

Pension and Fiduciary Service – Pension Program Review

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to help you
find your way



VETERANS BENEFITS ADMINISTRATION



U.S. Department
of Veterans Affairs



Pension Program Overview

Introduction

- Pension Program
- Eligibility and Requirements
- Special Monthly Pension
- Pension Poachers
- Things You Should Know
- How VSOs Can Help

Pension Program

- VA's pension program provides monthly benefit payments to certain wartime Veterans with financial need, and their survivors.
- To provide the best service to our Nations Veterans and their families – we, in our roles as claimants' representatives and Veterans' advocates, must be aware of certain basic eligibility and qualifying information when others come to us for assistance in applying for VA benefits.

Eligibility and Requirements

- To be eligible for pension, a Veteran must meet service, income and net worth, and disability requirements.
- Surviving spouses and certain dependents of qualifying wartime Veterans are also eligible for pension provided they meet the income and net worth requirements.
- **It's important that every qualified Veteran and survivors, having a financial need, is able to receive the money that they are due.**

Eligibility and Requirements (cont'd)

- Service requirements:
 - was discharged from service under other than dishonorable conditions, **AND**
 - served 90 days or more of active military, naval or air service with at least 1 day during a period of war.Additional minimum service requirements exist for Veterans who served after September 1980.

Eligibility and Requirements (cont'd)

- Income and net worth requirements for pension:
 - countable income is below the maximum annual pension rate, **AND**
 - meets the net worth limitations.
- Disability requirements for pension:
 - is age 65 or older, **OR**
 - has a permanent and total non-service-connected disability, **OR**
 - is a patient in a nursing home, **OR**
 - is receiving Social Security disability benefits.

Special Monthly Pension

- There are additional rates or allowances for pension that can be provided to those who meet the basic eligibility requirements for pension benefits.
- These amounts are increased amounts that are in addition to the basic monthly pension rate for those who qualify.
- There are two special monthly pension rates that you should know about. One is an enhanced amount for needing "**aid and attendance**" and the other is an enhanced amount for being "**housebound**".

Special Monthly Pension (cont'd)

- **Aid and Attendance (A&A) –**
 - an increased monthly amount of pension paid for those who need the help of another person or for those with severe visual impairment
- **Housebound**
 - an increased monthly amount of pension paid to a Veteran or surviving spouse who is substantially confined to his or her home because of permanent disability

“Pension Poachers”

- People offering to "help" Veterans and their families qualify for pension or pension at the A&A rate.
- “Pension Poachers” are some industry groups that–
 - Offer to assist Veterans and Survivors file claims for VA benefits and services;
 - Charge a fee for this assistance, targeting elderly Veterans and their spouses; and sometimes
 - Offer to “qualify” a person for VA pension by adjusting income and assets

Things You Should Know

- Names of “pension poaching” organizations can sound credible
- Some products and services provided by these organizations, such as annuities, may not be suitable for elderly Veterans and can make them ineligible for other benefits, such as Medicaid.
- Some organizations charged fees, ranging from a few hundred dollars for benefits counseling to \$10,000 for establishment of a trust.

Things You Should Know (continued)

- Attorneys or financial planners cannot charge a fee for preparing a claim.
- A VA-accredited attorney or claims agent can also be a financial planner and may assist a claimant with a claim.
- Financial planners may not use their VA accreditation for the purpose of promoting or selling financial products.
- It is not permissible to offer a guarantee (or to receive payment by promising) that a claimant will be awarded A&A or that the processing of a claim will be expedited.

How VSOs Can Help

- Be the “First Face” of **advocacy** and **outreach**
- Remind claimants that VSOs can help them, **free of charge**, in filing claims for VA benefits
- Make sure that claimants and your members know that you are VA-accredited. VA-recognized veterans service organizations, including their VA-accredited representatives, will **not** try to receive fees for their services in connection with a VA claim in **any** instance.

More Information – Pension Benefits

- Go to: www.vba.va.gov
Click on program and application information for VA pension benefits.
- Call the Pension National Call Center at:
1-877-294-6380
- Watch Video #46 VA's video on Enhanced Pension Benefits at:
<https://www.youtube.com/user/DeptVetAffairs?feature=watch>

More Information - Filing Complaints

- Refer complaints to State and Federal agencies, e.g., Federal Trade Commission (FTC) and the Consumer Financial Protection Bureau (CFPB).
- Report suspicious practices to:
<http://www.consumerfinance.gov/complaint>.
- Questions concerning accreditation of individuals, recognition of organizations, or agents' and attorneys' fees may be sent to ogcaccreditationmailbox@va.gov.



Unreimbursed Medical Expenses (UMEs)

Introduction

- VA Policy on Unreimbursed Medical Expenses
- When is Room and Board Countable as a UME?
- When is Room and Board **not** Countable as a UME?
- Room and Board Procedures
- Q&A

VA's Policy on Unreimbursed Medical Expenses (UMEs)

- Fast Letter 12-23, ***Room and Board as a Deductible Unreimbursed Medical Expense***
 - Clarifies the VA policy for the types of unreimbursed medical expenses (UMEs) that may be deducted from income for pension purposes, specifically whether the cost of room and board at a facility is a deductible UME.
 - Interprets the list of ADLs (activities for daily living) as prescribed in 38 C.F.R. § 4.124a as exclusive, allowable UMEs
 - i.e., bathing, showering, dressing, eating, getting in or out of bed or a chair, and using the toilet.

VA's Policy on Unreimbursed Medical Expenses (UMEs) (continued)

- Fast Letter 12-23, ***Room and Board as a Deductible Unreimbursed Medical Expense***
 - Sets forth that IADLs (activities other than self-care that are needed for independent living) are not are not generally countable as UMEs for pension purposes
 - i.e., meal preparation, doing housework and other chores, shopping, traveling, doing laundry, being responsible for one's own medications, and using a telephone.
- Does allow room and board to be counted as a UME based *solely* on the fact that claimants/beneficiaries receive assistance with IADLs.

VA's Policy on Unreimbursed Medical Expenses (UMEs) (continued)

- Current VA regulations require deduction of UMEs from income for purposes of the pension program (38 C.F.R. § 3.272(g)).
- VBA has interpreted this deduction in its Adjudication Procedures Manual (Manual), M21-1MR, to mean the unreimbursed cost of medical and nursing services (M21-1MR, Part V, Subpart iii, Chapter 1, Section G, 43, 44).
- As defined in VA regulations, ADLs are “basic self-care and includes bathing or showering, dressing, eating, getting in or out of bed or a chair, and using the toilet.” 38 C.F.R. § 4.124a note 3.

When is Room and Board Countable as a UME?

- In general, VA claimants and beneficiaries, who are in Assisted Living Facilities and Nursing Homes due to their disabilities, can count room and board as a deductible UME.
- For pension purposes, VA interprets the cost of room and board at another type of residential facility as a UME:
 - If the facility provides the individual custodial care, or if the physician states in writing that the claimant must reside in that facility to separately contract for custodial care with a third-party provider.
 - If the facility's custodial care assists with two or more ADLs for the individual.

When is Room and Board not Countable as a UME?

- For pension purposes, VA does not consider room and board as a UME for pension purposes:
 - If the facility does not provide the claimant custodial care, or the claimant's physician does not prescribe third-party provider care in that facility. However, VA may deduct the cost of any medical or nursing services obtained from a third-party provider.
 - If the facility's care is limited to providing emergency pull cords, 24-hour staffing, and locked exterior doors as a medical or nursing service.
- VA requires documentation for in-home attendants when the claimant has contracted with a third party for custodial care (M21-1MR, Part V, Subpart I, Chapter 3, Section D, 13.i)

Room and Board Procedures (not in NH or ALF)

STEP	ACTION
1.	<p>Is the claimant rated for pension at the A&A or housebound rate?</p> <ul style="list-style-type: none">• If no, go to step 2.• If yes, go to step 3
2.	<p>Has a physician stated in writing that the claimant needs to be in a protected environment?</p> <ul style="list-style-type: none">• If yes, go to step 3.• If no, VA will not deduct as a UME the cost of room and board based on custodial care.
3.	<p>Does the residential facility provide the individual assistance with two or more ADLs?</p> <ul style="list-style-type: none">• If yes, VA will deduct as a UME the cost of room and board based on custodial care.• If no, go to step 4.
4.	<p>Does a third-party contractor provide the individual assistance with two or more ADLs in the residential facility?</p> <ul style="list-style-type: none">• If yes, is there a statement of record from the individual's physician that the individual must reside in that facility to receive the contractor's assistance with ADLs?• If yes, VA will deduct as a UME the cost of room and board based on custodial care.• If no, VA will not deduct as a UME the cost of room and board based on custodial care.

Q&A

- Question – When does assistance with Instrumental Activities of Daily Living (IADL) constitute a UME for room and board?
- Answer – As a general rule, charges for assistance with IADLs are not UMEs for pension purposes because such assistance is not a medical or nursing service. However, VA will deduct the cost of assistance with IADLs from the individual's income when:
 - The individual is entitled to pension at the A&A or housebound rate, or a physician has certified that the claimant has a need to be in a protected environment, AND
 - The facility provides medical services or assistance with ADLs to the individual.

Q&A

- Question – 38 CFR 4.124a as specifically addresses activities of daily living as it relates to residuals of traumatic brain injury. Are the PMC's to interpret this as the definition of what constitutes an activity of daily living? If so, is this list all inclusive or can it be expanded depending on the circumstances of each case?
- Answer – As a matter of policy, VBA interprets as exclusive the list of ADLs in section 4.124a, i.e., bathing, showering, dressing, eating, getting in or out of bed or a chair, and using the toilet. Thus, for purposes of deciding claims involving UMEs, no other services will be considered to constitute assistance with ADLs.

Q&A

- Question – What if I am in an Independent Living Facility but need help with my laundry, housework and other chores? Will VA allow these expenses as UMEs and pay my rent or room and board?
- Answer – The general rule set out in Fast Letter (FL) 12-23 is that IADLs are not UMEs for pension purposes. As defined in FL 12-23, IADLs are “activities other than self-care that are needed for independent living, such as meal preparation, doing housework and other chores, shopping, traveling, doing laundry, being responsible for one’s own medications, and using a telephone.” The policy established in FL 12-23 does not permit the treatment of room and board as a UME based solely on the fact that claimants/beneficiaries receive assistance with IADLs.



Up-front Pension Eligibility Verification

Introduction

- What is Up-front Pension Eligibility Verification
- How will Up-front Pension Eligibility Verification Affect VSOs?
- Why is VBA doing this?
- When is Room and Board **not** Countable as a UME?
- Room and Board Procedures
- Q&A

Up-front Pension Eligibility Verification

- **What is happening?**
 - VBA is implementing a new system for verifying pension eligibility
 - The initiative uses and stores Federal tax information (FTI) on VBA claims processing systems
 - Because FTI has special security requirements, accredited representatives of Veterans Service Organizations (VSOs) must—
 - Complete training, and
 - Update system access

Up-front Pension Eligibility Verification

- **What is it (up-front verification)?**
 - A data sharing collaboration between the Internal Revenue Service (IRS), Social Security Administration (SSA), and VA
 - IRS and SSA provide VA electronically Federal income tax information that Pension Management Centers (PMC) will use to verify the income of applicants for pension and parents' dependency and indemnity compensation
 - Intended to address concerns about integrity of pension program, reduce overpayments, and reduce reliance on self-reported data

Up-front Pension Eligibility Verification

- **How will this affect VSO representative's access?**
 - When VBA implements the new access restrictions, VSO representatives who currently have access in MAP-D for all types of claims will no longer have access in MAP-D to the following pension-related EPs:
 - 120 (reopened pension)
 - 147 (parents' DIC only)
 - 150 (income-reopen)
 - 180 (Veterans pension)
 - 190 (survivors pension)

Up-front Pension Eligibility Verification

- **Why is VBA doing this?**
 - Reduce pension overpayments
 - Preserve the pension program for Veterans and survivors with genuine need
 - Respond to congressional concerns
 - Enable VBA to implement a post-award auditing program in lieu of the current Income Verification Match program.

Up-front Pension Eligibility Verification

- **How do accredited representatives maintain system access?**
 - Complete the FTI training (Curriculum VBA-419 (*Safeguarding Federal Tax Information (FTI)* - TMS ID 384768))
 - After completing the training, representatives update MAP-D access through normal VBA channels
 - After VBA begins deployment of the initiative, representatives will no longer have access in MAP-D to the restricted EPs until VBA updates their MAP-D access

Up-front Pension Eligibility Verification

- **How can I get access to this training**
 - The training manager at your local VA regional office can provide you access to the Federal tax information (FTI) training
 - Follow the locally-established procedures for requesting training
- **Do all VSO representatives have to take FTI training?**
 - No. Only representatives who have access to VBA computer systems used for adjudicating claims, e.g., VETSNET, and who want access to information in MAP-D for pension and parents' DIC claims must take this training
 - New representatives who want unrestricted access to all end products in MAP-D will also need to take this training

Up-front Pension Eligibility Verification

- **Why do VSO representatives have to take FTI training?**
 - Beginning in late August – early September, VBA will begin using FTI to verify the income of applicants for pension and parents' DIC at the time of application for benefits
 - The IRS requires that all persons who have access to this information on a VBA computer system take this training (VBA employees with similar access must take this training)
 - Pension and parents' DIC-related correspondence in MAP-D may contain FTI *and* representatives will have access to these letters

Up-front Pension Eligibility Verification

- **How does this benefit VSO representatives?**
 - For the first time, representatives will be able to view correspondence relevant to income verification with FTI
- **What if I have questions?**
 - System access – Local Information Security Officer
 - Training – Local Regional Office or PMC Training Manager
 - Up-front eligibility verification – Pension and Fiduciary Service (202) 632-8863

Up-front Pension Eligibility Verification

- **What happens next?**
 - Deployment to initial Pension Management Center (PMC)
 - estimated late August or early September
 - Capture lessons learned, revise procedures, deploy to remaining PMCs (Q1 - FY2014)
 - Revise application forms to reduce development (Q1 - FY2014)
 - Produce checklist for VSOs to aid in claims preparation (Q1 - FY2014)



QUESTIONS???