



Chapter 6: Non-Service-Connected Pension

Non-service-connected VA pension is a monthly payment available to wartime veterans who are permanently and totally disabled and have very low incomes and net worth. The pension program is designed to supplement the income of disabled veterans who had to give up career opportunities while they served their country during a time of war and were unable to accumulate enough resources to support themselves adequately after they became disabled.

Eligibility

Generally, to be eligible for VA pension benefits, a veteran must have

- ☐ Wartime service;
- ☐ Been discharged under conditions other than dishonorable;
- ☐ Be permanently and totally disabled (not the result of the veteran's own willful misconduct); and
- ☐ Meet an income and net worth test

As noted below, there are some exceptions to the rule that a veteran must be permanently and totally disabled.

Wartime Service

The veteran must meet one of the following service requirements: “(1) for 90 days or more during a period of war; (2) during a period of war and was discharged or released from such service for a service-connected disability; (3) for a period of 90 days or more and such period began or ended during a period of war; or (4) for an aggregate of 90 days or more in two or more separate periods of service during more than one period of war.” 38 U.S.C. § 1521(j). In addition, an individual who enlisted in the military for the first time on or after September 8, 1980, must have completed a minimum period of service, either 24 months of continuous active duty or the full period for which the veteran was called or ordered to active duty. 38 U.S.C. § 5303A(b). It is not necessary that the veteran have participated in combat or served in a combat zone; it is only required that he or she have been on active duty during a period of war. For example, if the veteran served during the Vietnam era, but never left the U.S., he or she can still qualify for VA pension.



To find out whether a veteran served during wartime, check this list of the periods of war as designated by Congress:

- ☐ World War II: December 7, 1941, through December 31, 1946 (extended to July 25, 1947, where continuous with active duty on or before December 31, 1946).
- ☐ Korean Conflict: June 27, 1950, through January 31, 1955
- ☐ Vietnam Era: August 5, 1964, through May 7, 1975 (in the case of a veteran who served in the Republic of Vietnam the Vietnam era begins on February 28, 1961).
- ☐ Persian Gulf War: August 2, 1990, through a date yet to be determined.

Other-than-Dishonorable Conditions Discharge

Generally, a veteran must have either an honorable discharge or a discharge under honorable conditions, often called a general discharge, to qualify for VA pension. Veterans should submit a copy of their discharge document (a DD 214) with the pension application. If a veteran has a “bad” discharge from the military, he or she should be advised to consider seeking a military discharge upgrade from a discharge review board or a board for correction of military records.

In summary, an honorable or general discharge is acceptable; an other-than-honorable discharge or an “undesirable” or bad-conduct discharge from a special court-martial may be acceptable; and a bad conduct discharge or dishonorable discharge from a general court-martial is a bar to VA benefits. Incarcerated veterans are not entitled to VA pension benefits while incarcerated.

Permanent and Total Disability

The general rule is that veterans must establish that they are totally disabled and that their disability is permanent (that is, likely to continue throughout their lifetime), to qualify for VA pension. However, some veterans are presumed to be permanently and totally disabled (for example, veterans receiving long-term care in a nursing home). In addition, pension applicants age 65 and over are automatically



considered permanently and totally disabled even if they are perfectly healthy. A “total” disability is one that makes it impossible for the average person to follow a substantially gainful occupation. If a veteran is gainfully employed full time, he or she will not qualify for VA pension. A veteran who is only marginally employed (employed, but compensated at equal to or less than the amount established by the U.S. Census Bureau as the poverty threshold for one person) may still be eligible for VA pension. The veteran must show that he or she cannot obtain substantially gainful employment because of his or her disabilities. Practically speaking, however, a veteran who is working full time will usually have too high an income to qualify for VA pension.

The veteran’s disabilities do not have to be related to service to qualify for VA pension. However, the disabilities cannot be a result of the veteran’s own willful misconduct. When submitting a claim for VA pension benefits, the veteran should, if possible, submit a medical statement from a doctor indicating that the veteran is totally and permanently disabled. The VA may also schedule the veteran for a medical examination, to determine the severity and permanence of the veteran’s disabilities.

To determine the severity of a disability, the VA evaluates the condition and assigns a percentage rating based on the VA's rating schedule for each particular disability. Disability percentages range from zero percent for a disability that is not severe enough to interfere with employment to 100 percent for a total disability. To be eligible for VA pension, the veteran must generally have at least one disability that is rated at 60 percent or higher; or two or more disabilities, one of which is rated at 40 percent or higher, and the combined rating for all disabilities must be 70 percent or higher. Under special circumstances, a veteran may qualify for a total disability rating for pension purposes without meeting the VA's specific disability percentage criteria. This is called extra-schedular entitlement to pension. For example, if a veteran with a non-service-connected disability evaluated as 50 percent disabling can provide the VA with evidence that he or she is permanently and totally disabled because of that disability (such as a Social Security disability determination) the VA would be obligated to consider extra-schedular entitlement to pension.

Income and Net Worth Limits

Veterans must demonstrate that they are financially in need to be eligible for VA



pension. Married veterans and veterans with children are entitled to receive higher monthly pensions to support their families. The pension rates typically change every year to account for cost-of-living adjustments. The current VA pension rates can be found at http://www.benefits.va.gov/pension/current_rates_veteran_pen.asp. The VA will also consider the veteran's net worth when determining eligibility for disability pension. A veteran's net worth consists of real property (land) and personal property (material possessions), not including the value of the veteran's home. Basically, the VA will deny any veteran pension benefits if his or her assets, combined with the family's annual income, are great enough to support the family.

Net worth determinations are made on a case-by-case basis. The VA will consider the following factors: whether a veteran's property can be easily converted to cash without substantial sacrifice; the life expectancy of the veteran; the number of dependents; and the probable rate of depletion of the assets (such as for unusual medical expenses, or if the veteran lives in an area with a high cost of living). In practice, the VA rarely denies a claim for pension when the veteran's net worth is less than \$80,000 and he or she meets all other requirements. (Remember that the VA does not include the value of the veteran's home when determining net worth.)

Pension Programs

There are three VA pension programs, but only one program is available to new pension applicants. This program is called Improved Pension. However, because some veterans are still under older pension programs, we will briefly discuss the two earlier types of VA pension programs: Old-Law Pension and Section 306 Pension.

Old-Law Pension

This VA pension program ended July 1, 1960, and only those veterans who have continuously received old-law pension since the program ended, can still receive pension benefits under this program. The significant feature of this program was that it did not count the income of the veteran's spouse to determine the veteran's income.

Section 306 Pension

The VA pension program was available between July 1, 1960, and December 31,



1978, and only those veterans who have continuously received Section 306 pension since the program ended, can still receive pension benefits under this program. The Section 306 program did not count the earned income of the veteran's spouse, but it did count the spouse's unearned income, such as Social Security benefits. Anyone in receipt of Old-Law Pension or Section 306 Pension will generally continue to receive the exact amount he or she was paid when the Improved Pension program came into existence. This means that if a veteran had been receiving \$150.00 in monthly pension benefits in 1978 under Section 306 pension, and he did not switch to Improved Pension, he would continue to receive \$150.00 per month as long as his income still qualified him for Section 306 Pension.

It may be to the advantage of some veterans in receipt of Old-Law or Section 306 Pension to elect to receive Improved Pension today. The veteran's financial situation may have changed because of the loss of a spouse or the loss of earned or unearned income. Once a veteran renounces Old-Law or Section 306 Pension, in favor of Improved Pension, he or she can never go back to those older pension programs.

Improved Pension

Improved Pension is the only VA pension program currently available to new applicants. This program became effective January 1, 1979. In determining eligibility, the VA counts all of the income of the veteran, the veteran's spouse, and his or her dependents. The VA began to count the spouse's income after 1978, in recognition of the large numbers of women who were entering the workplace.

As of March 24, 2015, those claiming entitlement to VA pension (and other VA disability benefits) must submit their claims on an approved VA form. In the past, a claimant could establish a claim with any written communication (such as a letter or a VA Form 21-4138 (which is just a blank lined paper)) identifying pension as the benefit the claimant was seeking. Today, a written statement from a veteran will not establish a claim unless it is on an approved VA form. If the veteran attempts to submit a claim without using the correct VA form, the VA will not accept that communication as a claim, but will notify the claimant that they must use the correct form. For non-service-connected disability pension claims, the forms that can be used to initiate a claim are:



☐ **VA Form 21-526, Veteran’s Application for Compensation and/or Pension.** The VA Form 21-526 can be used to apply for non-service-connected disability pension, service-connected disability compensation, or both.

☐ **VA Form 21P-527, Income, Net Worth, and Employment Statement.** This form is used to request non-service-connected pension benefits, but only if the veteran has previously filed a VA Form 21-526 or VA Form 21-526EZ. If a veteran has never filed a claim for compensation or pension on one of those forms, he or she cannot use this form to initiate a pension claim. This form used to be called VA Form 21-527.

☐ **VA Form 21P-527EZ, Application for Pension.** This is the form used to apply for live pension claims (as opposed to death pension claims) under the Fully Developed Claims (FDC) program. With this form, the veteran should submit all of the information listed in Chapter 1 of this outline, including income and net-worth information. In contrast to VA Form 21P-527 (the non-FDC version of this form), there is no requirement in this form that the veteran have previously filed a VA Form 21-526 or VA Form 21-526EZ. This form may also be used for claims not processed under the FDC program, as long as the claimant checks box 32 on the current version of the form.

☐ **VA Form 21-0966, Intent to File a Claim for Compensation and/or Pension, or Survivors Pension and/or DIC.** This form is more thoroughly discussed in Chapter 3. It will protect the earliest possible date from which the VA can pay benefits. It is particularly important for pension claims, because it often takes time to obtain the financial information necessary to finalize a complete claim. For pension claims, the claimant would check the box showing that he or she intends to file a claim for pension (the claimant can also check the box for compensation). If the veteran submits a completed claim within one year of the date of receipt of the Intent to File a Claim, then the “VA will consider the complete claim filed as of the date the intent to file a claim was received.” 38 C.F.R. § 3.155(a). Chapter 3 discusses how to submit an “Intent to File” by telephone and online.

Since the veteran will have to prove that he or she meets the VA’s service and discharge requirements, when submitting a completed claim form, the veteran should also submit a certified copy of his or her DD 214 form as proof of wartime service and appropriate discharge.



For Special Monthly Pension claims (see section below), a veteran seeking to file an FDC claim must also submit a completed VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance, or if claiming Special Monthly Pension based on nursing home attendance, a VA Form 21-0779, Request for Nursing Home Information in Connection with Claim for Aid and Attendance. Finally, if claiming dependents, the veteran should submit a completed VA Form 21-686c, Declaration of Status of Dependents.

In addition to using his or her VA claim number in any correspondence with the VA, a veteran who is applying for VA pension must provide his or her Social Security number to the VA. The VA will use this number to verify income and net worth information from other government sources, such as the Internal Revenue Service (IRS), therefore, veterans must be sure to provide accurate financial information. Veterans who are denied pension benefits can always reapply.

Calculating Improved Pension

There are two steps to calculating the proper rate of payment for Improved Pension benefits. First, the VA determines a veteran's maximum annual pension rate (MAPR) by identifying the type of beneficiary involved (veteran, surviving spouse, or child); counting the number of dependents to be considered (the MAPR is increased based on the number of dependents, such as a spouse or children, but not dependent on parents); and deciding whether the pension beneficiary is entitled to increased benefits that are available to veterans with certain severe disabilities. Then, the VA determines the claimant's *countable income* for the coming year (the 12 months beginning the month after the VA receives a written request for benefits).

The general rule for countable income is that all income is included (counted as income) unless specifically excluded under VA regulations.

If a veteran's countable income exceeds the MAPR, calculated for him or her, the claim for Improved Pension will be denied. If the veteran has countable income that does not exceed the MAPR, then the VA will reduce the MAPR dollar-for-dollar by the amount of the veteran's countable income. If the veteran's annual income is zero, he or she may qualify for the full amount of the MAPR per year. If a veteran is granted pension benefits, he or she will receive the difference between his or her MAPR and countable income over the course of the year, paid out in



monthly installments. Certain types of income are excluded from countable income for Improved Pension purposes. For example, the value of maintenance provided by a friend or relative and Supplemental Security Income (SSI) benefits are not counted as income. In addition, profits from the sale of property (other than in the course of a business) are not treated as income for VA pension purposes.

Certain types of payments can be deducted from a veteran's countable income, which can sometimes increase the veteran's pension benefits; for example, unreimbursed medical expenses. If both income and expenses can be anticipated, then the VA may deduct anticipated expenses from the anticipated income and will not have to readjust the veteran's monthly pension payments.

Special Monthly Pension

Some veterans with severe disabilities are entitled to increased VA benefits, known as *special monthly pension (SMP)*. There are two types of SMP benefits payments. Housebound benefits are available to veterans with a single permanent disability rated as 100 percent disabling who are essentially confined to their homes. A veteran may also be entitled to housebound benefits if he or she has one 100 percent disability with an additional disability or disabilities that combine to a rating of 60 percent or more. These veterans do not actually have to be housebound. Moreover, a veteran who achieves the age of 65 will be considered totally and permanently disabled and needs to be substantially confined to the home and immediate premises or have an additional disability or disabilities that combine to a rating of 60 percent or more to receive SMP at the housebound rate.

Aid and attendance (A&A) benefits are available to veterans who require the assistance of another person to perform the tasks required by daily living (dressing, bathing, cooking, for example). Entitlement can also be established by:

- ☐ showing that the veteran is blind or nearly blind (5/200 vision in both eyes, with corrective lenses, or contraction of the visual field to 5 degrees or less);
- ☐ proving that the veteran is a patient in a nursing home because of mental or physical incapacity;
- ☐ or showing that the claimant is unable to dress or undress or keep himself



or herself clean and presentable; that the claimant frequently needs adjustments to any special prosthetic or orthopedic appliances or is not able to attend to the wants of nature; or has a physical or mental incapacity that requires assistance on a regular basis to protect the claimant from the hazards of his or her daily environment

SMP benefits are important because they can increase the veteran's monthly payments by a significant amount since the MAPR for a veteran receiving SMP will be higher than it is for a veteran receiving regular pension benefits. The VA must consider a veteran's entitlement to SMP benefits whenever a veteran's disability is rated as 100 percent.

Non-Service-Connected Death Pension

Non-service-connected death pension benefits are pension payments for low-income surviving spouses and surviving dependent children. (Dependent parents are not eligible for non-service-connected death pension.) The basic eligibility criteria for non-service-connected death pension benefits are:

- ☐ The veteran must first have met the basic eligibility requirements for VA benefits (wartime service, discharge under conditions other than dishonorable, and the additional service requirement for veterans who first entered into active duty on or after September 8, 1980); and
- ☐ The survivor must demonstrate financial need and must not have excessive net worth.

Unlike pension rules for veterans, the survivor does not have to be disabled to qualify for non-service-connected death pension. In addition, the veteran need not have established entitlement to VA compensation or pension benefits before his or her death.

When filing a claim for non-service-connected death pension benefits, the survivor must first submit proof of his or her relationship to the veteran. For example, surviving spouses should submit proof of marriage to the veteran, such as a certified copy of the marriage license.

Dependent children may be entitled to VA death pension in their own right, if they are not in the legal custody of the surviving spouse or if there is no surviving



spouse who is entitled to death pension (for example, when the surviving spouse is deceased or has remarried). A child who is in the custody of a surviving spouse who has not remarried and whose income and net worth are too high for VA death pension has no independent entitlement to VA death pension benefits. Survivors should be aware that there is no time limit to file a claim for death pension. Survivors can file claims for death pension long after a veteran's death. Also, if a claim has been denied because of excessive income or net worth, the survivor can reapply if his or her income drops below the MAPR.

The MAPR for survivors is much less than the MAPR for veterans. The calculation of income for death pension purposes is the same as that for pension purposes, described above. For example, a death pension claimant's income from Social Security and other sources reduces, dollar-for-dollar, the amount of death pension that will be received. Accordingly, if the survivor makes more than the MAPR, he or she will not be eligible for VA death pension unless he or she has deductible expenses that reduce his or her income below the MAPR.

Generally, the VA determines the proper death pension rate for survivors in the same way that it determines the proper VA pension rate for veterans. However, the rules are a little different for the first month after the veteran's death. If the veteran was receiving VA pension at the time of death and would have received more for the month of death than the amount due to the surviving spouse, then the surviving spouse will receive the higher amount.

Surviving spouses should be aware that they can retroactively correct their income reports for death pension if they had made a mistake in reporting income or if they had overestimated the amount of income they expected to receive. However, the corrected information must be received by the VA within the same calendar year or within the next calendar year. As always, claimants should be as truthful as possible when completing financial reports for the VA.

If a claim for death pension is denied, the claimant can appeal the denial or reapply for benefits if his or her circumstances have changed.

Although surviving spouses need not be disabled to qualify for VA death pension, they may qualify for SMP if they are severely disabled. A surviving spouse can qualify for housebound benefits if he or she is confined to the home because of a disability or combination of disabilities that are reasonably certain to persist



throughout his or her life. A surviving spouse can qualify for aid and attendance benefits by showing that he or she requires the assistance of another person to perform the tasks required by daily living.

Entitlement can also be established by showing that the survivor is blind or nearly blind (5/200 vision in both eyes, with corrective lenses, or contraction of the visual field to 5 degrees or less); or is a patient in a nursing home because of a mental or physical incapacity. A survivor not in a nursing home should always support a claim for SMP benefits with a medical statement from a doctor describing the nature of their disability. SMP benefits are important because they can significantly increase the survivor's monthly payments because the MAPR will be higher, although the MAPR for survivors receiving SMP will still be lower than the MAPR for veterans receiving SMP.