

# Veteran's Benefits

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# Core Issues

- ❖ Benefits Available/Overview
- ❖ General Eligibility Requirements
- ❖ Health Benefits
- ❖ VA Service Connected Disability Benefits
- ❖ VA Non Service Connected Pension Benefit
- ❖ Dependents and Survivor Benefits
- ❖ Burial and Memorial Benefits
- ❖ Attorney Payment for Services



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# General Eligibility

Must have actively served in the Armed Services.  
and have an other than dishonorable discharge.

Some programs require at least 90 days service  
(24 months after 1980), at least 1 day of service  
during a designated Wartime.



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# Wartime Service dates

**World War II:** Dec. 7, 1941, through Dec. 31, 1946.

**Korean War:** June 27, 1950, through Jan. 31, 1955.

**Vietnam War:** Aug. 5, 1964 (Feb. 28, 1961, for Veterans who served “in country” before Aug. 5, 1964), through May 7, 1975.

**Gulf War:** Aug. 2, 1990, through a date yet to be prescribed.

**Mexican Border Period and World War I:** None known to remain alive  
(surviving spouse?)



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# Documentation

Veteran's Discharge Papers:  
DD-214, DD-215, WD form

Spouses and Dependents:  
Marriage certificate, Veteran's death  
certificate, Children's birth certificates



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# Departments within the VA

VHA : Veteran's Health Administration

VBA : Veteran's Benefits Administration

NCA: National Cemetery Administration



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# VHA

In 2009, the Veterans Health Administration (VHA) provided health care for nearly 6 million Veterans.

Today's VHA provides care at more than 1,400 sites throughout the country, employs a staff of 255,000, and maintains affiliations with 107 academic health systems. More than 65 percent of all physicians in the U.S. today have trained in VA facilities.



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# VBA

The Veterans Benefits Administration (VBA) is responsible for administering the Department's programs that provide financial and other forms of assistance to Veterans, their dependents, and survivors.

Major benefits include Veterans' compensation, Veterans' pension, survivors' benefits, rehabilitation and employment assistance, education assistance, home loan guaranties, and life insurance coverage.



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# NCA

The National Cemetery Administration (NCA) operates 131 national cemeteries in the United States and Puerto Rico, together with oversight/management of 33 soldiers' lots, confederate cemeteries, and monument sites



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# NCA

This mission is accomplished through four major program areas:

Providing for the interment of eligible service members, Veterans, reservists, National Guard members, and eligible family members in national cemeteries.

Furnishing headstones and markers for the graves of Veterans throughout the United States and the world.

Administering the State Cemetery Grants Program, which provides grants to states and tribal governments for establishing, expanding, and improving state Veterans' cemeteries.

Providing Presidential Memorial Certificates to Veterans' loved ones to honor the service of honorably discharged deceased service members or Veterans



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# VA Health Benefits

Generally available to all veterans with active service and other than dishonorable discharge. Enlistment after 9/80 requires 24 months service or for full period of active duty



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# VA Health Benefits

Applicant Veterans are assigned to priority groups.

VA uses these priority groups to balance demand to available resources.

Higher Priority groups are enrolled first.



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# VA Health Benefits

- ❖ Medical Benefits available to Veterans under Priority Groups – 1 thru 8
- ❖ Group 4 NSC pension with A&A
- ❖ Priority group 5: Other NSC pension or Medicaid Eligible (Diversion/ALE Wavier)
- ❖ Group 8: Some are being enrolled
- ❖ Must separately apply for Health Benefits



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# **Service Connected Compensation Benefits**

**Monthly Benefit paid to a veteran who is disabled by an injury or illness that was incurred or aggravated during active military service**



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# Service Connected Compensation Benefits

- ❖ Service connection can be established if Medical evidence demonstrates that it is as “likely as not” that the disease or condition was as a result of service



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# Service Connected Compensation Benefits

Presumed Service Connected Conditions:

- ❖ ALS – Lou Gehrig’s disease
- ❖ Certain diseases in former POWs
- ❖ Agent Orange: 14 illnesses including Type II Diabetes, Ischemic Heart Disease, Prostate Cancer, Parkinson’s disease
- ❖ Radiation exposure
- ❖ Gulf War “Syndrome”



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# Service Connected Compensation Benefits

## 2012 VA Disability Compensation Rates for Veterans

Disability Rating	Monthly Rate
10 percent	\$127
20 percent	\$251
30 percent*	\$389
40 percent*	\$560
50 percent*	\$797
60 percent*	\$1,009
70 percent*	\$1,272
80 percent*	\$1,478
90 percent*	\$1,661
100 percent*	\$2,769

\* Veterans with disability ratings higher than 30% are eligible for additional allowances for spouses and dependents



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# **Service Connected Compensation Benefits**

**Concurrent Retirement and Disability Benefits (CRDB): Eligible retirees receive both DOD retirement and VA Compensation without an offset. Eligibility requirement:**

- 1) Have 20 years active duty**
- 2) Be in Retired Status**
- 3) Be receiving retirement pay**



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# Service Connected Compensation Benefits

Other Benefits include:

- ❖ Specially Adapted Housing Grants for certain SC disabled veterans to build or adapt a home to modify it to meet the veteran's disability related needs.
- ❖ Automobile Allowance to purchase an adaptive vehicle for certain service connected conditions (amputation etc.)
- ❖ Allowance for Aid and Attendance available for Service connected veterans.
- ❖ Fiduciary Program: VA designates someone to be the custodian of the Veteran's funds if the veteran is unable to manage financial affairs



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# VA Improved Pension

- ❖ A benefit payable by the Department of Veterans Affairs to veterans of a period or periods of war because of nonservice-connected disability or age.
- ❖ Base pension is available to low income Veterans age 65 or older or whom is permanently and totally disabled from nonservice-connected disability not due to the veteran's own willfull misconduct.
- ❖ Benefit also available to Surviving Spouse of a Veteran (Known as Death Pension)



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# Personal Eligibility

- ❖ Veteran with 90 days service, and at least 1 day of Wartime service.
- ❖ Other than Dishonorably discharged
- ❖ Age 65 or over or disabled
- ❖ Surviving Spouse or Dependent Child of Deceased Veteran meeting service criteria
- ❖ Meet income eligibility
- ❖ Meets asset eligibility



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# Dependents

- ❖ In addition to Base pension there is additional Pension add-on available for dependents, i.e. Spouse or minor children
- ❖ Max \$322/Mo. per dependent



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# Housebound/Aid and Attendance

- ❖ Special Monthly benefit added to NSC base pension
- ❖ Housebound – certified by MD that claimant (Vet or Surviving Spouse) cannot leave house without assistance of another person.  
Max - \$231/Mo. – Vet; 154/Mo. Surviving Spouse
- ❖ Aid and Attendance- Housebound and also needs assistance/supervision with ADLs – Max \$694/Mo. – Vet; \$417/Mo. – Surviving Spouse



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# Pension Calculation

$$\begin{array}{c} \text{BASE PENSION AMOUNT} \\ + \\ \text{SPOUSE OR DEPENDENTS*} \\ + \\ \text{HOUSEBOUND OR A\&A*} \\ \hline \text{TOTAL PENSION AWARD} \end{array}$$

\*Dependents and Housebound or A&A are in addition to Base Pension



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# Eligibility

**3 Aspects of Eligibility:**  
**Personal Eligibility = Service**  
**Income Eligibility**  
**Asset Eligibility**



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- ❖ Surviving Spouse or Dependent Child of Deceased Veteran meeting service criteria
- ❖ Meet income eligibility
- ❖ Meets asset eligibility



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# Income Eligibility

- ❖ Income for VA Purposes (IVAP) must be below the Annual Pension Rate to receive a pension
- ❖ IVAP is calculated as Gross Income less deductible expenses:
  - Medical Insurance Premiums
  - Unreimbursed Medical Expenses above 5% of Pension Rate)
- ❖ Income of Vet and Spouse combined for this calculation
- ❖ Nursing home or ALF charge is considered Medical Expense
- ❖ In home caregivers are considered Medical Expenses



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# Income Eligibility

- ❖ If IVAP is between \$0.00 and \$ Max Pension amount then Pension is the Difference
- ❖ If IVAP is \$0.00 or <\$ 0.00 (negative) (expenses are greater than income) then can receive full pension



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# Income Eligibility Example

- ❖ Single Vet has \$2,300/month in income
- ❖ Vet has unreimbursed in home care totaling 1,500/month
- ❖ Vet has \$300/month in other unreimbursed medical expenses
- ❖ Vets income (IVAP) is calculated as  $\$2,300 - \$1800 (1500 + \$300) = \$500$



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# Income Eligibility Example

- ❖ Base pension calculated as \$1038 (Max Rate) - \$500 (IVAP)= \$538
- ❖ A&A (if eligible) is added to Base Pension award: \$538 base + 694 A&A = \$1232 monthly pension



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# Income Eligibility Example

- ❖ What If Vet's unreimbursed medical expenses exceeded his income of \$2300?
- ❖ Then IVAP = \$0.00
- ❖ Base pension calculated as \$1038 (Max Rate) - \$0.00 (IVAP) = \$1038
- ❖ A&A (if eligible) is added to base pension award  
\$1038 base + 694 A&A = \$1732 monthly pension



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# Income Eligibility

- ❖ No specific income caps or requirements is available under VA, only comparison of Income to Expenses



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# Income Eligibility Strategies

- ❖ Maximize deductions from Income for unreimbursed Medical Expenses and other allowable deductions
- ❖ ALF bills are medical expenses
- ❖ In-home care givers are medical bills



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# **Veteran's Maximum Monthly Pension Amounts**

**Veteran - \$1038**

**Veteran with Dependent - \$1360**

**Vet Housebound - \$1269**

**Vet Housebound with Dependent - \$1591**

**Vet A&A without Dependent - \$1732**

**Vet A&A with Dependent - \$2054**



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# **Surviving Spouse's Improved Death Pension Maximum Monthly Pension Amounts**

**Surviving Spouse - \$696**

**Surviving Spouse with Dependent - \$911**

**Surviving Spouse Housebound - \$850**

**S.S. Housebound with Dependent - \$1066**

**S.S. A&A without Dependent - \$1113**

**S.S. A&A with Dependent - \$1368**



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# Asset Eligibility

- ❖ VA generally determines if the utilization of the assets (Net Worth) for unreimbursed medical and household expenses will exhaust the assets within the Vet's (claimant's) life expectancy, based upon the VA life tables.



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# Asset Eligibility

## ❖ No Fixed Assets Rules:

Countable Assets are identified and if “reasonably” expected to outlast Veteran’s life expectancy then Veteran is determined to be ineligible.



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# Asset Eligibility

- ❖ There is no asset maximum – only determination of likelihood of exhausting the assets without pension assistance
- ❖ The old \$80,000 rule is no longer used.
- ❖ The pension program is intended to afford beneficiaries a minimum level of security, and *not* intended to protect substantial assets or build up the beneficiary's estate for the benefit of heirs.



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# Asset Eligibility

- ❖ “When handling a claim which net worth is a factor:  
Consider whether it is reasonable, under all circumstances, for the claimant to consume some of his/her estate for maintenance, and  
Deny the pension claim if a formal finding determines that the claimant’s net worth *should* be consumed for maintenance.”
- ❖ **M21-1MR, Part V, Subpart i, Chapter 3, Section A**



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# Asset Eligibility

- ❖ Pension shall be denied or discontinued when the corpus of the estate of the veteran, and of the veteran's spouse, are such that under all the circumstances, including consideration of the annual income of the veteran, the veteran's spouse, and the veteran's children, it is reasonable that some part of the corpus of such estates be consumed for the veteran's maintenance

38 CFR 3.274



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# Asset Eligibility

- Veteran and Spouses combined assets counted
- Homestead, Vehicle and Personal Property excluded
- Veteran's fractional interest in joint property counted
- Personal property is excluded



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# Asset Eligibility

- ❖ Issue with assets in Trust or Transferred is “Control”
- ❖ Does the Vet or Spouse have the ability to exert control over an asset or is the asset going to be used for his or her benefit.
- ❖ If No: then likely not an asset for VA purposes
- ❖ If Yes: then VA Likely will consider the asset available and countable Asset
- ❖ See 38 CFR 3.276 and GC opinion 15-92



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# Asset Transfers

## Common VA Strategies

- Transfers of Assets to someone not in household  
*Prior to VA application* not disqualifying (currently)
- Purchase of Immediate Annuity or Annuitizing existing deferred Annuity creates income, but not asset
- Adding multiple names to liquid asset accounts (bank, stock, M.Mkt) dilutes Vet's interest.
- Irrevocable Non-Grantor Trust – no control by grantor



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# VA Eligibility Strategies

## Be Careful !!

Make sure VA eligibility strategies used  
do not interfere with future Long Term  
Care Medicaid Eligibility



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# VA Eligibility Getting Help

VA: the Veterans Administration is obligated to assist the Veteran in the application process

Veterans Service Office (VSO): Pinellas and Hillsborough county maintain offices to assist vets with applying

VA Accredited Attorney or Agent: can assist in the filing of an application

A Friend can help the veteran fill out the application (only once)

**NO ONE CAN CHARGE A FEE FOR THIS SERVICE**



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# VA Eligibility Getting Help

Utilize a VA Accredited Elder Law Attorney to assist in determining VA eligibility and also eligibility for other governmental programs, now and in the future.

Be careful of product sales people who advertise that they are “helping veterans qualify”. Ask “what is their financial interest”? “Do they know about other benefit programs”?



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# Appeals Process

If Denied Benefits Do Not Wait!!

Time to appeal is limited and benefits accrue from date of original claim, if not timely appealed then need to file new claim

See an Accredited Attorney, Agent or VSO for assistance

Accredited Attorneys and Agents are paid from the benefits once awarded at a rate of 20%



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# RESOURCES

❖ Veterans Administration Web Site:

WWW.VA.GOV

❖ Federal Benefits for Veterans Dependents and Survivors 2012 Edition: Available online at:

[http://www.va.gov/opa/publications/benefits\\_book.asp](http://www.va.gov/opa/publications/benefits_book.asp)

❖ Pinellas County Veterans Service Office



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# Thank You

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