New VA Rules for Pension Benefits
Effective October 18, 2018

The VA has a pension benefit to help certain financially eligible wartime veterans or spouses of deceased veterans. This pension benefit has come to be known as the Aid and Attendance Award.

The VA has recently published proposed changes in determining who qualifies for this Award. The following is a brief summary of these changes.

Net Worth: The rules tie the net worth asset limit to the Medicaid Spousal Impoverishment level (currently $123,600) and increase it for inflation. Annual income is added to the net worth amount to determine eligibility.

<u>Example</u>: An eligible spouse with assets of $100,000 and annual income of $10,000 would have a VA net worth of $110,000, meeting eligibility requirements. Unreimbursed medical expenses reduce your net worth for the VA asset level test by reducing your income.

A principal residence is not considered an asset if it is located on two acres or less. The proceeds from the sale of the principal residence are not counted as assets after the sale if the proceeds are reinvested in a new principal residence purchased in the same calendar year. The residence does not count if you are in a nursing home, assisted living facility, or living with a family member because of your health.

Transfer of Asset Penalty: The VA has new asset transfer penalty rules. Starting on October 18, 2018, the VA will impose unfair penalties for gifts of "covered assets." A "covered asset" is an asset that was part of the claimant's net worth and was transferred, reducing claimant's net worth below the net worth limit. This would apply to the value of assets transferred, which would otherwise put the assets of the veteran above the asset cap of $123,600. The purchase of an annuity can be considered an improper transfer. The look back period is 36 months immediately prior to filing an application for benefits. There is up to a 5-year penalty period created by an improper transfer.

The penalty period is determined by a formula using the maximum monthly allowance the veteran and a surviving spouse is entitled to ($2,169 in 2018). The amount transferred that reduces the couple's assets below $123,600 is divided by $2,169 to determine the penalty period during which the needy veteran will not receive compensation.

<u>Example:</u> A veteran has assets of $100,000 and income of $8,000 for a total of $108,000. The veteran gave $30,000 to a child. The veteran would have had assets of $138,000 without the gift. The veteran's covered assets of $14,400 ($138,000-$123,600) are divided by $2,169 to get a 6-month penalty period.

The penalty only applies for gifts that reduce the net worth below a minimum of $123,600. So a couple with a net worth of $90,000 can give away $30,000 without a penalty under the VA rules. A couple with a net worth of $125,000 will be penalized if they give away more than $1,400.

There are exceptions to the gifting rules for spouses. There are no exceptions for birthday or Christmas gifts!

Respectfully submitted,
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October 2018