

- Must be permanently and totally disabled, or 65+
- Disability does not have to be related to military duty
- Pension is needs-based—must meet income and net worth requirements; or
- If the veteran has too much income or too many assets, he/she will not qualify for the pension
- A higher pension is awarded if the veteran is housebound
- An even higher pension if the veteran is in need of regular aid and attendance

SPOUSE/DEPENDENT

- Eligible for Death Pension
- A higher pension is awarded if the spouse/dependent is housebound
- An even higher pension if the spouse/dependent is in need of regular aid and attendance

More Details...

Who is eligible for the non-service-connected pension?

- Honorably discharged veterans, surviving spouses, or dependent children of any military, naval, or air service. Also includes certain other special groups such as:
 - Women's Army Auxiliary Corps (WAAC)
 - Merchant Marines from WWII
 - U.S. civilians of the American Field Service
 - Plus 30 more! See list later in this guide.
- Served in active duty 90 consecutive days, one of which was during a period of war
- *At least 65 years old OR Permanently and Totally Disabled*

"Permanently and Totally Disabled" is defined as:

- Receiving long-term nursing home care; or
- Receiving Social Security disability benefits; or
- Unemployable as a result of disability reasonably certain to continue throughout the life of the person.

The veteran's current disability does not need to have any connection to the veteran's actual time in the armed forces. (Non-service-connected disability can be Alzheimer's, Parkinson's, etc.)

Other requirements

This is a needs-based program with income and asset tests.

- Income limitation
 - Gross income MINUS certain expenses
 - Unreimbursed medical expenses of veteran and his/her household
 - Certain educational expenses
 - After reducing gross income by the above expenses, net income must be lower than \$122,868 to \$25,448, depending on your circumstances
- Net worth limitation
 - In addition to your house, car, life insurance, burial policies, and annuities in payout status, you can generally have between \$50,000 and \$80,000 in assets, including CDs, stocks, bonds, etc.



- If your net worth is higher, consult with a qualified attorney for an appropriate tax analysis to see if transferring some of your assets may qualify you.

The Benefits Available

(2015 figures)

Table 1: 2015 Pension Benefit Rates
Wartime Veteran

Situation	Max Annual Pension Rate	Max Monthly Pension Rate
Service Pension	\$12,868	\$1,072
One Dependent	\$16,851	\$1,404
Housebound	\$15,725	\$1,310
One Dependent	\$19,710	\$1,642
Aid & Attendance	\$21,466	\$1,788
One Dependent	\$25,448	\$2,120
Each Additional Dependent	\$2,198	+ \$183

Table 2: 2015 Pension Benefit Rates
Surviving Spouse

Situation	Max Annual Pension Rate	Max Monthly Pension Rate
Death Pension	\$8,630	\$719
One Dependent Child	\$11,296	\$941
Housebound	\$10,548	\$879
One Dependent Child	\$13,209	\$1,100
Aid & Attendance	\$13,794	\$1,149
One Dependent Child	\$16,456	\$1,371
Each Additional Child	\$2,198	+ \$183

Who can help you file a claim?

- Recognized Veterans Service Organizations, like the VFW or American Legion
- An accredited agent, such as an employee of the State of Missouri Department of Veterans Affairs
- A licensed attorney

Only accredited agents and attorneys can receive fees for their services. *HOWEVER*, no one can receive a fee for filling out forms or actually filing a claim for you once you have decided to make a claim!

The Law Firm of Christopher W. Dumm offers pre-filing and asset protection consultation to veterans who may qualify for a pension. Our consultation is part of our overall long-term care planning practice.

Contact us today!

417.623.2062

info@protectingwealth.com

Official Dates for Periods of War

Mexican Border:	May 9, 1916 to April 5, 1917
World War I:	April 6, 1917 to November 11, 1918 April 1, 1920 if served in Russia
World War II:	December 7, 1941 to December 31, 1946
Korean War:	June 27, 1950 to January 31, 1955
Vietnam War:	August 5, 1964 to May 7, 1975 February 28, 1961 if served in Vietnam
Persian Gulf War:	August 2, 1990 to February 18, 1991

In addition to active duty vets from the armed services, these little-known groups also meet the active duty qualification for VA benefits

Recipients of the Medal of Honor

- Women Air Force Service Pilots (WASPs)
- WWI Signal Corps Female Telephone Operators Unit
- WWI Engineer Field Clerks
- Women's Army Auxiliary Corps (WAAC)
- Female clerical employees of the Quartermaster Corps serving with the American Expeditionary Forces in WWI
- Civilian employees of Pacific naval air bases who actively participated in defense of Wake Island during WWII
- Reconstruction aides and dietitians of WWI
- Male civilian ferry pilots
- Wake Island defenders from Guam
- Civilian personnel assigned to OSS secret intelligence
- Guam Combat Patrol
- Quartermaster Corps members of the Keswick crew on Corregidor during WWII

- U.S. merchant seamen who served on block ships in support of Operation Mulberry in the WWII invasion of Normandy
- American merchant marines in oceangoing service during WWII
- Civilian Navy IFF radar technicians who served in combat areas of the Pacific during WWI
- U.S. civilians of the American Field Service who served overseas under U.S. armies & army groups in WWII
- U.S. civilian employees of American Airlines who served overseas in contract with the Air Transport Command between 12/14/41 and 8/14/45
- Civilian crewmen of certain U.S. Coast and Geodetic Survey vessels between 12/7/41 and 8/15/45
- Members of the American Volunteer Group (Flying Tigers) who served between 12/7/41 and 8/14/45
- U.S. civilian flight crew and aviation ground support of TWA who served overseas between 12/14/41 and 8/14/45
- U.S. civilian flight crew and aviation ground support of Consolidated Vultee Aircraft Corp. who served overseas between 12/14/41 and 8/14/45
- Honorably discharged members of the American Volunteer Guard, Eritrea Service Command, between 6/21/42 and 3/31/43
- U.S. civilian flight crew and aviation ground support of Northwest Airlines who served overseas between 12/14/41 and 8/14/45
- U.S. civilian flight crew and aviation ground support of Braniff Airways who served overseas in the North Atlantic between 2/26/42 to 8/14/45
- Chamorro and Carolina former native police who received military training in the Donnal area of central Saipan and were placed under command of Lt. Casino of the 6th Provisional Military Police Battalion to accompany U.S. Marines on active, combat patrol from 8/19/45 to 9/2/45
- The operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management, which served overseas with the U.S. Army Air Corps from 12/7/41 through 8/15/45
- Honorably discharged members of the Alaska Territorial Guard during WWII



Posted on Fri, Dec. 30, 2005

VA HELP LINES FOUND TO REGULARLY PROVIDE WRONG INFORMATION

By CHRIS ADAMS

Knight Ridder Newspapers

WASHINGTON - A veteran who turns to the Department of Veterans Affairs for information about benefits might want to get a second opinion.

According to the VA's own data, people who call the agency's regional offices for help and advice are more likely to receive completely wrong answers than completely right ones.

To see how well its employees answer typical questions from the public, VA benefits experts in 2004 called each of the agency's U.S. regional offices, which process veterans' disability claims. The so-called mystery callers, saying they were relatives or friends of veterans inquiring about possible benefits, made a total of 1,089 calls. Almost half the time they got answers that the VA said were either completely incorrect or minimally correct.

According to an internal VA memo on the mystery-caller program that's buried deep in the department's Web site, 22 percent of the answers the callers got were "completely incorrect," 23 percent were "minimally correct" and 20 percent were "partially correct." Nineteen percent of the answers were "completely correct," and 16 percent were "mostly correct."

The program also found that some VA workers were dismissive of some callers and unhelpful or rude to others. One caller, for example, said, "My father served in Vietnam in 1961 and 1962. Is there a way he can find out if he was exposed to Agent Orange?" The VA's response, according to the VA memo: "He should know if they were spreading that chemical out then. He would be the only one to know. OK (hung up laughing)."

The memo said the response was "completely incorrect" because it gave no information - and also was "rude and unprofessional."

The 2004 survey found improvements in some categories compared with a similar study with identical questions in 2002. Timeliness improved, but scores on "willingness to help" and "courtesy/professionalism" dropped. VA workers also used "too much jargon," confusing to many veterans, the memo said.

VA officials acknowledge that the agency needs to do better. Daniel Cooper, the department's top benefits official, said in a memo to the VA regional offices that the results of the mystery-caller program "are below expectations and are disappointing to the organization. ... We must be able to provide prompt service and give correct answers with the courtesy and professionalism that our customers deserve."

This week, VA officials said they'd taken steps since 2004 to improve their performance, among other things setting up a small pilot program to monitor employees silently as they answered veterans' questions. While the VA said the pilot program improved performance, thus far it's been used in only four out of 57 regional offices. Other offices are scheduled to begin the silent monitoring by the end of fiscal 2006. Beyond that, the VA said it was working to improve its service by boosting training and using role-playing exercises for some phone calls with the public. Other quality-improvement programs are expected to be put into place in 2006 and 2007.

Veterans across the country said their experience with VA call centers suggested that there was still significant room for improvement. "The VA needs a change of attitude," said William B. Jones, a veteran from Greenville, S.C., who's been butting heads with the agency for several years. Jones, a semi-retired physician, said he'd received bad medical information and repeatedly had gotten the runaround in his attempt to get compensation for ailments that he said were linked to his military service.

"I often get no answer at all," said Jones. "I call their 1-800 numbers and generally you get a computer and talk to no one. I've had that not once but probably a dozen times. When you do talk to somebody, you get frustrated because you can't really find out if the case is proceeding. They say they are working on it, but they don't give any details."

Responding to Jones' complaints, the VA said it "takes very seriously any frustrations veterans may experience when attempting to contact us. ... VA continues to work on ways to provide better access and quality customer service."

The mystery callers also judged the courtesy, willingness to help and promptness of the people who answered the VA's phones. They found that many VA offices were helpful and friendly - even as they provided bum information.

Bum information, however, is the biggest problem. One mystery caller, for example, asked about benefits after a Vietnam veteran died of lung cancer. Many conditions have been linked to the herbicide Agent Orange, which was widely used in Vietnam. But the VA regional office said lung cancer was "not one of the conditions related to Agent Orange."

According to the VA's evaluation, that answer was "completely incorrect (wrong information given - lung cancer is one of the conditions related to Agent Orange.)"

Another mystery caller asked about a grandfather who'd been injured in the Korean War. "When he dies, is he eligible for burial in Arlington National Cemetery?" the caller asked.

Response: "I can't answer for Arlington. You can call your congressmen. They love doing those kinds of things for their constituents."

The VA's evaluation: "Completely incorrect. ... Unprofessional; unwilling to help."

Another mystery caller asked whether her husband could get help from the VA for a back problem he'd had for years. "I don't know," the VA regional office said. "He just has to file a claim."

The evaluator found that the response was completely incorrect because it didn't give an answer, and the VA official was "discourteous" and "unwilling to help."

Source: VA memo on "2004 Mystery Caller" program.



The Wrap-up: You made it to the end!

After reading this *Nuts and Bolts Guide*, you may have enough information to file a claim on your own. If you do decide that you need the help of attorneys who are concentrated in the area of assisting senior citizens, then please contact us at The Law Firm of Christopher W. Dumm. Our goal is to make sure that our clients make the most of their financial and family resources so that they are ***never out of money and never out of options for as long as they live***. If you are like most people, then we believe that you will need guidance to apply the information in this guide to your life or the life of your loved one.

We are here to provide guidance in the following areas:

- Basic estate plan documents such as powers of attorney, wills & possibly trusts
- Basic analysis of income tax, estate tax, & gift tax issues
- Care options available for both the Veteran and spouse
- A review of Medicare & Medicaid as it applies to your circumstances
- A comprehensive understanding of availability & extent of personal & financial, as well as family resources to pay for care
- Analysis of financial suitability of asset protection tools
- Analysis of both positive and negatives of all tools and planning options
- A calculation of the actual dollar benefit and/or cost of any helpful idea that is discussed
- Possibly completing and submitting the VA claim form



THE LAW FIRM OF
CHRISTOPHER W. DUMM
Protecting You and the Ones You Love

4000 S. Range Line Road
Joplin, MO 64804
417.623.2062

PROTECTINGWEALTH.COM

© 2016 The Law Firm of Christopher W. Dumm. All rights reserved. These materials may not be reproduced in any way without the written permission of The Law Firm of Christopher W. Dumm.