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VA Benefits for Widows and Dependents of Deceased Veterans

It is estimated that approximately 23.5 million spouses of veterans in this country could qualify for monthly benefits from the Department of Veterans Affairs. Such benefits are available to the surviving spouses of deceased veterans, and this money can be used to pay just about anyone to provide elder care services at home. As an example, these funds can be used to pay children, other relatives, friends, home care companies, or domestic workers. Adequate documentation and evidence must be provided in order to receive money from VA for these services, particularly the services provided by family members or other non-professional providers. Our firm can provide guidance in getting and maintaining access to these valuable benefits.

This little-known source of money to pay for long term care costs **for widows of deceased veterans** is known as a “**Death Pension**” and is available based on the criteria listed below. An additional monthly benefit available to more seriously disabled surviving dependents is the “**aid and attendance benefit.**” These benefits have an income and an asset test. Widows with income or assets above the test levels will not qualify for the benefit. Fortunately, there are special provisions that allow -- under certain circumstances -- individuals who would normally fail the tests to still qualify. VA may not tell potential applicants about the special provisions, and may even tell applicants that they do not qualify without informing them how they might do so. Applicants with significant long-term care costs, such as home care, assisted living or nursing home care, are often eligible for VA pension or aid & attendance benefits because of the special provisions of the income test. The following is a description of the VA Death Pension and Aid and Attendance benefits for spouses of deceased Veterans.

What is Death Pension?

Death Pension is a needs-based benefit paid to an un-remarried surviving spouse, or an unmarried dependent child of a deceased wartime veteran.

How do I know if I'm eligible?

You may be eligible if:

- Is age 65 or older, or, if under 65, is permanently and totally disabled not due to his/her own willful misconduct;
- was discharged from service under conditions other than dishonorable;
- served at least 90 days of active military service 1 day of which was during a war time period. (If you entered active duty after September 7, 1980, generally you must have

served at least 24 months or the full period for which called or ordered to active duty. There are exceptions to this rule.)

- has family “countable income” below a yearly limit set by law. (The yearly income limit is set by Congress.)

As you can see, there are a number of criteria that may affect your eligibility to pension benefits. If you are unsure if you meet all criteria, we encourage you to go ahead and file an application, particularly if your countable income appears to be near the maximum. VA will determine if you are eligible and notify you. If you do not initially qualify, you may reapply if you have un-reimbursed medical expenses during the twelve month period after VA receives your claim that bring your countable income below the yearly income limit. (These are expense you have paid for medical services or products for which you will not be reimbursed by Medicare or private medical insurance.)

Are there age requirements, or restrictions?

Yes. An un-remarried spouse can be any age. A child must be:

- under 18, **or**
- in school and under 23, **or**
- was incapable of self support before the age of 18.

What is "countable income" for pension eligibility?

This includes income received from most sources by the surviving spouse and any eligible children. It includes earnings, disability and retirement payments, interest and dividends, and net income from farming or business. There is a presumption that all of a child's income is available to or for the surviving spouse. VA may grant an exception in hardship cases.

Certain expenses like **unreimbursed medical expenses may be deducted** from your annual income to lower the total countable income.

Are there any exclusions or deductions that reduce countable income?

Yes, there are exclusions. The following are examples of the types of exclusions or deductibles to countable income:

- Final expenses of the veteran's last illness and burial paid by the surviving spouse or eligible children.
- Public assistance such as Supplemental Security Income (SSI) is not considered income.
- Many other specific sources of income are not considered income; however all income should be reported. VA will exclude any income that the law allows.
- A portion of un-reimbursed medical expenses paid by the claimant after VA receives your pension claim may be deducted.
- Certain other expenses, such as a surviving spouse's education expenses, and in some cases, a portion of the educational expenses of a child over 18 are deductible.

What about assets (“net worth”)?

Net worth means the net value of the assets of the surviving spouse and his or her children. It

includes such assets as bank accounts, stocks, bonds, mutual funds and any property other than the surviving spouse's residence and a reasonable lot area. There is no set limit on how much net worth a surviving spouse and his or her children can have, but net worth cannot be excessive. The decision as to whether a claimant's net worth is excessive depends on the facts of each individual case. All net worth should be reported and VA will determine if a claimant's assets are sufficiently large that the claimant could live off these assets for a reasonable period of time. VA's needs-based programs are not intended to protect substantial assets or build up an estate for the benefit of heirs.

How Does VA calculate the death pension?

Your annual pension payment is calculated by first totaling all your countable income. Then any deductions are subtracted from that total. The remaining countable income is deducted from the appropriate "maximum annual pension rate" which is determined by the number of your dependents, if any, and whether or not you are entitled to housebound or aid and attendance benefits. This amount is then divided by 12 and rounded down to the nearest dollar. This gives you the amount of your monthly payment.

In **2009**, the **maximum annual pension rate** for a claimant with no dependents is \$7,933 (\$661 per month), and \$10,385 (\$865 per month) for a claimant with one dependent child.

What are Aid and Attendance and Housebound benefits?

Claimants who are more seriously disabled may qualify for Aid and Attendance or Housebound benefits. **Aid and Attendance (A&A)** is a benefit paid in **addition** to monthly pension. This benefit **may not** be paid without eligibility for pension. A claimant may be eligible for A&A when:

- The claimant 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**,
- The claimant is bedbound, in that his/her disability or disabilities requires that he/she remain in bed apart from any prescribed course of convalescence or treatment, **OR**,
- The claimant is a patient in a nursing home due to mental or physical incapacity, **OR**,
- The claimant 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.

Housebound assistance is paid in addition to monthly pension. Like A&A, Housebound benefits may not be paid without eligibility for pension. A claimant may be eligible for Housebound benefits when:

- The claimant is substantially confined to his/her immediate premises due to permanent disability.

In **2009**, the maximum annual **Aid & Attendance** benefit is \$12,681 (\$1,056 per month) for a claimant with no dependents, and \$15,128 (\$1,260 per month) for a claimant with one dependent child. The maximum annual **Housebound** benefit is \$9,696 (\$808 per month) for a

claimant with no dependents, and \$12,144 (\$1,012 per month) for a claimant with one dependent child. A claimant cannot receive both Aid and Attendance and Housebound benefits at the same time.

How to Apply for Aid and Attendance and Housebound:

- You may apply for Aid and Attendance or Housebound benefits by filing an application with the VA regional office that serves your area of residence.
- You should **include copies of any evidence**, preferably a report from an attending physician validating the need for Aid and Attendance or Housebound type care.
- The report should be in sufficient detail to determine whether there is disease or injury producing physical or mental impairment, loss of coordination, or conditions affecting the ability to dress and undress, to feed oneself, to attend to sanitary needs, and to keep oneself ordinarily clean and presentable.
- In addition, it is necessary to determine whether the claimant is confined to the home or immediate premises.
- Whether the claim is for Aid and Attendance or Housebound, the **report should indicate how well the individual gets around**, where the individual goes, and what he or she is able to do during a typical day.

How do you apply for VA death pension?

- You can apply on line at the VA web site:
<http://vabenefits.vba.va.gov/vonapp/main.asp>.
- You may download and fill out [VA Form 21-526, Veteran's Application for Compensation and/or Pension](#). Make sure you download all parts of the application as well as the instructions for filling out the forms. If available, attach copies of dependency records (marriage & children's birth certificates). You must send the completed application and any copies of other documents to the VA Jackson Regional Office at 1600 E. Woodrow Wilson Avenue, Jackson, Mississippi 39216, phone 800-827-1000.
- You may also contact a Veterans Service Officer (VSO) from a veterans service organization, which are located in each county in Mississippi. You may call the toll free number, 1-800-827-1000, for the location of the nearest VSO nearest you.

For help in determining whether you may be eligible for valuable VA benefits, call us toll-free at 866-ELDERLAW(353-3752) today.