



*The Veteran
Field Manual:*

VETERAN LONG TERM CARE BENEFITS

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ESQ.

FORWARD

The David L. Orosz Law Firm is an Elder law and Estate Planning Firm that also concentrates on helping Veterans and their spouses obtain the financial assistance to which they are entitled.

Attorney Orosz, a Veteran, is also an Accredited Attorney under the regulations for the Department of Veterans Affairs. The accreditation is for “*the preparation, presentation and prosecution of claims for veterans benefits before the Department of Veterans Affairs (VA).*” The purpose of the accreditation program is to ensure that claimants for VA benefits receive qualified assistance in preparing and presenting their claims. VA regulations prescribe that an accredited attorney must, at a minimum, have acquired information in the following areas: providing representation before the VA, VA claims procedures, basic eligibility for VA benefits, the right to appeal, disability compensation, dependency and indemnity compensation, and pensions.

The information contained in *The Veteran Field Manual* was compiled and edited by David L. Orosz as a public service and distributed free of any charge to the general public and especially to all Veterans, their spouses, and concerned families.

The David L. Orosz Law Firm has but a single purpose: to provide sound legal and financial advice to older Veterans and their families who may now, or in the future, need assistance either in an **assisted living community**, a **nursing home** or in their **own homes**.

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INTRODUCTION

The Best Health Care System in America

It comes as a surprise to some people who had experience with VA health care during the 1970s and 1980s that this same system is now considered the best medical care in the United States. To illustrate this we quote from Robert Bazell, Chief science and health correspondent, NBC News Updated: 6:33 p.m. MT March 15, 2006

"We report a story tonight that is going to turn a lot of heads. The Veterans Administration Health Care System, once famously known for horrendous medical care, now offers what many consider the best health care in the nation. I am sure we will hear from many of you who have had difficult times with care at the VA. That is understandable, because the improvement in the VA has occurred relatively recently and inevitably many people will be dissatisfied with their treatment at the hands of any medical provider."

"But here is the evidence. In a study two years ago a group of researchers from the RAND Corporation and several medical Centers found that 67 percent of patients in the VA system received "appropriate care" as defined by expert panels on medical practice. Two thirds sounds short of the mark, but in the current issue of the New England Journal of Medicine the same researchers report on a survey of the country that finds only 55 percent of Americans in general are getting appropriate health care. And that number does not vary much with the patients' level of education or income."

"In addition, a telephone survey last January from the University of Michigan found that VA patients rated their satisfaction with care at 83 out of a possible 100 points for inpatient care and 80 out of 100 for outpatient care. By comparison, the same survey found rates of 73 and 75 in the general population. Another indicator comes from the American Legion, which has been surveying its members and finding similar high levels of patient satisfaction."

"Indeed, the biggest complaint about the VA system these days is from people who want in. The VA provides unlimited care for service-related injuries and illnesses. but for other problems Veterans must fall below a defined income level. As a result, patients at the VA tend to be poorer and sicker than the rest of the population, which makes the improvements all the more remarkable."

"What happened? The change began with Dr. Kenneth Kizer, who became undersecretary of health for Veterans Affairs in the Clinton administration and has continued in that role during the Bush administration. The VA changed its emphasis from hospital to outpatient care where possible. It also set up genuine prevention programs. As a result, people with conditions like diabetes get the simple measures that can save enormous misery and thousands of dollars in treatment costs. Every patient is assigned a personal physician and the mandate from headquarters is to treat Veterans with the respect and dignity they deserve."

"The other big change was a massive shift to electronic medical records. At any VA facility in the country, a doctor or other health professional can access the records of any patient in the system, including lab tests, X-rays and chart notes that can be read easily. The electronic system challenges health providers who seem to be making mistakes, and it allows for a massive collection of data so the VA can know which treatments work and which don't."

"A big advantage for the VA is electronic medical records. The VA has the largest, and one of the most modern systems in the world. When a VA patient visits any facility in the country, the records are there. Indeed, after Hurricane Katrina, many VA patients received uninterrupted care even as they were forced to move."

"All of the information I need about any of my patients, including their X-rays and their tests, are always available, always accurate, always there in a legible form,' says Gauge."

"The electronic records also allow the VA to track its performance — to quickly learn what works and what doesn't — providing what many say could be a model for health care nationwide."

Why the VA Health Care System Works so Well

Actually it's not that VA is such a marvelous system since any large-scale organization employing over 200,000 people is bound to have its inefficiencies. VA simply comes closer to the mark of providing excellent care than the rest of the health-care providers in the country. One big reason is the Veteran system does not rely on insurance reimbursements so money saved through efficient operation remains in the system and does not transfer to insurance companies. This type of operational structure encourages innovation and change.

However, being a single-payer health plan alone would not necessarily result in a better system. The outstanding reawakening of VA health care is largely a result of the vision and leadership of Doctor Kizer and his successor. Here are some of the operational advantages that make VA health care so successful.

As a government entity, the agency cannot be sued by patients who have been mistreated. This obviously saves the time and money involved in lawsuits. However, in order to be responsive to medical errors, doctor Kizer instituted the "Sorry Now" program that holds staff accountable for their actions and provides damage awards to patients.

Veterans who are part of the system have the opportunity to remain with the system throughout their lives. This allows VA to practice preventative medicine by scheduling regular checkups, performing regular lab tests and intervening before a medical condition becomes too advanced. The provider/contractor insurance reimbursement model used in the United States typically does not allow for this type of preventative medicine.

An electronic records system provides the opportunity to practice outcome based medicine which has become the Holy Grail of all health-care systems. The computerized records allow tracking outcomes for various medical conditions and finding those that work best. This weeds out expensive procedures that are no more effective than other less expensive ones. Prescriptions for medications are also tracked on the computer and potential drug interactions are avoided. According to studies, VA has the lowest drug interaction incidents and deaths in the country.

The electronic records also prevent duplication of expensive medical tests. Some surveys indicate that, 60% of the time, private sector providers order duplicates or triplicates of the same test. This is because paper records make it difficult or almost impossible to track tests between different care providers. Even in the same hospital, estimates are that one out of five tests are unnecessarily reordered.

Finally, electronic records help the Veterans health system to maintain a more cost effective and smaller drug formulary. Fewer categories of drugs allow VA to negotiate with drug companies for larger quantities at a lower price. If an existing, less expensive drug is proven through electronic records computer data to be just as effective as newer more expensive medicines, then obviously the older medicine will be favored.

Proponents of the new Medicare drug plans criticize VA for limiting drug choice to only about 1,300 medications where some Medicare plans allow 4,500 different drugs or more. VA would probably argue that such a wide choice is unnecessary and that many newer more expensive drugs are simply analogues of less expensive versions that have been around for a long time.

Cost of overhead and administration is another issue that makes VA a better system. Our country's private insurance model results in insurers eating up a great deal of their premium income in unproductive overhead costs. It is estimated that private insurers spend anywhere from 20% to 30% of their premium income on advertising, agent commissions, insurance administrative oversight costs, expensive claims and records tracking systems, taxes, profit, and dividends for shareholders. VA has none of these additional cost burdens except for administrative costs associated with maintaining the system.

There is also evidence that the morale of employees in VA hospitals and outpatient clinics is especially high because of the pride those employees take in providing quality care. Motivated employees can be a major factor in providing care more effectively and more efficiently thus saving money.

Chapter 1: Enrolling in Veterans Health Care

For most Veterans, entry into the VA health care system begins by applying for admission. Application is submitted through VA Form 10-10EZ -- Application for Health Benefits -- which may be obtained from 877-222-VETS (8387). The Veteran must also submit a copy of his or her service form. Once enrolled, Veterans can receive services at VA facilities anywhere in the country.

During enrollment, Veterans are assigned to one of the priority groups VA uses to balance demand with resources.

Group 1: *Veterans* with service-connected disabilities rated 50 percent or more and/or Veterans determined by VA to be unemployable due to service-connected conditions.

Group 2: Veterans with service-connected disabilities rated 30 or 40 percent.

Group 3: Veterans with service-connected disabilities rated 10 and 20 percent, Veterans who are former Prisoners of War (POW) or were awarded a Purple Heart, Veterans awarded special eligibility for disabilities incurred in treatment or participation in a VA Vocational Rehabilitation program, and Veterans whose discharge was for a disability incurred or aggravated in the line of duty.

Group 4: Veterans receiving **Aid and Attendance** or **Housebound** benefits and/or Veterans determined by VA to be catastrophically disabled. Some Veterans in this group may be responsible for co-pays.

Group 5: Veterans receiving VA **Pension** benefits or eligible for Medicaid programs, and non service-connected Veterans and non compensable, zero percent service-connected Veterans whose annual income and net worth are below the established VA means test thresholds.

Group 6: Veterans of the Mexican border period or World War I; Veterans seeking care solely for certain conditions associated with exposure to radiation or exposure to herbicides while serving in Vietnam; for any illness associated with combat service in a war after the Gulf War or during a period of hostility after Nov. 11, 1998; for any illness associated with participation in tests conducted by the Defense Department as part of Project 112/Project SHAD; and Veterans with zero percent service-connected disabilities who are receiving disability **Compensation** benefits.

Group 7: Non service-connected Veterans and non-compensable, zero percent service-connected Veterans with income above VA's national means test threshold and below VA's geographic means test threshold, or with income below both the VA national threshold and the VA geographically based threshold, but whose net worth exceeds VA's ceiling (currently \$80,000) who agree to pay co-pays.

Group 8: All other non service-connected Veterans and zero percent, non-compensable service-connected Veterans who agree to pay co-pays. (Note: Effective Jan. 17, 2003, VA no longer enrolls new Veterans in priority group 8).

Prior to 2003 VA allowed Veterans to apply for medical coverage with any income level who were not required to meet means testing. These are Veterans classified as priority 8. VA will no longer grant enrollment from these Veterans. As the demand for services grows faster than funding, VA, in the future, may also exclude priority 7 Veterans from enrolling in the system.

Although there are exceptions, as a general rule, Veterans in priority categories 2 through 6 do not have to pay co-pays for the following services

- ◆ Inpatient services,
- ◆ Outpatient services or
- ◆ Long term care services.

In other words these services are free.

Veterans in priority categories 7 and 8 generally do have to pay co-pays but there are some exceptions if the Veteran meets VA's mean test or the geographic means test.

The most important thing to remember about co-pays and enrollment is that a *Veteran receiving VA Pension* -- **regardless of that Veteran's income** -- is classified a priority 5 Veteran. Priority 5 Veterans can enroll in the system and receive free; inpatient care, outpatient care and long term care. **They have no copayments for medical services.** The priority 5 Veteran must pay VA prescription drug co-pays unless that Veteran has a household income below the **current Pension maximum income rate**.

CHAPTER 2: Long Term Care Benefits through Veterans Health Care

The Department of Veterans Affairs provides three types of long term care benefits for Veterans.

The first type are benefits provided to Veterans enrolled in VA health care who have substantial service-connected disability. These medically necessary services include home care, hospice, respite care, assisted living, domiciliary care, geriatric assessments and nursing home care. Some of these same services may be offered to Veterans in the health care system who do not have service-connected disabilities but who may qualify because of low income or because they are receiving **Pension** income from VA.

The second type of benefit is state Veterans homes. The state home program is based on a joint cost-sharing agreement between VA, the Veteran and the state. The only VA-state nursing home in southwest Florida is the Douglas T. Jacobson facility located in Pt. Charlotte (941-613-0919)

The third type of benefits for Veterans is disability payments. These include **Compensation, Pension** and survivors death benefits associated with **Compensation** and **Death Pension**.

Compensation: Service-Connected Disability

Compensation is designed to award the Veteran a certain amount of monthly income to compensate for potential loss of income in the private sector due to a disability or injury or illness incurred in the service. In order to receive **Compensation** a Veteran has to have evidence of a service-connected disability. Most Veterans who are receiving this benefit were awarded an amount based on a percentage of disability when they left the service.

Once a Veteran can show that they are disabled because of their military service, their level of disability is rated by the VA (for example, 20% disabled) and the amount of **Compensation** paid depends on the rating assigned.

A Veteran can apply for increases in the percent rating if the condition worsens. A rating above 100% disabled will qualify the Veteran for special monthly **Compensation** that could more than double the normal benefit. During 2008, monthly **Compensation** payments range from \$117 for a Veteran with no dependents and a 10% disability rating, to \$2,772 for a Veteran with a spouse and a 100% disability rating. Special monthly **Compensation** benefits are also available beyond these amounts. There is no income or asset test for **Compensation** and the benefit is nontaxable.

Dependency and Indemnity Compensation (DIC) is paid to survivors of deceased Veterans if the death was due to a service-related injury or illness. Eligible survivors include spouses who have not remarried and unmarried children under 18. Disabled children are also eligible, as are children up to 23 who are attending school. Monthly DIC payments are \$1,091 per month.

Pension: Non-Service-Connected Disability

A **Pension** is a benefit for Veterans with low incomes who are permanently and totally disabled, when that disability is not related to military service. This is sometimes referred to as a “**Special Monthly Pension**” (or sometimes an “**Improved Pension**”).

A Veteran will be considered permanently and totally disabled if they are (1) a patient in a nursing home for long-term care because of disability; (2) receiving Social Security disability benefits; (3) unemployable as a result of a disability that is reasonably certain to continue throughout their life; or (4) suffering from any disease or disorder that renders them permanently and totally disabled as

determined by the Secretary of the Department of Veteran Affairs. In 2009, the maximum disability **Pension** for a Veteran with no dependents is \$985 per month. The rate for a Veteran with one dependent or for two Veterans married to each other is \$1,291 per month. Each additional dependent child adds \$168 per month to the **Pension**.

The VA pays a **Death Pension** to a single surviving spouse of any age as long as the deceased Veteran served at least 90 days with at least one of those days served during the period of war. The couple had to be married at least a year prior to death or have a child as a result of the marriage. Unlike the **Pension** benefit for a living Veteran, there is no requirement for total disability for the surviving spouse nor for the deceased Veteran to have been totally disabled or age 65 or older prior to death. In order to be eligible, a spouse must not have remarried, and a dependent must be under age 18, or must be under age 23 if attending a VA approved school. Dependents who are permanently incapable or self-support because of disability before age 18 are also eligible for the **Death Pension**. For 2009, the maximum **Death Pension** for a surviving spouse is \$661 per month. If the spouse has a dependent child, the maximum **Pension** is \$865 per month. If the spouse has more than one dependent child, the benefit for each dependent child is \$168 per month. The **Pension** for a surviving child is also \$168 per month.

The amount of the **Special Monthly Pension** will be *increased* if the permanently disabled Veteran is also **Housebound**. A person is **Housebound** if they are permanently and totally disabled and, either (1) have an additional disability or disabilities ratable at 60% or more; or (2) are substantially confined to their residence or the immediate premises due to a disability that is reasonably certain to remain throughout their lifetime. Evidence of this need for care must be certified by VA as a "**rating**." With a **rating**, certain Veterans or their surviving spouses are now able to qualify for **Pension**. In 2009, the maximum **Pension** for a **Housebound** Veteran with no dependents is \$1,138 per month. If the Veteran has one dependent, the maximum **Pension** is \$1510 per month. If a surviving spouse is **Housebound**, the maximum **Pension** is \$808. With a dependent child, the maximum **Pension** is \$1,012 per month. Again, each additional dependent will increase the **Pension** \$168 per month.

If the Veteran is in need of regular **Aid and Attendance**, also a **rating**, the maximum **Special Monthly Pension** is *increased* further to \$1,644 per month if the Veteran has no dependents. With one dependent, the maximum **Pension** is \$1,949 per month. If the surviving spouse is in need of regular **Aid and Attendance**, the maximum **Pension** is \$1,056 per month. If the surviving spouse has a dependent child the maximum **Pension** is \$1,260 per month. Again, each additional dependent will increase the **Pension** \$168 per month. To be in need of regular **Aid and Attendance**, the Veteran or spouse must be permanently and totally disabled and (1) a patient in a nursing home; (2) blind, or nearly blind; or (3) needing the regular **Aid and Attendance** of another person to perform basic activities of daily living, such as dressing, bathing, and attending to the wants of nature.

Aid and Attendance Pension can pay up to \$1,949 a month for qualifying long term care needs such as:

- * Family member to provide home care
- * Professional home care providers to come into your home
- * Assisted Living or Adult Day services
- * Nursing Home long term care
- * Home renovations for disability

And finally, there is what is called a **Service Pension**, for low-income, wartime Veterans who attain the age of 65 whether or not they are disabled. The amount of this maximum **Pension** is the same

as the basic **Special Monthly Pension**. Apparently the VA considers being 65 and older evidence in itself of disability!

Low Income Requirements

In order to be eligible to receive any of the above non-service connected **Pensions**, the Veteran must meet income and net worth requirements. First, the annual maximum **Pension** amount is decreased, dollar for dollar, by the Veteran's countable income. Countable income, in general, is: all the Veteran's income, including that of any dependents, MINUS unreimbursed medical expenses. Unreimbursed medical expenses include doctor fees, dentist fees, prescription glasses, Medicare premiums and co-payments, prescriptions, insurance premiums, transportation physician offices, and the costs of assisted living facilities or in-home aides.

VA claims **Pension** benefits are only for low income Veterans but a special provision in the way the benefit is calculated for recurring medical expenses (long term care costs associated with home care, assisted living or nursing homes) could allow Veteran households earning between \$2,500 and \$5,000 or more a month to qualify.

So, for example, if a Veteran has \$20,000 in income and \$10,000 in unreimbursed medical expenses, their countable income is \$10,000. Their \$10,000 in countable income is deducted from the maximum annual **Special Monthly Pension** of \$11,830 for a benefit of \$1,830. As another example, suppose the Veteran is in a nursing home (and so qualifies for the additional **Pension for Aid and Attendance**) and has an income of \$50,000. If his/her unreimbursed medical expense for the nursing home is \$5,000 per month, or \$60,000, the Veteran's countable income is negative \$10,000. Any negative income is counted as an income of \$0 and the Veteran will be eligible for the maximum annual **Special Monthly Pension for Aid and Attendance** of \$19,736.

Net Worth Requirements

In addition to low income, the Veteran must also have a limited net worth. The VA has not specifically defined "limited net worth"—however, a general guide is that the Veteran must have a net worth lower than \$50,000 if single or \$80,000 if married. A Veteran's net worth is calculated by adding all the value of all personal and real property owned by the veteran (and their spouse), not including a home and car. In the end, the decision as to allowable assets is a subjective decision made by a Service Representative (SRO).

Assets are determined at the time of application and could include the following:

- * cash and non-interest bearing bank accounts such as checking
- * Interest-bearing bank accounts such as savings or CDs
- * qualified retirement savings such as IRAs, 401 (k)s, 403(b)s, Keogh plans and so on (Income or withdrawals from these accounts are considered income)
- * stocks, bonds, mutual funds and other investment
- * value of applicant's apportioned share of business assets
- * net value of apportioned share of rental or investment property which is not the personal residence
- * anything else that represents ownership and could be converted into cash

VA does allow the household to give away assets to meet the asset test. Unlike Medicaid there is no look-back penalty for gifting assets to qualify for VA **Pension**. It is extremely important that anyone who has given away assets to qualify for **Pension** benefit should also make provisions to avoid or reduce the penalty imposed through early gifting by Medicaid.

VETERANS BENEFITS AT A GLANCE

The focus of this Veteran Field Manual is the “**non-service-connected Pension**” which may provide money to assist a wartime Veteran or surviving spouse who now faces substantial medical costs due to Alzheimer’s, Parkinson’s, MS, or other “non-service-connected” diseases.

Table 1: Disability Compensation

VETERAN

- Must have a disability caused by, or worsened by, military duty
- The amount of money paid to the Veteran is not based on need/income/net worth of the Veteran

SPOUSE/DEPENDENTS

- Eligible for **Dependency and Indemnity Compensation** (DIC)

Table 2: Non-Service-Connected Pension

VETERAN

- Must be permanently and totally disabled, or 65 or older
- Disability does not have to be related to military duty
- **Pension** is needs-based—must meet income and net worth requirements; or
- If the Veteran has too much income or too many assets, he/she will not qualify for the **Pension**
- A higher **Pension** is awarded if the Veteran is **Housebound**
- An even higher **Pension** if the Veteran is in need of regular **Aid and Attendance**

SPOUSE/DEPENDENTS

- Eligible for a **Death Pension**
- A higher **Pension** is awarded if the Veteran is **Housebound**
- An even higher **Pension** if the Veteran is in need of regular **Aid and Attendance**

MORE DETAILS...

Who is eligible for the non-service-connected Pension?

- ◆ Honorably discharged veterans, surviving spouses, or children or any military, naval, or air service. Also includes certain other special groups such as:
 - Women's Army Auxiliary Corps (WAAC)
 - Merchant Marines from WWII
 - U.S. civilians of the American Field Service
 - Plus 30 more! See list later in this guide.
- ◆ Served in active duty 90 consecutive days, one of which was during a period of war.
- ◆ *At least 65 years old OR Permanently and Totally Disabled*

“Permanently and Totally Disabled” is defined as:

- ◆ Receiving long-term nursing home care; or
- ◆ Receiving Social Security disability benefits; or
- ◆ Unemployable as a result of disability reasonable certain to continue throughout the life of the person.

The Veteran's current disability does not need to have any connection to the Veteran's actual time in the armed forces. (Non-service-connected disability can be Alzheimer's, Parkinson's, etc.)

Other Requirements

- ◆ Income limitation
 - Gross income MINUS certain expenses
 - 1) Unreimbursed medical expenses of Veteran and his/her household
 - 2) Certain educational expenses
 - After reducing gross income by the above expenses, net income must be lower than \$11,830 to \$23,396, depending on your circumstances
- ◆ Net worth limitation
 - in addition to your house, car, life insurance, burial policies, and annuities in payout status, you can generally have between \$50,000 and \$80,000 in assets, including CDs, stocks, bonds, etc.
 - If your net worth is higher, consult with a qualified attorney for an appropriate tax analysis to see if transferring some of your assets may qualify you.

**Table 1: Maximum Allowable Pension Rates (MAP)
12/01/08 - 11/30/09**

Status and Medical Rating of the Veteran Household	The Veteran is Living and Gets Medical Rating		Surviving Spouse of Deceased Veteran Cannot Be Married		Non-Veteran Spouse of a Living Veteran Has Medical Need	
	Yearly	Monthly	Yearly	Monthly	Yearly	Monthly
Veteran and Spouse Medical Deduction					\$15,493 \$ 775	\$1,291
Housebound, No Dependents Medical Deduction	\$14,457 \$592	\$1,204	\$9,696 \$397	\$808		
Housebound, One Dependent (Spouse or Child) Medical Deduction	\$18,120 \$775	\$1,510	\$12,144 \$520	\$1,012		
Aid and Attendance No Dependents Medical Deduction	\$19,736 \$592	\$1,644	\$12,681 \$397	\$1,056		
Aid and Attendance One Dependent (Spouse or Child) Medical Deduction	\$23,396 \$775	\$1,949	\$15,128 \$520	\$1,260		
Status of the Veteran Household (No Rating)	The Veteran is Living and Gets Medical Rating		Surviving Spouse of Deceased Veteran Cannot Be Married			
	Yearly	Monthly	Yearly	Monthly		
No Medical Rating- No Spouse or Child Medical Deduction	\$11,830 \$592	\$985	\$7,933 \$397	\$661		
No Medical Rating- One Dependent (Spouse or Child) Medical Deduction	\$15,493 \$775	\$1,291	\$10,385 \$520	\$865		
No Medical Rating- 2 Vets Married to Each Other	\$15,493	\$1,291				
Add for Early War Veteran	\$2,686	\$223				
Add for Each Additional Child	\$2,020	\$168	\$2,020	\$168		

VA Benefits Checklist

Items you'll need if you are a:

VETERAN ONLY:

- DD-214 or Discharge Papers
- Annual Social Security Award Letter received in January OR other documentation to verify your income
- A printout from your pharmacy of 3 months of expenses
- Copies of all your latest financial statements

VETERAN AND SPOUSE:

- All of the above for you and your spouse PLUS
- Marriage certificate
- Death certificate or divorce decree if either spouse was previously married

WIDOW/ER OF VETERAN:

- The Veteran's DD-214 or Discharge Papers
- Annual Social Security Award Letter received in January OR other documentation to verify your income
- A printout from your pharmacy of 3 months of expenses
- Marriage certificate
- Veteran's death certificate
- Death certificate or divorce decree related to any previous marriages of either you or the Veteran
- Copies of all your latest financial statements

Additional forms that may need to be filled out and filed with the claim for benefits:

- Statement of Attending Physician - **Aid and Attendance Letter**
- VA Form 21-0779 —Nursing Home Information Report
- Authorization and Consent to Release Information to the VA for each physician of the Veteran or spouse
- Care Provider Report; in-home and ALF
- Claimant's Certification of Out-of-pocket Expenses
- Statement Regarding Claimant's IRA

In Addition to Active Duty Vets from The Armed Services, These Little-Known Groups Also Meet the Active Duty Qualification For Va Benefits

If you belong to any of these groups and received a discharge by the Secretary of Defense, your service meets the active duty requirement for benefits:

- Recipients of the Medal of Honor
- Women Air Force Service Pilots (WASPs).
- World War I Signal Corps Female Telephone Operators Unit.
- Engineer Field Clerks.
- Women's Army Auxiliary Corps (WAAC).
- Quartermaster Corps female clerical employees serving with the American Expeditionary Forces in World War I.
- Civilian employees of Pacific naval air bases who actively participated in defense of Wake Island during World War II.
- Reconstruction aides and dietitians in World War I.
- Male civilian ferry pilots.
- Wake Island defenders from Guam.
- Civilian personnel assigned to OSS secret intelligence.
- Guam Combat Patrol.
- Quartermaster Corps members of the Keswick crew on Corregidor during World War II.
- U.S. civilians who participated in the defense of Bataan.
- U.S. merchant seamen who served on blockships in support of Operation Mulberry in the World War II invasion of Normandy.
- American merchant marines in oceangoing service during World War II.
- Civilian Navy IFF radar technicians who served in combat areas of the Pacific during World War II.
- U.S. civilians of the American Field Service who served overseas in World War I.
- U.S. civilians of the American Field Service who served overseas under U.S. armies and U.S. army groups in World War II.
- U.S. civilian employees of American Airlines who served overseas in a contract with the Air Transport Command between Dec. 14, 1941, and Aug. 14, 1945.
- Civilian crewmen of U.S. Coast and Geodetic Survey vessels who served in areas of immediate military hazard while conducting cooperative operations with and for the U.S. Armed Forces between Dec. 7, 1941, and Aug. 15, 1945.
- Members of the American Volunteer Group (Flying Tigers) who served between Dec. 7, 1941, and July 18, 1942.
- U.S. civilian flight crew and aviation ground support employees of United Air Lines who served overseas in a contract with Air Transport Command between Dec. 14, 1941, and Aug. 14, 1945.
- U.S. civilian flight crew and aviation ground support employees of Transcontinental and Western Air, Inc. (TWA), who served overseas in a contract with the Air Transport Command between Dec. 14, 1941, and Aug. 14, 1945.
- U.S. civilian flight crew and aviation ground support employees of Consolidated Vultee Aircraft Corp. (Consairway Division) who served overseas in a contract with Air Transport Command between Dec. 14, 1941, and Aug. 14, 1945.
- U.S. civilian flight crew and aviation ground support employees of Pan American World Airways and its subsidiaries and affiliates, who served overseas in a contract with the Air Transport Command and Naval Air Transport Service between Dec. 14, 1941, and Aug. 14, 1945.
- Honorably discharged members of the American Volunteer Guard, Eritrea Service Command, between June 21, 1942, and March 31, 1943.
- U.S. civilian flight crew and aviation ground support employees of Northwest Airlines who served overseas under the airline's contract with Air Transport Command from Dec. 14, 1941, through Aug. 14, 1945.
- U.S. civilian female employees of the U.S. Army Nurse Corps who served in the defense of Bataan and Corregidor during the period Jan. 2, 1942, to Feb. 3, 1945.
- U.S. flight crew and aviation ground support employees of Northeast Airlines Atlantic Division, who served overseas as a result of Northeast Airlines' contract with the Air Transport Command during the period Dec. 7, 1941, through Aug. 14, 1945.
- U.S. civilian flight crew and aviation ground support employees of Braniff Airways, who served overseas in the North Atlantic or under the jurisdiction of the North Atlantic Wing, Air Transport Command, as a result of a contract with the Air Transport Command during the period Feb. 26, 1942, through Aug. 14, 1945.
- Honorably discharged members of the Alaska Territorial Guard during World War II.

Listing of Possible Medical Expenses Current as of 1/2009

These can be deducted from your gross income to determine VA benefit eligibility:

Abdominal supports	Hospital expenses	Podiatrist
Acupuncture service	Insulin treatment	Psychiatrist
Ambulance hire	Insurance premiums,	Psychoanalyst
Anesthetist	for medical insurance only	Psychologist
Arch supports	Invalid chair	Psychotherapy
Artificial limbs and teeth	Lab tests	Radium therapy
Back supports	Lip reading lessons designed to	Sacroiliac belt
Braces	overcome a disability	Seeing-Eye dog and maintenance
Cardiographs	Medicare Part B premiums	Speech therapist
Chiropractist	Neurologist	Splints
Chiropractor	Nursing services for medical care,	Surgeon
Convalescent home	including nurse's board paid	Telephone/teletype special
(for medical treatment only)	by claimant	communications equipment
Crutches	Occupational therapist	for the deaf
Dental service, for example,	Ophthalmologist	Transportation expenses for
cleaning, x- ray, filling teeth	Optician	medical purposes (20 cents per
Dentures	Optometrist	mile plus parking and tolls or
Dermatologist	Oral surgery	actual fares for taxi, buses)
Drugs, prescription and	Osteopath, licensed	Vaccines
nonprescription	Pediatrician	Wheelchairs
Gynecologist	Physical examinations	Whirlpool baths for medical
Hearing aids and batteries	Physician	purposes
Home health services	Physical therapy	X-rays

Official Dates for Periods of war Current as of 1/2009

MEXICAN BORDER:	May 9, 1916, through April 5, 1917
WORLD WAR I:	April 6, 1917, through November 11, 1918, inclusive. If the veteran served with the United States military forces in Russia, the ending date is April 1, 1920.
WORLD WAR II:	December 7, 1941, through December 31, 1946
KOREAN CONFLICT:	June 27, 1950, through January 31, 1955
VIETNAM ERA:	The period beginning on February 28, 1961, and ending on May 7, 1975, inclusive, in the case of a veteran who served in the Republic of Vietnam during that period. The period beginning on August 5, 1964, and ending on May 7, 1975, inclusive in all other cases. (Authority: 38 U.S.C. 101(29))
PERSIAN GULF WAR:	August 2, 1990, through date to be determined

Chapter 3: Obtain Pension Aid and Attendance for Personal Care Arrangements

The great irony of government care services is that there is really no system to pay family members to provide care for their loved ones even when it would be cheaper than current programs which are biased towards nursing home care. In many cases the current system forces people wanting to remain in their homes into nursing homes because family members are not able to give up employment and provide care for their loved ones for free. It would probably cost the government a fraction of what it pays for nursing homes to reimburse family members for care of their loved ones at home.

Fortunately, for those Veterans who served during a period of war, VA is the only government agency that will provide funds to all those who qualify to help cover the cost of paying family members to provide care for their loved ones.

A totally overlooked source of money to pay family caregivers to provide care at home is the **Pension Aid and Attendance** benefit. This money is available to Veterans and to the widows of these Veterans. For a single qualified Veteran this benefit could be as much as \$1,644 a month.

A family member, non-licensed in-home attendant, could be just about anyone receiving pay for providing services. In addition to a family member it could be friends, or someone hired to live in the home. Examples of medical or nursing services would be help with activities of daily living such as dressing, bathing, toileting, ambulating, feeding, diapering and so on. Other services might include medication reminders or supervision necessary to provide a protective environment for the care recipient—in the case of dementia or Alzheimers.

All reasonable fees paid to the individual for personal care of the disabled person and maintenance of the disabled person's immediate environment may be allowed. This includes such services as cooking and housecleaning. It is not necessary to distinguish between "medical" and "non-medical" services.

Getting **Pension Aid and Attendance** to pay for family caregivers is not an easy task. This is because there must be a caregiver contract in place and services for care must be initiated and thoroughly documented before application can be made. Evidence must be submitted that the plan for care will be required for a year or longer and the cost and the amount of care will remain fairly constant. Otherwise prospective annualization of the expenses is unlikely. Getting these applications approved requires using a consultant who understands the documentation requirements. Very few people can do it on their own.

Where a member of the family has been hired to provide the care, it should be noted that this care-recipient/caregiver arrangement is also recognized by the IRS as an employer/employee relationship. Taxes must be withheld and paid and the care recipient must file for and receive an Employer Identification Number. (EIN). The taxes to be paid are Social Security, Medicare and federal unemployment tax as well as state unemployment tax if applicable. The employer (care recipient) must also issue a W-2 and submit a W-3 to the IRS. The employee caregiver must pay income taxes on the received income. A fee arrangement with an accounting firm or accountant for these tax-related services is very often advisable.

Chapter 4: Dovetailing Veteran Benefits With Medicaid

In order to qualify for Medicaid nursing care, a person must spend his or her cash assets down to less than \$2,000. Instead of giving this money to the nursing home and waiting for Medicaid to kick in, we have just seen how the potential beneficiary can instead transfer this money to a child in return for caregiver services. This is not considered a gift and if done properly does not create a penalty for Medicaid eligibility, both prior to the Medicaid application when VA benefits are being received or even at the time of entry into a nursing home when Medicaid will most often become the primary payor.

In other words, while the beneficiary is at home and receiving **Pension Aid and Attendance**, he/she will be receiving care from a family member/friend through a “Personal Service Contract” or direct from a Home Health Care Agency. If the next move is to an Assisted Living Facility (ALF) then the beneficiary contributes personal income to the cost supplemented by a continuing **Pension Aid and Attendance** benefit and possibly a Medicaid Diversion benefit and have in place a limited and abbreviated version of a “Personal Service Contract” in order to shelter excess disqualifying assets from Medicaid. If the move from the home is direct to a Nursing Home, then the VA benefit usually drops down to a \$90 monthly benefit and Medicaid covers the cost after the “co-pay” contribution by the beneficiary and the same limited “Personal Service Contract” stays in place. The only time that VA stays in the mix at the nursing home level occurs when the beneficiary’s income co-pay is so high, usually when there is Long Term Care Insurance involved, that the addition of a continuing VA benefit will pay the private rate of cost and Medicaid is not required.

We have also seen where assets that would disqualify and applicant for **Pension** can be given away or turned into income and there is no penalty for doing this that there would be with Medicaid. However, it is extremely important that anyone who has given away assets to qualify for the **Pension** benefit should also make provisions to avoid or reduce the penalty imposed through early gifting by Medicaid.

It is clear from this discussion, that in the arena of Medicaid-VA planning, there is “no one size fits all.” This leads us to the final Chapter in this *Veteran Field Manual*.

Chapter 5: How To Select The Best Qualified Attorney

There are only three types of persons who are authorized to provide a Veteran with assistance *filing* a claim for veteran benefits:

1. An “Accredited” VA Attorney licensed to practice law in your state;
2. A Veterans Service Organization such as VFW, American Legion, Amvets, etc.
3. A state or county official of the Department of Veteran Affairs in your state.

Unfortunately, there are few attorneys who have knowledge in this particular area of legal practice due to the fact that it is illegal to charge a Veteran a legal fee for providing assistance in *filing* a claim for benefits.

Although empowered to participate in the *filing* process, those responsibilities are ably performed by local Veteran Service Officers (VSOs) and the “Accredited VA Attorney” best serves the Veteran client by evaluating family income, family assets and potential conflicts with Medicaid and provides advice on the best strategies to pursue toward maximizing a **Pension** award. It is important when doing this for the consultant to be well versed in the Medicaid rules to avoid potential Medicaid denial in the future.

Any senior facing long-term care needs to seek capable legal advice from an attorney who is skilled in the areas of estate planning, financial planning options, Medicaid, Medicare, income tax, and gift tax, as well as having experience regarding VA rules.

The big question for many families will be, “What will it cost me to seek advice in this area?” Although an attorney who chooses to actually file a claim for Veteran benefits must do that portion of his/her work for free, the attorney may charge the usual fees related to any estate planning, financial planning options, Medicaid, Medicare, income tax, or gift tax work, as well as the determination of the financial suitability of filing for a Veterans benefit claim. ***No one should pay an attorney fee unless receiving a fair return on his/her investment.*** And, as always, the initial consultation should be free!

Chapter 6: Final Comments

After reading this Veteran Field Manual, you may have enough information to file a claim on your own. If you do decide that you need the help of an attorney whose practice is concentrated in the area of assisting senior citizens, then please contact me at the convenient number below. My goal is to make sure that my clients make the most of their financial and family resources so that they are *never out of money and never out of options for as long as they live*. If you are like most people, then I believe that you will need guidance to apply the information in this guide to your life or the life of your loved one.

I am here to provide guidance to you in the following areas:

- Basic estate plan documents such as powers of attorney, wills & possibly trusts
- Basic analysis of any income tax, estate tax, and gift tax issues
- Care options available in the local community for both the Veteran and spouse
- A review of Medicare and Medicaid as it applies to your circumstances
- A comprehensive understanding of availability and extent of personal and financial, as well as family resources to pay for care
- Analysis of financial suitability of any asset protection tools
- Analysis of both positive and negatives of all tools and planning options
- A calculation of the actual dollar benefit and/or cost of any helpful idea that is discussed
- Help in gathering the necessary information and completing the required VA claim forms

DAVID L. OROSZ
Accredited VA Attorney
(239) 334-8585
(800) 771-6053

Legal Disclaimer

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VETERAN'S AID AND ATTENDANCE WORKSHEET ASSET / INCOME WORKSHEET

CLIENT _____ **AGE** _____

MILITARY SERVICE Y/N DATES _____

SPOUSE _____ **AGE** _____

MILITARY SERVICE Y/N DATES _____

ASSETS

Real Estate

Home _____ (exempt)

Other _____

Automobiles

1st \$ _____ (exempt)

2nd \$ _____

Financial Accounts

Savings \$ _____

Checking \$ _____

CD's \$ _____

Mutual Funds \$ _____

IRA - his \$ _____

IRA - hers \$ _____

Savings Bonds \$ _____

Stocks/Bonds \$ _____

Cash Value \$ _____

(Life Ins)

Other \$ _____

Total from Calc: \$ _____

Minus Allowance* \$ < _____ >

Total Excess Assets \$ _____

*\$50,000 for single; \$80,000 for couple

Total \$ _____ **Amount to Reposition \$** _____

INCOME ADJUSTMENTS

SOURCE OF INCOME (annual)

SS \$ _____

Pension \$ _____

Annuity \$ _____

Other \$ _____

Total Income \$ _____

CURRENT OUT-OF-POCKET MEDICAL (annual)

\$ _____ Medicare Premiums:

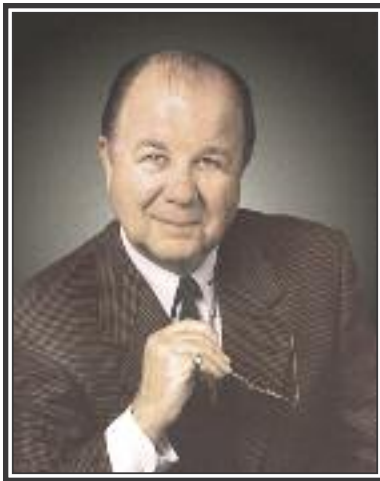
\$ _____ Medicines/OTC expenses

\$ _____ Deductibles and co-pays

\$ _____ Current care expense

\$ _____ Proposed care expenses

\$ _____ - \$ _____ = \$ _____
 (current income) (medical expenses) (net income)



David L. Orosz, Esq.

Resume – Qualifications

Education:

B.S. (Magna cum laude), John Carroll University,
Cleveland, Ohio. 1958

J.D. Case-Western Reserve University School of Law,
Cleveland, Ohio 1961

Work Experience:

Member of the Florida Bar; Legal Officer, U.S. Army; City Prosecutor;
County Prosecutor; Trust Officer; Assistant States Attorney;
Trial Attorney; County Judge; Accredited Attorney by the Department
of Veterans Affairs; Licensed Florida Life & Health Agent;
Guest Lecturer and Author on Subjects of Estate Planning,
Trusts, Nursing Home Financial Assistance, and
VA Long-term Health Care Benefits.

Memberships:

The Florida Bar; Lee County Bar Association; National Academy of
Elder Law Attorneys; Florida Academy of Elder Law Attorneys;
National Care Planning Council, The American Legion