

## **Obtaining VA Aid and Attendance Benefits: A Case Study**

The attorneys at Severns Associates pride themselves in sorting out the best possible solution for each of their clients. One frequently overlooked benefit that applies to many of our veterans and their spouses is the Aid and Attendance Policy offered by the Veterans Administration, which provides cash payments to veterans who served during a period of war or to their single surviving spouses to help cover the costs of home care, assisted living and nursing home services.

According to the [Department of Veterans Affairs](#), there are approximately 13 million veterans and their single surviving spouses 65 and older, representing 1/3 of the total American senior population. This percentage will continue to grow as the majority of the Vietnam veterans reach the age of 65.

The Veterans' Administration (VA) provides a monthly [pension](#) for qualified wartime veterans or their surviving spouse 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 basic eligibility, disability, and financial need tests.

The most complex of these qualifications is the financial needs 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 veteran and 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* (those expenses paid which will not be reimbursed by Medicare or private medical insurance) paid by the veteran and/or the surviving spouse.

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 base level of pension benefit is called a Service Pension. However, many claimants qualify for a [Special Monthly Allowance](#) to the Base Pension based upon his/her level of disability. The two forms of Special Allowances are a House-based Allowance and Aid and Attendance (A&A).

As of 2013, for a qualified Veteran, the maximum monthly amount of the Aid and Attendance is \$2,053.00. For a qualified surviving spouse the maximum monthly amount is \$1,113.00.

Understanding and putting together the requirements for an application for Pension and Aid and Attendance Benefits is a very complicated process. Compound this with an already complicated health and daily living situation, and it is small wonder that many applications either linger uncompleted, or are rejected by the VA. The average processing time for a VA application is 6 – 9 months. Recent improvements in the VA system are promising reduced wait time, but even once in process, a single mistake on the 10-page application, such as an item left blank or an unacceptably worded answer, will cause an application to be returned to the applicant and delay the already long process.

This is why we recommend seeking the assistance of an elder law attorney to put together a VA application and to deal with any necessary interactions as an intermediary. Our attorneys are all VA Certified, meaning they have special training and approval from the US Department of Veterans Affairs to represent clients.

Here are two examples of recent cases which we successfully handled for clients, and what could have gone wrong had the applications been submitted by the individuals themselves.

In our first case, we will call the clients John and Mary Doe. John and Mary live in a multi-tiered retirement village and never anticipated that they would need any type of financial assistance. However, as the health of both rapidly declined, they were unable to stay in the more affordable independent living section, and had to move into assisted living, which was costing them nearly \$14,000.00 a month combined. This rapidly depleted their savings, and a solution had to be found which would allow them to stay in the facility where they were already living -- which would not accept Medicaid patients -- and still be able to pay the bills. John had served in the Army in WWII, so our office filed an application for a Veteran's Pension, including Aid and Attendance. Within four months, the pension was granted, retroactive to the filing date, and the Does are currently receiving over \$2,000.00 a month in financial support. Further work by our attorneys is helping to assist in the procurement of additional charitable funds directly through their retirement village. Before coming to our office for assistance, the Does' family attempted to file a VA application and was informed by the VA office that the application would be denied. By working closely with the family, our attorneys were able to efficiently direct her efforts, and to take the details out of her hands and the burden off her shoulders. Rather than being forced to move from their happy, stable environment, and possibly be separated, the Does are able to stay together. Because our attorneys accurately completed their application, the process took only a few months, as opposed to the 6 – 9 months that is the norm for VA.

In another case, an elderly woman, currently living at home with her daughter, came to our office. Let us call them Sarah and Sally Johnson. Mrs. Johnson was a widow who had significantly declining health and needed assistance in daily living, which was provided for her by her daughter, Sally. Sarah received money from Social Security, but it was not enough for her to live on without significant financial support from her daughter. Sally worked outside of the home, as well as taking care of her mother, and needed to be able to provide additional care

during these times. After analyzing the situation and all of their financial data, we determined that the best and most efficient solution for Sarah was to apply for a VA pension, based upon her late husband's service during the Korean Conflict. To maximize her benefits, a Care Giver Agreement was put into place between Sarah and Sally, in which Sally would keep track of the amount of time she cared for her mother, and a value equivalent to standard care rates would be applied. Using a new method, our attorneys filed a "fully complete application" for benefits and within 2 months, the results were in. The application was approved, and a VA Pension of over \$1000.00 a month retroactive to the date of filing is now going to Sarah. Before having worked with our firm, this family was preparing to make sacrifices to cover Mom's needs. Now, both mother and daughter receive the benefit of the late Mr. Johnson's service, and a burden has been lifted.

There are many different options for seniors to consider as they age and their circumstances evolve. Our elder law attorneys are specially trained to be able to advise our clients about which one is the best option for their specific needs. If you have a question about VA Pension and Aid and Attendance benefits, or would like to speak with an attorney for advice, please contact our office to schedule an appointment.