

Veterans Administration Pension Benefits

The Veterans' Administration (VA) provides a monthly pension for qualified wartime veterans or their surviving spouses who are unable to work due to either a non-service connected disability or age. The pension provided to a surviving spouse is called a "death pension." In order to be eligible for the pension, the veteran or veteran's spouse must meet the basic eligibility, disability, and financial need tests.

1. Basic Eligibility Test.

The basic eligibility test has three parts. First, applicant must have been a veteran or a surviving spouse of a veteran; that is, "a person who served in the active military, naval, or air service." Second, the veteran must have been discharged under conditions other than dishonorable. Finally, the basic eligibility test requires that the veteran have had active duty wartime service. The VA has defined active duty wartime service as 90 days of continuous active duty (24 months after 1980) where at least one day of the continuous active duty occurred during a declared period of wartime.

2. Disability Test.

If the claimant passes the basic eligibility test, then he or she must pass the disability test. A claimant meets the disability test if he or she is permanently and totally disabled. A claimant will be automatically considered permanently and totally disabled if he or she is age 65 or older, is in a nursing home, or has been determined to be disabled by the Social Security Administration.

a) Amount of Pension Received Based upon Level of Disability.

The base level of pension benefit is called a Service Pension. However, many claimants qualify for a Special Monthly Allowance to the Service Pension based upon his or her level of disability. One Special Monthly Allowance is the Housebound Allowance. The claimant will receive the Housebound Allowance if the claimant is substantially confined to the home or immediate premises due to a disability which is reasonably certain to remain throughout his or her lifetime.

The other Special Monthly Allowance is the Aid and Attendance Allowance. This benefit can be an excellent way to help cover the costs of in-home care and the costs of an Assisted Living Facility. A veteran (or surviving spouse) may be eligible for **Aid and Attendance (A&A)** when:

1. The veteran (or surviving spouse) requires the aid of another person in order to perform personal functions required in everyday living, such as bathing, feeding, dressing, attending to the wants of nature, adjusting prosthetic devices, or protecting himself/herself from the hazards of his/her daily environment, **OR**,
2. The veteran (or surviving spouse) is bedridden, in that his/her disability or disabilities requires that he/she remain in bed apart from any prescribed course of convalescence or treatment, **OR**,
3. The veteran (or surviving spouse) is a patient in a nursing home due to mental or physical incapacity, **OR**,

4. The veteran (or surviving spouse) is blind, or so nearly blind as to have corrected visual acuity of 5/200 or less, in both eyes, or concentric contraction of the visual field to 5 degrees or less.

For a qualified Veteran, the maximum amount of the service pension with aid and attendance allowance is \$1,788.00 a month in 2015 (\$2,120 a month if he/she has a dependent).

For a qualified surviving spouse of a Veteran, the maximum amount of the death pension with aid and attendance allowance is \$1,149.00 a month.

3. Financial Need Test.

The primary threshold for a claimant to pass the financial need test is to show that he or she has income that is less than the Maximum Annual Pension Rate (MAPR). Countable income includes income received by the applicant and the applicant's spouse, from most sources. It includes earnings, disability and retirement payments, interest and dividends, and net income from farming or business.

There are exclusions to income or deductions that may be made to reduce countable income. The most important of these deductions is a portion of *unreimbursed medical expenses* paid by the applicant and the applicant's spouse. (These are expenses the applicant and the applicant's spouse has paid for medical services or products for which they will not be reimbursed by Medicare or private medical insurance). The VA will determine whether the claimant has income less than the MAPR only after deducting allowable deductions from the claimant's income first.

After the claimant meets the income test, he or she must show that his or her net worth is not a bar to benefits. The VA will not provide benefits when "the corpus of the claimant's estate is such that, under all circumstances, considering the claimant's income, it is reasonable that some part of the corpus of his or her estate will be consumed for his or her maintenance." This test is evaluated by the VA on a case-by-case basis. The VA will look at age and life-expectancy when making this determination.

There are non-countable assets.

Under VA rules, the car, furniture, and clothing are not counted as part of the claimant's net worth. The claimant's "dwelling" is also not counted as part of the claimant's net worth.

Our VA Certified elder law attorneys can provide objective legal advice when you plan. The attorney will provide you the information necessary to determine whether VA benefits are suitable for you and then help you develop a legal plan appropriate to your individual needs. Please contact our office for an appointment.