



*Helping Older Persons With
Legal & Long-Term Care
Problems*

Veterans' Benefits

1. Who Is Eligible For A Veterans Disability Pension?

A veteran aged 65 or older or permanently and totally disabled from a non-service connected disability that is not the result of his or her willful misconduct is entitled to a pension. Additionally, the veteran must have

- (a) not been dishonorably discharged;
- (b) served 90 days or more of active duty with at least 1 day during a period of war time; and
- (c) countable family income that is below a yearly limit set by law.

A total and permanent disability is defined as any impairment of mind or body that substantially impairs the ability to engage in a gainful occupation, and is reasonably certain to continue throughout the disabled person's life. See <http://www.vba.va.gov/bln/21/Milsvc/Docs/Pensoneg.doc> for more information or call VA at 1-800-827-1000.

You can apply by filling out VA Form 21-526 or by applying online at VA's website. For free help with your VA pension or disability claim, call your County Veterans Service Office. A list of the offices is located at <http://veteransaffairs.ohio.gov/>.

2. If I Qualify For A Veteran's Pension, How Much Will I Receive In Benefits?

The veteran's pension program is for low-income veterans, their dependents and survivors. VA pays the difference between the countable family income and the yearly income limit: \$10,162 for a single veteran, \$13,309 for a veteran and one dependent.

There is also a net worth limitation on the total amount of resources a veteran and his dependents may have, which is based on the individual circumstances of each veteran. This resource maximum does not include the person's dwelling, a reasonable lot size, and the personal effects of the family.

3. How Do Unreimbursed Medical Expenses Affect The Amount Of A Veteran's Pension?

Medical expenses may be used to reduce other countable income for purposes of increasing pension benefits. But To be deducted from income, unreimbursed medical expenses must exceed 5% of the VA Maximum Annual Pension Rate.

4. What Are The Requirements For The Surviving Spouse To Receive A Veteran's Pension?

The surviving spouse of a veteran who satisfied the service requirement or who, at the time of death, was entitled to receive compensation or retirement pay for a service-connected disability, is entitled to a pension. The surviving spouse, generally, must have married the veteran within fifteen years after the service in which the injury/disease was incurred or aggravated or the veteran and the survivor must have remained married for at least one year or for any period of time if a child was born of the marriage, or was born to them before the marriage.

5. What Are The Benefits Available To A Surviving Spouse Under A Veteran's Pension?

The amount of a surviving spouse's pension is prescribed by statute and varies, depending on whether a child of the veteran is in the surviving spouse's custody, the number of such children, whether the surviving spouse requires regular aid and attendance, whether he or she is otherwise permanently housebound, and whether there is other income.

6. What Effect Does A Veteran's Pension Have On SSI Benefits And Ohio Medicaid Eligibility?

The current SSI level is less than the VA basic pension amounts for a veteran or a couple. Therefore, receipt of a VA pension will make the veteran or couple ineligible for SSI. A surviving spouse's VA pension currently is slightly less than the federal SSI amount and, therefore, a surviving spouse should be eligible to receive both a VA pension and some SSI benefits.

A VA basic pension will be counted as income in determining eligibility for Ohio Medicaid. Under the current income eligibility limits for Medicaid and the VA basic pension, most veterans receiving a pension would have to meet a monthly spend-down amount in order to be eligible. The VA beneficiary would also have to meet the resource requirement for Ohio Medicaid of \$1500 for a single individual and \$2250 for a couple.

7. Who Is Eligible For Housebound And Veteran's Benefits?

An increased VA pension is paid to a veteran or surviving spouse who is in need of aid and attendance or is substantially confined to his or her home or immediate premises by reason of one or more permanent disabilities. The increase in the veteran's pension because of his or her housebound status is not considered income for SSI or Medicaid purposes.

8. What Are Veteran's Aid And Attendance Benefits?

An increased VA pension is paid to veterans and surviving spouses who are blind, patients in a nursing home, or need assistance with activities of daily living such as bathing, feeding, and dressing. Persons who receive home care as an alternative to institutionalization should also apply for this benefit. The increase in the pension due to the need for aid and attendance is not considered income for SSI and Medicaid purposes.

9. Who Is Entitled To Veteran's Disability Compensation Benefits?

Disability Compensation is a benefit paid to a veteran because of injuries or diseases that happened while on active duty, or were made worse by active military service, but no compensation shall be paid if the disability is a result of the veteran's own willful misconduct or abuse of alcohol or drugs. Veteran's disability compensation, unlike a veteran's pension, is not a needs-based program and does not consider the resources or other income available to the veteran or his household.

The amount of basic benefit paid ranges from \$108 to \$2,299 per month, depending on the severity of the disability. The monthly amount of compensation will be increased according to the number of dependents in the veteran's household. It can also be increased if the veteran is a nursing home patient or is helpless or blind, such that he or she needs the regular aid and attendance of another person.

10. What Benefits Are Available To A Surviving Spouse?

A Death Pension is a benefit paid to surviving spouse or unmarried child of a deceased wartime veteran who served 90 days or more of active duty with at least 1 day during a period of war time. The survivor's countable annual income must be below \$6,814 or \$8,921 for a spouse and dependent child.

For the deceased veteran, there may be other benefits including headstone, burial and plot allowances. For details on all benefit programs see: Federal Benefits for Veterans and Dependents, 2004 Edition at <http://www1.va.gov/opa/vadocs/Fedben.pdf>.

11. If I Disagree With A Veteran's Administration Decision With Regard To My Benefits, What Appeal Rights Do I Have?

Every claimant has the right to written notice of all decisions made on his or her claim and the right to a hearing on any adverse action that may have been taken. If the initial administrative decision is unfavorable, the veteran has the right to appeal this decision to the Board of Veterans' Appeals (BVA) within one year. If the decision of the BVA is adverse, then this decision may be appealed to the Court of Veterans' Appeals within 120 days. Either the VA or the claimant may seek relief from a decision of the Court of Veterans' Appeals by appealing to the U.S. Federal Circuit Court of Appeals..

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Pro Seniors' Legal Hotline for Older Ohioans provides free legal information and advice by toll-free telephone to all residents of Ohio age 60 or older. If you have a concern that cannot be resolved over the phone, then the hotline will try to match you with an attorney who will handle your problem at a fee you can afford.

In southwest Ohio, Pro Seniors' staff attorneys and long-term care ombudsmen handle matters that private attorneys do not, such as nursing facility, adult care facility, home care, Medicare, Medicaid, Social Security, protective services, insurance and landlord/tenant problems.

This pamphlet provides general information and not legal advice. The law is complex and changes frequently. Before you apply this information to a particular situation, call Pro Seniors' free Legal Hotline or consult an attorney in elder law.

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