

Guide to Veterans Benefits for Long-Term Care Expenses



**By
Joseph S. Karp
Florida Bar Certified Elder Law Attorney
The Karp Law Firm, P.A.**

Cover Photo:

U.S. Army Staff Sergeant Irving Ziffer
Company A, 102nd Engineers, 27th Division
July 3, 1918 — Nov. 21, 2008

Beloved uncle of Joseph Karp
&
World War Two Veteran

Recipient of:
Two Purple Hearts
The Presidential Unit Citation
American Defense Service Medal
Asiatic Campaign Medal with Bronze Star
New York State Conspicuous Service Cross and Star

**Guide to Veterans Benefits for
Long-Term Care Expenses**
by
**Joseph S. Karp,
Certified Elder Law Attorney**

The information in this booklet is of a general nature. Consult with a Florida Bar Certified Elder Law Attorney who is accredited by the Department of Veterans Affairs in order to determine the best course of action for your particular circumstances.

For the most up-to-date information, visit
<http://www.karplaw.com>

© 2012 The Karp Law Firm, P.A.
Updated 5-4-2012

Veterans Benefits for Elderly and Disabled Veterans

The Veterans Administration provides cash benefits to elderly and disabled veterans and their widows/widowers.



Many elderly and disabled veterans are aware of Service-Connected Compensation, which is available to veterans who have incurred or aggravated a disability during military service. However, many veterans do not know that there is another kind of V.A. benefit that does not require the veteran to have sustained a disability during military service: *Non-Service Connected Compensation*.

V.A. Pension is considered Non-Service Connected Compensation. So is the V.A. Aid and Attendance program, which may help eligible veterans and their widows/widowers with the high cost of long-term care. Both Pension Benefits and Aid and Attendance Benefits are known as “Improved Pension.”

Unfortunately, because Improved Pension Benefits are not widely known and are so poorly understood, thousands of eligible veterans and their widows fail to apply.

This booklet informs you about the eligibility requirements for Improved Pension Benefits.

Eligibility Requirements for Improved Pension Benefits

To be eligible for Improved Pension, a veteran or veteran’s widow(er) must meet both basic requirements and financial requirements.

BASIC REQUIREMENTS FOR IMPROVED PENSION BENEFITS

All of the following criteria must be met before a veteran or a widow(er) of a veteran can receive Improved Pension Benefits:

1. The veteran must have served at least 90 days of active service with at least one day of service during a wartime period. (See chart below for classification of wartime periods.)
2. The veteran must have received a discharge that is other than dishonorable.
3. The veteran must have limited income and assets available.
4. The claimant must be 65 years of age or older, or have a permanent and total disability, and the disability must have occurred without the willful misconduct of the claimant.
5. The veteran or widow(er) must sign an application and provide the application to the Veterans Administration.

The claimant must meet all of the criteria above, except for widowed spouses who may be under the age of 65 and have no disabilities.

Classification of Wartime Periods

Wartime Period	Dates
World War II	Dec. 7, 1941 – Dec. 31, 1946. Extended to July 25, 1947 IF the veteran was in service ON Dec. 31, 1946. Continuous service before July 26, 1947 is considered World War II service.
Korean Conflict	June 27, 1950 – January 31, 1955
Vietnam Era	August 5, 1964 – May 7, 1975. February 28, 1961 – May 7, 1975 in the case of a veteran who served in the Republic of Vietnam during that period.
Persian Gulf	August 2, 1990 – yet to be determined.
National Guard	Does not count as military service unless under Title 32.
Merchant Marine	December 2, 1941—August 15, 1945

ACCEPTABLE SERVICE FOR IMPROVED PENSION

1. Full-time service in the Army, Navy, Marine Corps, Air Force, Coast Guard, Merchant Marines, Women's Corp, Nursing Corp (other than active duty for training).
2. Full-time service as commissioned officer in the Public Health Service.
3. Full-time service as a commissioned officer at the Coast and Geodetic Survey, Environmental Services Administration, or national Oceanic and Atmospheric Administration (with certain additional qualifications).
4. Service as a cadet at a military academy.
5. Attendance by certain active-duty members at certain preparatory schools associated with military academics.
6. Includes authorized travel to or from such above-duty or service.
7. Certain civilians, serving on Wake Island during World War II, and others.

There are other unusual branches of service that may qualify.

ADDITIONAL BASIC REQUIREMENTS FOR PENSION WITH AID & ATTENDANCE BENEFITS

Improved Pension Benefits that include Aid & Attendance Benefits require the veteran or veteran's widow(er) to meet all the basic requirements above, plus ONE of these additional requirements:

1. The claimant must be blind.
2. The claimant must be living in a nursing home.
3. The claimant:

Must be unable to dress or undress and keep him/herself clean and presentable; or

Must be unable to attend to the wants of nature; or

Must have a physical or mental incapacity that requires assistance on a regular basis to protect the claimant from daily environmental hazards.

REQUIREMENTS FOR VETERAN'S WIDOWED SPOUSE

1. The widow's deceased spouse must have met all the military service requirements listed above.
2. Spouse must have been officially married to the veteran for at least one year OR had a child by the veteran.
3. Spouse must have been living with the veteran at the time of the veteran's death, unless the separation was for medical reasons or military reasons. Certain other circumstances, like marital abuse, may also be permissible reasons for separation.
4. Spouse must meet all the same requirements for the veteran, i.e., health condition, income and asset requirements.
5. Spouse may not have remarried.



Financial Requirements for Improved Pension Benefits

Pension is available to assist veterans who have low income. There is a maximum on the amount of assets and income a veteran or veteran's widow(er) may have in order to receive Improved Pension Benefits.

ASSET REQUIREMENTS

The net worth of the veteran and the veteran's spouse, or the widow(er) of the veteran, may not exceed \$80,000. One house is excluded, as is one motor vehicle. Currently there is no penalty period for a transfer of assets. The V.A. only requires the applicant to provide the current net worth effective at the time of application.

Warning: Transferring of assets may have negative consequences for a veteran or veteran's widow(er) who seeks Medicaid benefits for long-term care. See the section below on coordination of Medicaid and Veterans benefits!

DETERMINING NET INCOME



To calculate benefits, the gross income of the veteran or the veteran's widow(er) is totaled. If the veteran is married, the gross income of the veteran and his/her spouse are totaled. Certain recurring, unreimbursed medical expenses are then deducted from gross income to determine net income.

Unreimbursed medical expenses may be incurred by either the person seeking the benefits or the spouse of the person seeking benefits. The unreimbursed medical expenses that may be deducted are as follows:

Long-Term Care Expenses

The costs of long-term care are often the largest unreimbursed medical expense. Long-term care costs may include:

1. **Nursing Home:** For the purposes of Aid and Attendance benefits, a nursing home is considered to be any facility that provides extended term, inpatient medical care.
2. **In-Home Aides:** This is also an allowable deduction, so long as the attendant provides some medical or nursing services for the disabled person. The attendant does not need to be a licensed medical professional.

Fees paid to the attendant for personal care, and the care of the disabled person's immediate environment such as cooking and cleaning, are deductible.

Personal service contracts entered into with third parties, including family members, are considered long-term care expenses if they provide necessary services and the third party is compensated. Services must be contractually agreed upon and legitimate.

3. **Assisted Living:** The cost of an assisted living facility may be deducted from gross income. The facility must show that it is providing “managed health care assistance” or “medical management.” In fact, even the portion of the cost of an independent living facility may be deductible.

Other Unreimbursed Medical Expenses

1. Doctor’s fees
2. Dentist’s fees
3. Eyeglasses
4. Medicare deductions
5. Medicare co-payments
6. Prescriptions. These must be recurring prescriptions, not just the result of an incidental health problem. The cost of over-the-counter drugs may be deducted provided they are taken under the direction of a doctor.
7. Transportation to and from doctor’s appointments and therapy sessions.
8. Insurance premiums for health insurance, Medigap policy premiums, and long-term care policies.
9. Mechanical and electronic devices that are necessary in view of the individual’s disability.
10. Day care center expenses so long as the facility provides some medical or nursing services for the disabled, for example, Alzheimer’s Day Care.



CALCULATION OF BENEFITS

The V.A. determines Pension and Aid & Attendance benefits based on the claimant's family situation and net income. As noted above, net income is determined by deducting recurring unreimbursed medical expenses from gross income. The V.A. will provide benefits sufficient to elevate the recipient's net income to the maximum amount, but not in excess of the maximum amount, as the following chart shows:



2012 Veterans Pension and Aid & Attendance Rates

Veterans Family Situation	Maximum Pension	Maximum Pension with Aid & Attendance Benefits
Veteran	\$1021.00	\$1,703.00
Veteran with 1 dependent	\$1,337.00	\$2,019.00
Widow of Veteran	\$684.00	\$1,094.00
Widow of Veteran with 1 dependent	\$896.00	\$1,306.00
Veteran permanently Housebound	\$1,248.00	N/A
Veteran permanently Housebound with 1 dependent	\$1,564.00	N/A
Widow Permanently Housebound	\$837.00	N/A
Widow Permanently Housebound with 1 dependent	\$1,048.00	N/A

Benefit Calculation – Example One:

A veteran with one dependent meets the basic requirements for Pension with Aid & Attendance Benefits. He and his spouse have a gross income of \$3,000.00 per month. Their unreimbursed medical expenses are \$1,600.00 per month. Thus, his net income is \$1,400.00 per month (gross income of \$3,000.00 minus unreimbursed medical expenses of \$1,600.00).

Since he is a veteran with one dependent, the maximum Pension with Aid & Attendance Benefits he may receive is \$2,019.00 (see chart above). In order to elevate the veteran's income to the maximum level of \$2,019.00, the V.A. will provide the veteran with a monthly benefit of \$619.00. (Determined by taking the maximum benefit of \$2,019.00 and deducting the veteran's net income of \$1,400.00).

Benefit Calculation – Example Two:

The veteran and his spouse in example #1 have \$3,000.00 monthly gross income. However, they have recurring unreimbursed medical expenses of \$4,000.00, which effectively brings their net income below zero. In this case, assuming all other basic criteria are still met, the veteran will get the maximum benefit of \$2,019.00.



CALCULATION WORKSHEETS

Worksheet 1: Prospective Claimant Qualification Questionnaire for Aid & Attendance

	Yes	No
Did the veteran serve a minimum of 90 days active duty with at least 1 day of the 90 during a qualifying wartime period?		
Did the veteran receive other than dishonorable discharge?		
Is the prospective claimant housebound and in need of personal assistance?		
Are total household assets of prospective claimant (and spouse, if any) less than \$80,000?		
Does the total household GROSS income of the prospective claimant (and spouse, if any) exceed or come close to his/her total household medical expenses?		
Was widowed spouse living with the veteran at the time of the veteran's death?		
Was widowed spouse married to the veteran for at least 1 year OR have a child by the veteran?		
Did widowed spouse remain unmarried since veteran's death?		
<p>If all of the above answers are "yes," the prospective claimant may very well qualify for a Non-Service Disability Connected Aid & Attendance pension. However, there is never a guarantee than any claimant will be approved for benefits. It is always best to file and allow the V.A. to determine final eligibility.</p>		
<p>Veterans, please note: A claimant may qualify for a lesser amount if housebound, but not in need of personal assistance. A claimant, who is neither housebound nor in need of personal assistance, may also qualify for a lesser pension amount.</p>		

Worksheet 2: Veterans Aid & Attendance Benefits

Gross Income	
Social Security	\$
US Civil Service	\$
US Railroad	\$
Military retirement	\$
Black lung benefits	\$
Other pensions	\$
Interest & dividends	\$
Worker's Compensation	\$
Unemployment Compensation	\$
Other military	\$
Other	\$
<i>Line 1- Total Gross Income</i>	\$
Deductions	
Medicare Part B	\$
Medicare Part C and/or D	\$
Private medical insurance	\$
Assisted living, nursing home	\$
Home care	\$
Incontinence supplies	\$
Other	\$
<i>Line 2- Total Medical Deductions</i>	\$
Calculations	
Total medical deductions (from Line 2)	\$
Less flat veteran's deduction*	\$ ()
<i>Line 3-Total Net Medical Deductions</i>	\$
Net Income	
Total gross income (from Line 1)	\$
Less total net medical deductions (from Line 3)	\$ ()
<i>Total Net Income</i>	\$

*Flat Veteran's Deduction:
 Married Veteran \$66.92
 Single Veteran \$51.08
 Surviving Spouse \$34.25

The Medicaid Time Bomb

Many veterans who apply for Improved Pension Benefits will likely want to apply for Medicaid benefits for long-term care in the future. If the veteran has transferred assets in order to bring his/her net worth under the V.A. asset limit, the veteran could be in for a rude awakening, which we call the Medicaid Time Bomb.



As noted above, the Veterans Administration does not examine prior asset transfers. However, Medicaid does. And therein lies the potential problem. Let's illustrate the issue with the experience of Bob, a Korean War veteran:

Bob is 78 and married to Evelyn, 74. He lives at home and needs more help with dressing and bathing than his wife can provide. Bob and Evelyn want to hire someone to assist Bob at home, but need financial assistance. He has \$180,000.00 in assets. He applies to the V.A. for Pension and Aid & Attendance benefits. The V.A. informs him that he is over the asset limit (\$80,000.00).

Bob then transfers the majority of his assets to his children, and re-applies for benefits. The V.A. isn't concerned with the transfers Bob made; it's only concerned with the assets Bob has on the date he files his application. Bob is now deemed eligible and he receives his V.A. benefits.

The following year, Bob has a stroke and must enter a long-term nursing facility. Facing monthly nursing home costs in the thousands of dollars, Bob applies for Medicaid benefits. Unlike the Veterans Administration, Medicaid carefully examines the amount, type and timing of those asset transfers -- and denies him benefits. Bob and Evelyn are shocked to learn that the very transfers that made Bob *eligible* for VA benefits, now make him *ineligible* for Medicaid benefits.

The bottom line: Evelyn must now pay the nursing home out of pocket. She'll have to "spend down" until she is virtually destitute. Only then will Medicaid provide help. The Medicaid Time Bomb has exploded.

The V.A. staff never told Bob this could occur. But why would they? The V.A. never asked about asset transfers. The V.A. and Medicaid are entirely separate agencies with separate rules and regulations.

Before applying for V.A. Benefits, it is always wise to seek the advice of an attorney who is both certified in Elder Law and accredited by the Department of Veterans Affairs. If Bob had sought advice from The Karp Law Firm before applying for V.A. benefits, we would have advised him about asset transfers and their ramifications with an eye to protecting all his benefits. If he had already made the transfers, we would have advised him of ways to minimize the financial and legal damage.

A Certified Elder Law Attorney Can Help!

Bob's experience provides just one example of the importance of consulting with a Certified Elder Law Attorney who is accredited by the Department of Veterans Affairs to provide benefits advice. As you struggle to pay for your loved one's long-term care costs, getting the right advice at the right time can literally save your family thousands of dollars.

The Karp Law Firm's V.A.-accredited attorneys can provide you with Veterans Benefits advice. Our Certified Elder Law Attorneys are also knowledgeable about Medicaid benefits for long-term care. We are familiar with the nuts and bolts of both types of benefits and have handled numerous applications. We can help you coordinate your efforts to secure benefits. We'll help you make sense of the bewildering array of programs, eligibility requirements, forms and applications needed to get ALL your rightful benefits.



We can also make sure your application for V.A. benefits is consistent with your overall legal and financial planning, to ensure that you get every penny you are entitled to as expeditiously as possible. Some of the other specific issues we can help you with are:

1. Analyze your family, financial and legal situation, and evaluate the positives and negatives of all your planning options.
2. Chart a course and timeline for applying for benefits.
3. Analyze any of the relevant income tax, gift tax or estate tax issues.
4. Identify the care options available in the local community for both the veteran and spouse.
5. Review Veterans Benefits, Medicare Benefits, and Medicaid Benefits as they apply to your circumstances.
6. Review your personal, financial, and family resources.
7. Analyze the financial suitability of any asset with an eye toward preserving your assets.
8. Submit the V.A. claim form.

Note: As of June 23, 2008, the Veterans Administration requires that anyone assisting a veteran or family member with the preparation, presentation and prosecution of a claim for benefits must be accredited through the V.A. To check the accreditation of someone who offers to provide advice, log on to:

<http://www4.va.gov/ogc/apps/accreditation/index.asp>

The V.A. does not permit anyone to charge for the filing of an application per se.



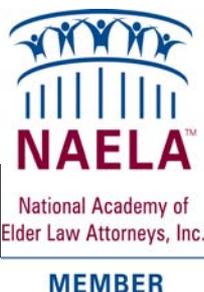
ABOUT THE AUTHOR

JOSEPH S. KARP

Joseph S. Karp is certified as an Elder Law Specialist by the Florida Bar and as an Elder Law Attorney by the National Elder Law Foundation, the only organization authorized by the American Bar Association to confer this credential. He is among only a handful of Florida attorneys to be dually certified in this field of law. He has been practicing law in Florida since 1977. Other credentials include:



- Past President & Charter Member, American Association of Trust, Estate Planning & Elder Law Attorneys
- Accredited Attorney, U.S. Dept. of Veterans Affairs; admitted to practice in U.S Court of Appeals for Veterans claims
- Named “Super Lawyer” by *Florida Super Lawyer Magazine*, 2009, 2010, 2011, 2012
- Named *Florida Trend Magazine’s* 2011 “Legal Elite”
- Florida Bar: Member Elder Law Section, Real Property & Probate Law Section
- Admitted to New York Bar: Member, Bar Elder Law Section
- Palm Beach County, Martin County and St. Lucie County Bar Associations
- Past chair, Florida Bar 15th Judicial Circuit Grievance Committee “E”
- National Academy of Elder Law Attorneys
- Academy of Florida Elder Law Attorneys
- “AV” Preeminent Peer Rating, Martindale Hubbell
- Board of Directors, Alzheimer’s Assoc. of SE Florida, 2004 – 2012
- AVVO rated 10 of 10 (“superb”)
- Accredited Investment Fiduciary®
- B.A. Rutgers University ’69; J.D., Brooklyn Law School ’74.



ABOUT THE KARP LAW FIRM ATTORNEYS

Genny Bernstein, Attorney at Law

Accredited Attorney, Dept. of Veterans Affairs

Florida Bar Certified Elder Law Attorney

Florida Bar 15th Judicial Circuit Grievance Committee "E"

Member, Florida Bar Elder Law Section; Real Property & Probate Law Section

Florida Trend Magazine's 2011 "Legal Elite"

Palm Beach County, Martin County & St. Lucie County Bar Associations

National Academy of Elder Law Attorneys

Academy of Florida Elder Law Attorneys

B.A., FL State University '96; J.D., Nova Southeastern University '00



Adele Small Harris, Attorney at Law

Florida Bar: Member Elder Law Section, Real Property & Probate Law Section

Accredited Attorney, Dept. of Veterans Affairs

National Academy of Elder Law Attorneys

Palm Beach County Bar Association

Academy of Florida Elder Law Attorneys

Florida Association of Women Lawyers

North County Young Lawyers Section

University of Florida Alumni Association

B.A., University of Florida '00; J.D., University of Florida '03







THE KARP LAW FIRM

A Professional Association

Estate Planning & Administration • Probate • Elder Law • Medicaid Planning • Special Needs-Disability Planning • Veterans Benefits Planning

Your Peace of Mind Is Our Priority

2500 Quantum Lakes Blvd.
Suite 203
Boynton Beach, FL 33426
561-752-4550

2875 PGA Blvd.
Suite 100
Palm Beach Gardens, FL 33410
561-625-1100

1100 SW St. Lucie West Blvd.
Suite 101
Port St. Lucie, FL 34986
772-343-8411

Toll Free From Anywhere 800.893.9911

Web: www.karplaw.com

Email: klf@karplaw.com

Blog: www.karplaw.blogspot.com

Facebook: www.southfloridaelderlaw.com

©2012 The Karp Law Firm, P.A.