

## VETERANS AFFAIRS FINANCIAL BENEFITS

### Pension and Compensation for Eligible Veterans and their Surviving Spouses

#### INTRODUCTION

The U.S. Department of Veterans Affairs (VA) provides two distinct financial benefit programs to qualified veterans or to their surviving spouses: 1) non-service-connected pension and 2) service-connected compensation. The VA pension is a needs-based benefit for disabled and elderly claimants who meet a specific set of financial and non-financial criteria. VA compensation, on the other hand, is a benefit for veterans who suffered a disabling injury during active military service.

#### VA PENSION WITH AID AND ATTENDANCE

Non-service-connected pension is a benefit that provides monthly payments to low-income wartime veterans, or their dependents, who are disabled or over the age of 65. Pension claimants who are housebound or require the aid and attendance of another person are eligible for a higher payment amount. This enhanced pension is commonly referred to as “Aid and Attendance.” Aid and Attendance can serve as a critical source of funds that can help veterans and their surviving spouses offset the costs of their home care, assisted living or nursing home care.

The maximum amount a claimant is eligible to receive for pension with Aid and Attendance is based on that claimant’s payment category. A veteran, a veteran with a spouse and a surviving spouse of a veteran fall into different payment categories.

Claimant’s Payment Categories	2023 Maximum Monthly Payment for Pension with Aid and Attendance
Single veteran	\$2,229
Veteran with a spouse	\$2,642
Surviving spouse of a veteran	\$1,432

All VA pension payments are tax-free, as it is a reimbursement for care costs.

#### FINANCIAL LIMITATIONS

The VA pension benefit is needs-based, and therefore, the claimant must meet income and asset limitations. If a claimant is married, then the VA includes income and medical expenses of both spouses to determine total net income. All earned and unearned income is added together, such as Social Security, pension income, interest, dividends and business income. The claimant must also report lump-sum income, including inheritances, lottery winnings, gifts and awards.

All recurring unreimbursed medical expenses (UMEs) are used to offset gross income. These expenses can include nursing home costs, assisted living costs, home health care and health insurance premiums. These expenses, however, must be “out of pocket” and not reimbursable by insurance or a third party. The difference between the claimant’s gross income and unreimbursed medical expenses is the “Income for Veterans Affairs Purposes” (IVAP). If the IVAP is less than zero (if medical expenses exceed gross income), then the claimant can be eligible for the maximum pension payment with Aid and Attendance. If the IVAP is greater than zero, but less than the monthly Aid and Attendance benefit, then the claimant can receive benefits equal to their monthly benefit minus the IVAP.

The claimant must also have limited assets to qualify for the non-service-connected pension programs, including Housebound and Aid and Attendance. The VA uses a net worth test. It calculates the applicant’s IVAP (if a married veteran, the IVAP of both spouses is considered) and adds that to the countable assets. Please note that the IVAP is often zero, as the IVAP calculation is based on the initial application for pension with Aid and Attendance, and recurring care costs generally exceed the income. For 2023, the net worth must be no more than \$150,538. The VA’s net worth limit increases every Dec. 1 to match the Consumer Price Index

inflation percentage increase for Social Security.

In calculating the claimant's net worth, the claimant's primary residence and up to two acres of attached land, vehicles for personal use and personal belongings are excluded. The recent rule changes specify that the exclusion of the primary residence is limited to the dwelling and a lot area of two acres. Excess acreage is counted but only to the extent that the excess land is marketable. If it is not marketable, then it will have no value. If the claimant's primary residence is sold, the sale proceeds will be considered as part of the claimant's net worth, unless the claimant purchases a new primary residence in the same calendar year. For example, if the claimant sold the primary residence on Dec. 10, they would only have 21 days to purchase the replacement residence, or the sale proceeds would be part of the claimant's net worth.

All assets that can be liquidated (with the exception of the primary home as described above, personal effects suitable for a "reasonable mode of life" and a vehicle), whether owned by the veteran or the veteran's spouse, such as CDs, annuities, stocks, bonds, savings accounts, checking accounts and IRAs, are included in the claimant's net worth. Term or group life insurance and other financial investments that do not have a cash surrender value are not countable assets. Lastly, the VA includes the annual income of the claimant and the claimant's dependents in the net worth calculations. For example, if a claimant has \$100,000 in countable assets and an annual income of \$12,000, then the VA will determine the net worth of the claimant to be \$112,000. However, as stated above, the income is often zero, as the IVAP is generally a negative number.

On Oct. 18, 2018, the VA implemented a three-year look-back period and a penalty period for certain asset transfers for claimants seeking non-service-connected pension and Aid and Attendance.

The VA will penalize a claimant who has, within the look-back period, transferred a "covered" asset on or after Oct. 18, 2018 (all transfers prior to Oct. 18, 2018, are exempt). A covered asset is the amount by which a claimant's net worth would have exceeded the \$150,538 limit if the uncompensated value of the covered asset had been included in net worth. For example, if a single claimant has \$0 in IVAP and \$140,000 in assets but gave away \$20,000 in

2022, the claimant has a "covered asset" that was transferred in the amount of \$9,462. In contrast, if a single claimant has \$0 in IVAP and \$120,000 in assets and gave away \$20,000 in 2022, no transfer of a "covered asset" has occurred because when the transferred asset is added back in, the claimant is still under the \$150,538 net worth limit. In other words, if a claimant's transfer of assets qualifies a claimant for a VA pension, then the VA will implement a penalty. If, on the other hand, a claimant's transfer had no effect on eligibility because the claimant was already asset eligible before the transfer, then the VA will not apply a penalty and there is no "covered asset."

The length of the penalty is calculated by determining the value of the covered assets transferred and dividing that amount by the monthly penalty rate. The monthly penalty rate is determined by the Maximum Annual Pension Rate (MAPR) in effect on the date of the pension claim at the Aid and Attendance level for a veteran with one dependent, divided by 12. The penalty period will begin the month following the date of the last transfer. The monthly penalty rate for a veteran with one dependent in 2023 is \$2,642. For example, a claimant seeking eligibility in January 2023 who transferred \$2,642 in covered assets on Nov. 1, 2022, will be penalized for one month. The VA will not issue a penalty that exceeds five years, and the VA allows a claimant to "cure" a disqualifying transfer within a certain amount of time.

## MILITARY REQUIREMENTS

The veteran must also meet specific military requirements to qualify for the VA pension. The veteran must have served at least 90 days of active duty, one day of which was served during a period of war. For veterans of the Gulf War to present, the service requirement is 24 months or completion of the requirement for active-duty service, whichever comes first. Periods of war fall within the following time frames:

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<p><b>World War II:</b> Dec. 7, 1941–Dec. 31, 1946 Merchant Marines (Dec. 7, 1941–Aug. 15, 1945)</p>
<p><b>Korean War:</b> June 27, 1950–Jan. 31, 1955 (inclusive)</p>
<p><b>Vietnam War:</b> Nov. 1, 1955–May 7, 1975, These dates apply for veterans who served “in-country” in the Republic of Vietnam during this time period otherwise. Aug. 5, 1964–May 7, 1975, inclusive for all others.</p>
<p><b>Gulf War:</b> Aug. 2, 1990– currently undetermined. A date to be set by law or presidential proclamation (for VA benefits purposes, this time of war is still in effect).</p>

Active duty does not include “reserve” duty. Finally, the veteran must have been discharged under conditions other than dishonorable.

### DISABILITY REQUIREMENT

The VA pension is “non-service-connected” because the veteran’s or veteran’s surviving spouse’s disability does not need to be connected to or resulting from the veteran’s military service. To medically qualify for base pension, veterans must be either age 65 or older, or totally and permanently disabled or a resident in a nursing home. To receive the enhanced pension with Aid and Attendance, the claimant must require the aid of another person or require supervision from harm in order to perform personal functions required in everyday living.

### MARRIAGE REQUIREMENT

The pension benefit paid to a surviving spouse is referred to as Survivor’s Pension or Death Pension. In order for a surviving spouse of a veteran to qualify, the spouse must also satisfy certain marital requirements. The surviving spouse must have been married to the veteran for at least one year or, in the alternative, had a child with the veteran. The surviving spouse must also have remained married to the veteran and cohabitated with the veteran continuously until the veteran’s death. A divorce or separation from the veteran terminates the former spouse’s entitlement to Survivor’s Pension. Likewise, a surviving spouse who remarries after the veteran’s death terminates survivor’s eligibility. Benefits are

available to the same-sex spouse of a veteran on the same terms as an opposite-sex spouse. The VA has provided guidance on marriage benefits for same-sex couples, available here: [www.va.gov/opa/marriage/](http://www.va.gov/opa/marriage/).

### SERVICE-CONNECTED COMPENSATION

The VA’s service-connected compensation is distinct from the VA’s non-service-connected pension in several ways. Unlike the VA pension, VA compensation is not based on financial need, and there is no income or asset test to qualify. The asset limits and transfer penalties described above do not apply to service-connected eligibility. The compensation is a monetary benefit paid to a disabled veteran whose disability was incurred or aggravated while serving in active military service. Incurred in the line of duty does not mean combat-related. Unlike the VA pension, wartime service is not required. For example, a veteran who suffered from post-traumatic stress disorder (PTSD) during the Vietnam conflict could qualify for compensation, as could a veteran who injured their back on a military base during peacetime.

The VA pays compensation on a scale from 10% to 100% in increments of 10%. Effective Dec. 1, 2023, the VA pays a veteran with no dependents rated at 10% disability \$165.92 per month, while the VA pays the same veteran rated at 100% disability \$3,621.95 per month. The veteran with a rating ranging from 30% to 100% will receive a higher amount if the veteran has a spouse and/or dependent children.

The key component with compensation is establishing the nexus between the veteran’s disability and the veteran’s military service. This connection must be established with sufficient medical evidence. There are some disabilities, however, that are presumed to be caused by a veteran’s military service. This presumption relieves the claimant from the burden of proving the connection between the disability and the veteran’s military service. For example, the VA presumes that a veteran with respiratory cancer who was exposed to Agent Orange during the Vietnam conflict has a service-connected illness and may qualify for compensation.

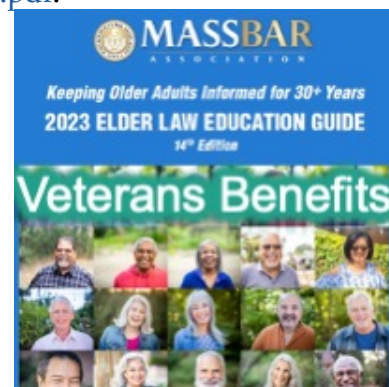
Nursing home coverage is available for veterans who need nursing home care for a service-connected disability. A veteran with a minimum service-

connected disability rating of 60% for one condition who has been deemed permanently and totally disabled or has a 70% combined disability rating is similarly eligible. In the case of a private nursing home contracted with the VA, there may be a copayment.

A surviving, dependent child or parent of a veteran who died in the line of duty, or who died from a service-related injury or illness, may also qualify for compensation under certain conditions. This survivor's benefit is called "Dependency and Indemnity Compensation" (DIC). To qualify for DIC, for surviving spouses, they must have been married to a veteran who died while in the service, or married to a veteran who was rated as 100% disabled for at least 10 years prior to the veteran's death (other conditions may apply as well). If the surviving spouse remarries, then potential eligibility for DIC is terminated.

## APPEALS

The Appeals Modernization Act took effect in February 2019 and significantly changed the appeals process. Any claimant who receives an initial VA claim decision after February 2019 will follow the new Appeals Modernization process if they disagree with the decision. There are three ways to appeal: (1) higher-level review; (2) supplemental claim; or (3) appeal to the Board of Veterans' Appeals. The VA brochure that explains the process is located at: <https://benefits.va.gov/BENEFITS/factsheets/appeals/Appeals-Brochure.pdf>.



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