

**Southern Oregon Estate Planning Council**  
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VA Benefits for Beginners

Timothy M. McNeil  
The Elder Law Firm  
111 SW Fifth Avenue, Suite 1890  
Portland, Oregon 97204  
503-224-6229  
[tim@theelderlawfirm.com](mailto:tim@theelderlawfirm.com)

1. The Benefits in Question

- Non-service connected pension (the need for care does not arise from military service). Different system for service-related disability benefits
- Three kinds of non-service connected pension:

Pension Benefit	Vet, no dependents	Vet w/spouse or child	Surviving Spouse
Basic Pension / Improved Income	up to \$13,537/yr (1,128/mo)	\$17,724 (\$1,477)	\$9,078 (\$757)
Housebound	up to \$16,540/yr (1,378/mo)	\$20,731 (\$1,728)	\$11,095 (\$925)
Aid and Attendance	up to \$22,577 (\$1,881/mo)	\$26,765 (\$2,230)	\$14,529 (\$1,211)

2. Why do they matter?

- Types of long-term care /Cost of care

24-hour in-home care: \$18,000.00 per month

Skilled nursing care: \$9,277.00 per month

Memory Care: \$3,200 - \$8,000.00 per month

Assisted living/Residential Care Facility: \$4,593.00per month

Adult Foster Care Home: \$1,500.00-\$3,500.00 per month

- How to pay for it

Insurance limitations: neither Medicare nor standard health insurance will pay

Long-term care insurance

Private pay

Medicaid

- Drawbacks of Medicaid

Fewer facility options; quality of options

Medicaid recovery

- Value of VA benefits: Supplement to income which will slow exhaustion of assets and delay or avoid the need for Medicaid benefits

### 3. Qualification criteria

- Wartime service:

90 consecutive days of service, 1 of which during period of war; or

Total of 90 days active service during one or more periods of war; or

At least 1 day of wartime service resulting in discharge for service-connected disability

For Vets entering active duty after 09/07/1980, Vet must have completed a continuous period of active duty of at least 24 months

Periods of war:

- World War II: 12/07/1941 - 12/31/1946
- Korean War: 06/25/1950 - 01/31/1955
- Vietnam War: 08/05/1964 - 05/07/1975
- Persian War: 08/02/1990 - present

- Discharge Status: Vet cannot have been dishonorably discharged

- Age or disability:

For Basic VA Pension / Improved income, vet must simply be 65 or older or disabled as defined below

For improved pension (Housebound; Aid and Attendance), veteran must be at least 65 or totally and permanently disabled

Total and permanent disability presumed if

In nursing home long-term due to disability, or

Ruled disabled for purpose of eligibility for SS benefits, or

Disability renders vet or surviving spouse permanently unemployable

\*Disability does not have to be service-connected

For Housebound benefits

Vet has permanent disability rated 100% disabling under VA rating schedule, and

Vet is substantially confined to dwelling

\*So if Vet suffers from PTSD rated 70% disabling and is housebound, no housebound benefits

For Aid and Attendance benefits

Vet requires regular assistance from another person with activities of daily living

\*Established if Vet lives in nursing home or assisted living due to physical or mental disability

\*Activities of daily living: dressing; hygiene; toileting; eating; getting in and out of bed

\*Established through letter from physician

- Financial Criteria: Net worth

New rules became effective 10/18/2018

Old rules attempted to establish a sliding scale for eligibility. The older a claimant or beneficiary was, the less money he was allowed to have in order to receive VA benefit.

New rules eliminate variable eligibility requirements

Net Worth (find current net worth limit at [www.benefits.va.gov/pension](http://www.benefits.va.gov/pension))

A Vet or beneficiary's (surviving spouse, dependents) net worth must not exceed \$127,061

Net worth = assets + annual income

**Assets:** The fair market value of all property an individual owns, including real and personal property unless excluded under 38 CFR 3.275(b), minus the amount of mortgages or other encumbrances specific to the mortgaged or encumbered property.

Calculation includes Vet's and spouse's assets

Assets do not include personal property

Assets do not include family transportation vehicles

Assets do not include primary residence and "residential lot area"

"Residential lot area" cannot exceed two acres, unless additional acreage is not marketable

Impact on farms and ranches

### **Annual income**

Annual income calculation includes Vet and spouse

Annual income is called IVAP: income for VA purposes

Annual income does not include SSI

IVAP does not include predictable unreimbursed medical expenses (UME; 38 CFR 3.278) to the extent that they exceed 5% of applicable maximum annual pension rate (MAPR; see table on Page 1 for current rates)

Common unreimbursed medical expenses: care facility costs; Medicare Part B and other health-related insurance premiums; medical supplies (incontinence; diabetic); prescriptions; adaptive equipment; service animals (and care); transportation to medical care

If IVAP exceeds MAPR: No pension eligibility

If IVAP exceeds \$0.00 and is less than MAPR, pension award is  
MAPR minus IVAP

### Hypothetical 1

Vet and spouse own home, CD worth \$100,000, and checking account with  
\$10,000.

They receive Social Security benefits totaling \$44,000 annually, and Vet receives  
a pension of \$26,400.

Vet is in nursing home which costs \$78,000 per year

Asset Calculation: exclude primary residence. \$110,000 in countable assets

Income calculation:

Calculate unreimbursed medical expenses: \$78,000

Subtract 5% of MAPR: MAPR for Aid and Attendance for Vet with  
spouse (because Vet is in nursing home and qualifies for Aid and  
Attendance) is currently \$26,765. 5% of \$26,765 is \$1,338.25

$\$78,000 - \$1,338.25$  is  $\$76,661.75$

Subtract  $\$76,661.75$  from total income of  $\$70,400$  (SS + Pension)

IVAP (income for VA purposes) =  $\$0.00$

Net Worth of claimant =  $\$110,000$  (countable assets) +  $\$0.00$  (IVAP)

Net worth is less than limit of  $\$127,061.00$

Vet eligible for maximum aid and attendance rate

### Hypothetical 2

Unmarried veteran lives in adult foster care home, that costs \$1,500 per  
month. He owns no real property, and has a savings account with \$75,000.  
He receives \$2,500 per month in Social Security and pension benefits.

Asset calculation: \$75,000

Income calculation:

Calculate unreimbursed medical expenses: \$18,000 (\$1,500 x 12)

Subtract 5% MAPR. MAPR for Aid and Attendance for Vet with no dependents is \$22,577. 5% of \$22,577 is \$1,128.85

$\$18,000 - \$1,128.85 = \$16,871.15$

Subtract \$16,871.15 from total income of \$30,000 (\$2,500 x 12)

IVAP = \$13,128.85

Net worth of Vet = \$75,000 + \$13,128.85 = \$88,128.85

Net worth is less than limit of \$127,061.00

Vet eligible for aid and attendance pension in the amount of MAPR (\$22,577) less \$13,128.85, or \$9,448.15

4. Benefit for Surviving spouse

Spouse must have been married and living with Vet at time of Vet's death and must not be married at time of claim

5. Transfer penalties (38 CFR 3.276)

Penalty period results from transfer of asset within 36 months of VA receipt of pension claim for less than fair market value if, but for transfer, claimant would have exceeded net worth limit

Transfers which occurred prior to 10/18/2018 excluded

VA determines fair market value of asset

No exception for annuities

No exception for most trusts

Exception: Assets transferred to trust for disabled child (38 CFR 3.276(d)) – SNT?

Exception for asset transferred as result of fraud, misrepresentation, unfair business practice

Calculation of penalty period

Determine net worth limit

Determine covered asset amount

Covered asset amount is the value transferred which would have caused claimant to exceed net worth limit if claimant had retained transferred asset

Divide covered asset amount by maximum monthly pension rate

Penalty period begins on first day of month following last transfer

Penalty period ends last day of last month of penalty period

\*penalty period limited to 5 years

\*pension rate at time claim filed is used for this calculation

\*cure penalty with return of assets within 90 days of VA notice of penalty

### Hypothetical

Vet in nursing home has net worth of \$150,000. No spouse or dependents

Vet transfers \$30,000 to son, then applies for Aid and Attendance

Net worth limit = \$127,061

Maximum annual pension rate for Aid & Attendance = \$22,577

Maximum monthly pension rate for aid and attendance = \$1,881

Covered asset amount = \$22,939 (\$150,000 - \$127,061)

Penalty period =  $\$22,939 / \$1,881 = 12$  months