

VETERANS LAW

Non-Service-Connected Disability Pension



“To fulfill President Lincoln's promise to care for those who have served in our nation's military and for their families, caregivers, and survivors”



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Topics

- Improved Pension Basics
- MAPR and Countable Income
- Medical Expense Deductions from Countable Income
- Net Worth
- Assets
- Asset Transfer and Penalty Periods
- Survivors Pension



Topics

- **Improved Pension Basics**
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Improved Pension

- VA Pension Program
 - Pension benefits are based on disability
 - Pension is a needs-based program, similar to SSI
 - Designed to provide supplemental income to wartime Vets
 - Special monthly pension (SMP) available for Vets who require aid and attendance (A&A) or meet housebound requirements
 - “Improved Pension” applies to all claims filed after 12/31/78



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Improved Pension

- To be eligible for VA pension, Vet must:
 - Have wartime service
 - Be permanently and totally disabled
 - Be in need (low income and net worth)
- Total and permanent disability does not need to be connected to Vet's service!



Improved Pension Eligibility

1. Wartime Service:

- 90 consecutive days of service, 1 of which during period of war; **OR**
- Total of 90 days active service during one or more periods of war; **OR**
- At least 1 day of wartime service resulting in discharge for SC disability



Improved Pension Eligibility

- “Active” military, naval, space, or air service includes active duty and may include ADT or IADT, if the Veteran has SC conditions due to ADT or IADT
 - *See Manual M21-1, IX.i.1.2.a (change date March 6, 2024)*



Improved Pension Eligibility

- Relevant Periods of War (38 C.F.R. § 3.2):
 - World War II: 12/7/1941 – 12/31/1946
 - Korean War: 6/27/1950 – 1/31/1955
 - Vietnam War: 8/5/1964 – 5/7/1975, but also 11/1/1955 – 8/4/1964 for Vets who served in RVN during that earlier time
 - Persian Gulf War: 8/2/1990 – present





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Improved Pension Eligibility

- **Additional Length-of-Service requirement**
 - Many Vets must also have 24 months of continuous active duty or served the full period for which called/ordered to active duty:
 - Vets who originally enlisted after 9/7/1980
 - Any other person (including officers) who entered on active duty after 10/16/1981, and has not previously completed a continuous period of active duty of at least 24 months or been discharged or released from active duty under 10 U.S.C. § 1171 (early discharge w/in 1 year of term of enlistment)
 - 38 U.S.C. § 5303A(b); 38 C.F.R. § 3.12a



Improved Pension Eligibility

2. Permanently and Totally Disabled

- VA must presume Vet P&T for pension if:
 - **In nursing home long-term due to disability**
 - **Disabled for SSA benefits purposes**
 - **Unemployable from disability to continue for life**
 - **Suffering from permanent disability making it impossible to be gainfully employed or any disorder VA finds P&T**
 - **Age 65 or older**



Improved Pension Eligibility

3. Need (low income and net worth)

- Need is determined by “countable income” for VA purposes and the claimant’s “net worth”
- Countable income must be lower than applicable Maximum Annual Pension Rate (MAPR) to qualify for pension
 - Payments of any kind from any source are counted as income during the 12-month annualization period in which received, unless specifically excluded under 38 C.F.R. §§ 3.272 or 3.279



Improved Pension Eligibility

- Need (cont'd)
 - Claimant's net worth must not exceed **\$163,699** (eff. 12/1/2025-11/30/2026) to qualify for pension
 - Limit increased by same % as Social Security increase whenever there is cost-of-living increase in benefit amounts payable under Social Security Act
 - **38 C.F.R. § 3.274(a)**
 - Net worth limit available at: www.va.gov/pension/veterans-pension-rates



What About Vets Receiving Pension When Rules Changed?

- If Vet was receiving pension as of 10/18/2018 (when current net worth rules went into effect):
 - If net worth exceeds new limit, Vet will continue to receive pension (unless he or she loses pension for another reason)



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Maximum Annual Pension Rate

- Maximum Annual Pension Rate (MAPR) is the maximum amount of pension that is payable to a Vet, which is set by Congress
- If Vet's countable income for VA purposes exceeds MAPR, Vet is NOT eligible for pension, regardless of net worth



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Calculating Improved Pension

- Calculating Improved Pension:
 - VA first determines the proper MAPR
 - # of dependents?
 - Is beneficiary entitled to housebound or A&A?
 - VA then subtracts the countable income for VA purposes (IVAP) from the MAPR (projected for next 12 mos.)
 - This is typically out-of-pocket unreimbursed medical expenses
 - That amount is divided by 12 to calculate the monthly pension payment rate



MAPR – Vet with No Dependents

• **If you have NO dependents and.....**

MAPR is:

You don't qualify for Housebound or Aid and Attendance benefits

\$17,441

You qualify for Housebound benefits

\$21,313

You qualify for Aid and Attendance benefits

\$29,093



MAPR – Vet with 1 Dependent (Spouse or Child)

- **If you have one dependent spouse/child** **MAPR is:**
and....

You don't qualify for Housebound or Aid and Attendance benefits **\$22,839**

You qualify for Housebound benefits **\$26,710**

You qualify for Aid and Attendance benefits **\$34,488**



MAPR – 2 Vets Married to Each Other

	MAPR is:
Neither qualifies for Housebound or Aid and Attendance benefits	\$22,839
One qualifies for Housebound benefits	\$26,710
Both qualify for Housebound benefits	\$30,580
One qualifies for Aid and Attendance benefits	\$34,488
One qualifies for Housebound benefits and one qualifies for Aid and Attendance benefits	\$38,350
Both qualify for Aid and Attendance benefits	\$46,143



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Countable Income

- ALL INCOME of Vet and Vet's spouse is countable for pension purposes unless specifically excluded by 38 C.F.R. §§ 3.272 and 3.279
 - 38 C.F.R. § 3.271
- Countable income includes, among other things:
 - Gross salary
 - Business, farm, professional income
 - Income from property
 - Retirement or survivors' programs
 - Interest
 - Dividends
 - Most annuity payments
 - Unemployment compensation
 - Inheritance and gifts
 - Life insurance proceeds



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3 Types of Income

- Computing Income
 - **Recurring income:** received in equal amounts at regular intervals that continue throughout the 12-month period (SSA bens., salary, etc.)
 - Counted on open-ended basis from first of the month after the month in which it was first received
 - **Irregular income:** received in unequal amounts or at irregular intervals
 - Counted for 12-months from beginning of the reporting period in which it was received
 - **Nonrecurring income:** received on one-time basis (inheritance, etc.)
 - Counted for 12-months from first of the month after the month in which it was received



Exclusions from Income

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- **Exclusions/deductions include:**

- Medical expenses (more on this later)
- Welfare
- VA Pension
- State & local veterans' benefits
- Reimbursement for casualty loss
- Profit from sale of property
- Funds from joint accounts due to death of joint owner
- Income received under the Victims of Crime Act of 1984
- Interest accrued on retirement annuity accounts
- Income from tax returns
- Expenses of last illness & burial of spouse or child
- Educational expenses
- Child's income (in some cases)
- Cash surrender value of life insurance
- Numerous types of payments to Native Americans
- Income from state/municipality due to injury or disease
- Radiation Exposure Compensation Act
- Numerous types of Federal compensation or restitution payments



State Unemployment Benefits

- **State unemployment compensation IS countable income and cannot be excluded**
 - It is NOT a donation from a public or private relief or welfare organization
 - *Cooper v. McDonough, 33 Vet. App. 341 (2021)*



Garnishment

- Income Subject to Garnishment
 - If a claimant's income or benefits, such as Social Security, are subject to involuntary withholding due to legal action initiated by a third party, the entire amount counts as income, even though the claimant does not receive it all
 - **EXCEPTION**: If benefits are withheld to recoup an overpayment of the benefit, then only the actual amount received is considered income
 - Manual M21-1, IX.iii.1.I.1.b (change date Apr. 18, 2023)



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IRAs

- When an IRA or similar instrument starts paying benefits, the entire amount counts as income, even though it represents a partial return of principal
 - Manual M21-1, IX.iii.1.l.1.c (change date Apr. 18, 2023)



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Non-Retirement Annuities

- If Vet purchased the annuity using funds VA already considered as:
 - Part of net worth, or
 - Conversion of assets from a property sale
- Then only the amount of interest received from a non-retirement annuity or similar instrument counts as income
- Otherwise, the entire amount received from the annuity is counted as income
 - Manual M21-1, IX.iii.1.I.1.d (change date Apr. 18, 2023)



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Retirement Benefits

- A distribution of retirement benefits is counted as income, even though all or part of the distribution might represent a return of withheld wages which were previously counted as income as part of the claimant's gross wages
 - Manual M21-1, IX.iii.1.l.1.e (change date Apr. 18, 2023)



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Gifts and Inheritances

- Gifts and inheritances of property or cash count as income
- The value attributed to
 - **Property** is the fair market value of the property at the time it is received
 - **Financial instrument**, such as a stock certificate or bond, is the amount it would bring if it were cashed on receipt, even though this might be less than its face value



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Gifts and Inheritances

- **EXCEPTION:**

- Regular cash contributions for the purpose of paying for the claimant's maintenance are not considered countable gifts
 - But if a third party pays for medical expenses, those same medical expenses cannot be allowed as deductions from the Vet's income
- Manual M21-1, IX.iii.1.I.1.g (change date Apr. 18, 2023)



Gambling Winnings

- The gross amount of gambling winnings counts as income
 - Gambling losses cannot be deducted from gambling winnings
 - Note: Prior to 1/1/2020, only *net* winnings counted as income (i.e., gambling losses were able to be deducted from gross winnings during the corresponding income reporting period)
- Manual M21-1, IX.iii.1.I.1.i (change date Apr. 18, 2023)



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Child Support

- Child support payments count as income of the custodial parent, if they are payable to the custodial parent
- They do not count as income of the child
 - Manual M21-1, IX.iii.1.l.1.n (change date Apr. 18, 2023)





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Casualty Insurance Proceeds

- Reimbursement proceeds of casualty insurance (fire, flood, theft, etc.) do not count as income
 - Exclusion applies only to proceeds for loss of or damage to property; it does not apply to proceeds for personal injury
- Exception: if evidence shows that Vet has no intention of using the money received to repair or replace the property, the proceeds count as income
 - VA should request documentation showing Vet's commitment to replace or repair the property, if needed
- Manual M21-1, IX.iii.1.I.5.b (change date June 30, 2015)



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Waived Income

- If a Vet is entitled to receive income, but waives that income, the amount that would be received but for the waiver counts as income
 - The intent of this rule is to prevent a person from creating a need for pension
- EXCEPTION: If a claimant withdraws a Social Security application after a finding of entitlement to Social Security benefits, in order to maintain eligibility for unreduced Social Security benefits upon reaching a certain age, the withdrawal is not considered a waiver
 - 38 CFR § 3.271(i)



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Medical Expenses

- Medical expenses that are above 5% of MAPR can be deducted from countable income
 - For this calculation, use the normal (non-A&A / non-housebound) MAPR for the Vet and Vet's dependents
 - Example: For Vet with dependent spouse, medical expenses over \$1,110 (5% of applicable \$22,216 MAPR, rounded down to the nearest dollar) can be deducted



Medical Expenses Deduction Checklist

- If ALL of these conditions are met, then a medical expense can be deducted:
 1. Expenses were paid on or after date of entitlement to pension
 2. Expenses were actually paid by the claimant or dependent
 3. Expenses are unreimbursed (from insurance or any other source)



Medical Expenses Deduction Checklist

4. Expenses are for the claimant or relative (not necessarily a dependent) who is a member of household
 - Includes “constructive member” of household, such as a spouse in a nursing home or a child away at school
5. The unreimbursed expenses exceed 5% of the applicable MAPR



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Medical Expenses

- Medical expenses that can be deducted are listed in 38 C.F.R. § 3.278, and include:
 - **Care by a health care provider:** payments for services performed within scope of provider's professional capacity
 - **Health insurance premiums:** premiums for health, medical, hospitalization, long-term care, and Medicare Parts A, B, and D



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Medical Expenses

- **Medication:** prescription and non-prescription
- **Medical Equipment & Medical Supplies:** items such as incontinence supplies, bandages, thermometers, heating pads, back braces, compression stockings, and first aid kits
- **Medical food, vitamins, and supplements:** health care provider authorized to write prescriptions must direct the purchase of vitamins, food supplements, and/or herbal remedies. If the amount exceeds \$1,500 for any household member, Vet must provide proof that qualified health care provider instructed person to make purchase



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Medical Expenses

- **Smoking cessation products**
- **Transportation expenses:** cost of transportation to and from health care provider's office (taxi, bus, public transportation, privately owned car expenses including mileage, parking, & tolls)
- **Adaptive equipment:** adaptive devices, service animals (including veterinary care)





Medical Expenses

- Institutional forms of care and in-home care:
 - Applies to claims for a medical expense deduction for institutional forms of care or in-home care received on or after 10/18/2018 that VA has not previously granted
 - Medical expense grants pertaining to institutional or in-home care made prior to 10/18/2018 will continue unless claimant moves to a different facility or employs a different in-home attendant or in-home care agency



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Medical Expenses

- Institutional forms of care and in-home care (cont'd):
 - Payments to hospitals, nursing homes, medical foster homes, and inpatient treatment centers (including treatment centers for drug or alcohol addiction)
 - Payments for assistance with ADLs and IADLs by in-home attendant (attendant must provide health care or custodial care)



Activities of Daily Living

- ADLs = basic self-care activities such as:
 - Bathing/showering
 - Dressing
 - Eating
 - Going to bathroom
 - Getting in/out of bed/chair (transferring)
 - Ambulating within the home or living area



Eating



Bathing



Dressing



Transferring



Toileting



Walking or moving around



Instrumental Activities of Daily Living

- IADLs = independent living activities such as:
 - Shopping
 - Food Prep
 - Housekeeping
 - Laundry
 - Handling Medications
 - Managing Finances
 - Using the telephone
 - Transportation for non-medical purposes



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Medical Expenses

- **Institutional forms of care and in-home care (cont'd):**
 - Those receiving SMP (HB or A&A) can deduct care of in-home aid without aid being a licensed health care provider (could be friend or family member)
 - If not receiving HB or A&A, to deduct expense, in-home aid must be licensed health care provider



Medical Expenses

- **Institutional forms of care and in-home care (cont'd):**
 - **Care in a facility (other than nursing home) can be deducted if care is:**
 - **Provided by the facility**
 - **Contracted by the facility**
 - **Obtained from third-party provider**
 - **Provided by family or friends**



Medical Expenses

- **Institutional forms of care and in-home care (cont'd):**
 - **Provider does not need to be a health care provider, and payments for assistance with ADLs and IADLs are medical expenses, if disabled individual is receiving health care or custodial care in a facility; and**
 - Individual needs A&A or is housebound; or
 - Medical professional states in writing that individual needs to be in protected environment



Medical Expenses

- **Institutional forms of care and in-home care (cont'd):**
 - **Meals and Lodging deductible if:**
 - Facility provides health care or custodial care for individual; or
 - Medical professional states in writing individual needs to be in facility to get third party health care or must receive custodial care or help from family or friends



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Not Medical Expenses

- The following are NOT medical expenses (cannot be deducted):
 - Payments for maintenance of general health (ex: vacations, dance classes, etc.)
 - Meals and lodging (except as previously noted)
 - Assistance with IADLs (except as previously noted)
 - Cosmetic procedures, with the following exception...



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Medical Expenses

- Cosmetic procedures that a health care provider performs to improve a congenital or accidental deformity, or that are related to treatment for a diagnosed medical condition, are allowable medical expenses that can be deducted
 - **Manual M21-1, IX.iii.1.G.2.c (change date March 4, 2025)**



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Net Worth

- Net worth = annual income + assets
 - 38 C.F.R. § 3.274(b)
- Includes Vet's and spouse's assets (and income)
- If child's net worth exceeds limit, child will NOT be considered a dependent child for pension purposes



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When VA Calculates Net Worth

- VA will calculate net worth when it receives:
 - An original pension claim
 - A new pension claim (after a period of non-entitlement)
 - A request to establish a new dependent
 - Info that claimant's net worth has increased or decreased
 - **38 C.F.R. § 3.274(e)**





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Net Worth Hypo

- Vet Jane has no dependents and qualifies for Aid and Attendance benefits
 - **MAPR = \$29,093**
 - **Net worth limit = \$163,699**
 - **Jane has \$158,000 in assets and \$10,000 in annual income = \$168,000 net worth**
 - **Jane's net worth exceeds the limit**



Net Worth Hypo

- Jane is a patient in nursing home and pays annual unreimbursed nursing home fees of \$48,000
- Reasonably predictable unreimbursed medical expenses are deductible from annual income to the extent they exceed 5% of applicable MAPR
 - MAPR for Vet with no dependents = \$17,441 (don't use A&A rate)
 - 5% = \$872 (rounded down)
 - Medical expenses over \$872 can be deducted from income
 $\$48,000 - \$872 = \$47,128$ (the initial amount that can deducted from her income)



Net Worth Hypo

- Jane can subtract \$47,128 of unreimbursed medical expenses from the original \$10,000 of income. Therefore, Jane's countable income is \$0 (\$10,000-\$47,152).
- Jane's net worth is now based solely on her assets, which was \$158,000
 - This is below the net worth limit of \$163,699, so Jane qualifies for pension



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Net Worth Hypo

- To determine Jane's monthly pension rate:
 - Take the MAPR of \$29,093 (Vet with no dependents who qualifies for A&A)
 - SUBTRACT her countable income of \$0
 - DIVIDE the resulting \$29,093 annual pension rate by 12 months
 - Jane will get **\$2,424.42** per month of VA pension



Reductions in Net Worth

- When annual income decreases
- When assets are spent / sold for fair market value
- When value of assets decrease





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What are Assets?

- Assets: the fair market value of all property an individual owns, including all real and personal property, unless excluded under 38 C.F.R. § 3.275(b), minus the amount of mortgages or other encumbrances specific to the mortgaged or encumbered property
 - 38 C.F.R. § 3.275(a)(1)



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Primary Residence

- A claimant's primary residence is excluded from the net worth calculation, BUT
- The "residential lot area," excluded cannot exceed 2 acres, unless additional acreage is not marketable
 - VA should accept a claimant's statement that additional acreage is not marketable, unless there is contradictory evidence of record
 - Manual M21-1, IX.iii.1.J.6.e (change date Oct. 26, 2018)



Primary Residence

- In determining net worth, VA does not include a claimant's primary residence as an asset, even if the claimant resides in a nursing home, medical foster home, other care facility, or the home of a family member for health care or custodial care
- But, rental income on the property is countable income and sale of the property is a conversion of assets
 - Manual M21-1, IX.iii.1.J.6.c (change date Oct. 26, 2018)



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Primary Residence

- If the claimant owns and resides in a multifamily dwelling, the claimant can exclude from the net worth calculation only the value of the unit actually occupied by the claimant
 - Manual M21-1, IX.iii.1.J.6.c. (change date Oct. 26, 2018)



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Personal Effects

- Certain personal effects are excluded from calculation of assets
 - Personal effects consistent with “a reasonable mode of life,” such as appliances and family transportation vehicles
 - 38 C.F.R. §§ 3.275(b) and 3.279 provide full list of exclusions from assets



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Asset Transfers and Penalty Period

- Look-back period: 36 months immediately preceding date VA received pension claim
 - 38 C.F.R. § 3.276(a)(7)





Asset Transfers

- “Covered asset” means:
 - Part of claimant’s net worth;
 - Was transferred for less than fair market value; and
 - If the asset had not been transferred, it would have caused or partially caused claimant’s net worth to exceed limit



Asset Transfers

- “Transfer for less than fair market value” means:
 - Selling, conveying, gifting, or exchanging an asset for an amount less than the fair market value of the asset; **OR**



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Asset Transfers

- A voluntary asset transfer to, or purchase of, any financial instrument or investment that reduces net worth by transferring the asset to, or purchasing, the instrument or investment, unless the claimant establishes that he or she has the ability to liquidate the entire balance of the asset for the claimant's own benefit. If the claimant establishes that the asset can be liquidated, the asset is included as net worth.



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Asset Transfers

- **Examples of such instruments or investments include:**
 - Annuities: A financial instrument that provides income over a defined period of time for an initial payment of principal
 - Trusts: A legal instrument by which an individual (the grantor) transfers property to an individual or an entity (the trustee), who manages the property according to the terms of the trust, whether for the grantor's own benefit or for the benefit of another individual
 - 38 C.F.R. § 3.276(a)(5)



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Asset Transfers

- “Uncompensated value” = the difference between fair market value of asset and amount of compensation the individual received for asset
- In case of trusts, annuities, or other financial instruments, uncompensated value is amount of money or monetary value of any other type of asset transferred to trust, annuity, or other financial instrument



Asset Transfers

- Any asset converted into an annuity will confer a transfer penalty (if the claimant would have otherwise been over net worth limit)
- VA wants to eliminate trusts and annuities that are designed to get around VA net worth limit



Asset Transfers

- Exceptions to Transfer Penalty
 - Assets transferred as result of fraud, misrepresentation, or unfair business practice related to sale or marketing of financial products or services
 - Assets transferred to trust for child incapable of self-support



Penalty Period

- Penalty Period = time during which claimant prohibited from receiving pension
 - 5-year limit
 - Length of penalty period = [total covered asset amount] divided by [monthly penalty rate] (rounded down to nearest whole number)
 - Monthly penalty rate = MAPR for Vet in need of A&A with one dependent divided by 12 (rounded down to nearest dollar)
 - MAPR based on when Vet filed pension claim



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Penalty Period Example

- 1/15/2025: Vet transferred covered asset amount of \$30,000
- 3/1/2025: Vet filed pension claim
 - MAPR A&A w/ 1 dependent: \$33,548 (2025)
- Monthly penalty rate = \$2,795 ($33,548 \div 12$)
- Penalty period = 10 months ($30,000 \div 2,795$) (rounded down)



Penalty Period Example

- Beginning of Penalty Period
 - Penalty period begins the first day of the month that follows the asset transfer (or if there were multiple transfers, the first day of the month following the last transfer)
- In previous example:
 - 10-month penalty period would be 2/1/2025-11/30/2025
 - Claimant would be entitled to pension with effective date of 12/1/2025



Asset Transfers and Penalty Period

- If covered assets are returned to claimant, VA will recalculate or eliminate penalty period if VA receives evidence that assets have been returned within 90 days of VA's notice to claimant of decision concerning penalty period
- 38 C.F.R. § 3.276(e)(5)



Asset Transfers and Penalty Period

- VA Forms 21P-527 and 21P-527EZ ask if the claimant has transferred any assets over the past 3 years

SECTION IX: QUESTIONS REGARDING INCOME AND ASSETS	
NOTE: Assets are all the money and property you or your dependents own. Assets do not include your/your family's primary residence or personal effects such as appliances and vehicles you or your dependents need for transportation.	
9A. DO YOU AND YOUR DEPENDENTS HAVE OVER \$25,000.00 IN ASSETS (NOT INCLUDING THE VALUE OF YOUR PRIMARY RESIDENCE)?	
<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "YES," please submit VA Form 21P-0969, Income and Asset Statement in Support of Claim for Pension or Parents' Dependency and Indemnity Compensation (D.I.C.))</i>	
\$ <input type="text"/> <input type="text"/> , <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> .00 <i>(If "NO," please estimate the total value of your assets)</i>	
9B. IN THE THREE CALENDAR YEARS BEFORE THIS YEAR, DID YOU OR YOUR DEPENDENTS TRANSFER ANY ASSETS? <i>(Examples of asset transfers include giving assets away, selling assets, purchasing an annuity, or using assets to establish a trust)</i>	
<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "YES," please submit VA Form 21P-0969)</i>	
9C. DO YOU OR YOUR DEPENDENTS OWN YOUR/YOUR FAMILY'S PRIMARY RESIDENCE?	9D. IS THE SIZE OF THE LOT ON WHICH THE PRIMARY RESIDENCE SITS OVER 2 ACRES (87,120 SQ FT)?
<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "NO," skip to Item 9G)</i>	<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "NO," skip to Item 9G)</i>
9E. IF PRIMARY RESIDENCE SITS ON A LOT OVER 2 ACRES (87,120 SQ FT), WHAT IS THE VALUE OF LAND OVER 2 ACRES? <i>(Do not include the value of the residence or the first 2 acres.)</i>	9F. IS THE LAND OVER 2 ACRES (87, 120 SQ FT) REPORTED IN QUESTION 9E MARKETABLE?
\$ <input type="text"/> , <input type="text"/> <input type="text"/> <input type="text"/> , <input type="text"/> <input type="text"/> <input type="text"/> <input type="text"/> .00	<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "YES," please submit VA Form 21P-0969)</i>
9G. DO YOU OR YOUR DEPENDENTS HAVE MORE THAN FOUR (4) SOURCES OF INCOME?	
<input type="checkbox"/> YES <input type="checkbox"/> NO <i>(If "YES," please submit VA Form 21P-0969 and ONLY report your Social Security Income below)</i>	



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Overpayments

- Overpayment may happen when:
 - Vet does not report change in dependents
 - Vet does not report a change in income
 - There is a determination that Vet is no longer
 - Permanently and totally (P&T) disabled
 - Housebound
 - In need of Aid & Attendance



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Overpayments

- Vet must notify VA when Vet acquires knowledge that he or she will begin to receive additional income or when marital or dependency status changes
- Vet must also notify VA of any material increase in net worth
 - 38 C.F.R. § 3.660(a)



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Survivors Pension

- VA Survivors Pension Program
 - Survivors Pension is a needs-based program
 - Designed to provide supplemental income to the surviving spouses or unmarried dependents of wartime Vets
 - Must be an eligible “survivor”
 - Special monthly pension (SMP) available for survivors who require aid and attendance (A&A) or meet housebound requirements
 - The basic rules of income, assets, calculating pension, etc. all generally still apply to survivor’s pension as well



NVLSP

Survivors Pension

- Basic Eligibility
 - Be an eligible survivor
 - The veteran must have qualifying wartime service
 - Be in need (low income and net worth)



NVLSP

Survivors Pension

- Eligible Survivors:
 - Surviving Spouse
 - No disability requirement; married at the time of the veteran's death for at least 1 year*; has not remarried
 - Child
 - Unmarried, under the age of 18, or under the age of 23 if in school; or
 - Who may be an unmarried adult but who, before reaching age 18, became permanently incapable of self-support
- *38 CFR 3.50, 3.57*



NVLSP

Survivors Pension

- Need (low income and net worth)
 - Need is determined by “countable income” for VA purposes and the claimant’s “net worth” – same as veteran’s improved pension
 - Countable income must be lower than applicable Maximum Annual Pension Rate (MAPR) to qualify for pension
 - Payments of any kind from any source are counted as income during the 12-month annualization period in which received, unless specifically excluded under 38 C.F.R. §§ 3.272 or 3.279.
 - *This would include life insurance benefits paid upon the death of the veteran; however, burial expenses can be subtracted.*



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Survivors Pension

- Need (cont'd)
 - The net worth limit for survivors pension is the same as improved pension and must not exceed **\$163,699** (eff. 12/1/2025-11/30/2026).



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Survivors Pension

- Maximum Annual Pension Rate (MAPR) is the maximum amount of pension that is payable to a survivor.
- MAPR for survivors is lower than the MAPR for improved pension.



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Calculating Survivors Pension

- Calculating Survivors Pension is the same as Improved Pension:
 - VA first determines the proper MAPR
 - # of dependents?
 - Is beneficiary entitled to housebound or A&A?
 - VA then subtracts the countable income for VA purposes (IVAP) from the MAPR (projected for next 12 mos.)
 - This is typically out-of-pocket unreimbursed medical expenses
- That amount is divided by 12 to calculate the monthly pension payment rate



MAPR – Survivor with No Dependents

• **If you have NO dependents and.....**

MAPR is:

You don't qualify for Housebound or Aid and Attendance benefits

\$11,699

You qualify for Housebound benefits

\$14,298

You qualify for Aid and Attendance benefits

\$18,697



MAPR – Survivor with 1 Dependent (Spouse or Child)

- **If you have one dependent spouse/child** **MAPR is:**
and....

You don't qualify for Housebound or Aid and Attendance benefits **\$15,311**

You qualify for Housebound benefits **\$17,902**

You qualify for Aid and Attendance benefits **\$22,304**



MAPR – Surviving Child

Qualifying Surviving Child

MAPR is:
\$2,984

**Note: Higher levels of SMP, like housebound and aid and attendance cannot be paid to surviving children.*



NVLSP

Required VA Forms

- Required VA Forms 21P-527 and 21P-527EZ
- Required VA Forms 21P-534 and 21P-534EZ

**But there may be other forms that are needed too depending on the financial situation. There is a helpful guide in the instruction pages of both the 527EZ and 534EZ.*

Veterans Pension Application Checklist

In addition to your application, VA may require some of the evidence described in this checklist. Information not provided will be requested, which will result in delaying your claim. Additional evidence may be needed beyond this checklist depending on your specific situation.

Service Verification (Requested in Section III and/or Page 4 of Instructions)

- Copy of your DD Form 214 (or equivalent) for all periods of military service. Must demonstrate military service dates, type of service and character of discharge.

Income and Net Worth (Requested in Section IX and/or Page 4 of Instructions)

- VA Form 21P-0969, Income and Asset Statement in Support of Claim for Pension, is required if instructed in Section IX of this application. If you have specific types of income or assets additional evidence may be required. If reporting:
 - Farm - VA Form 21P-4165, Pension Claim Questionnaire for Farm Income
 - Business - VA Form 21P-4185, Report of Income from Property or Business
 - Rental Property - VA Form 21P-4185, Report of Income from Property or Business
 - Royalties - VA Form 21-4138, Statement in Support of Claim
 - Trust - Submit complete Trust documents to include the Schedule of Assets
 - Interest, Dividends or Financial Investments - Current account statements from financial institution (Bank, Investment, Annuity, etc.)

Special Circumstances Regarding Your Medical Care (Requested in Section IV, Section X and/or Page 4 of Instructions)

Claim for Special Monthly Pension (SMP) - Aid and Attendance or Household Status

- VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance

Claim for Medicare Nursing Home and/or \$90.00 Rate Reduction Request

- VA Form 21-0779, Request for Nursing Home Information in Connection with Claim for Aid and Attendance

Claim for Fiduciary Assistance

- VA Form 21-2680, Examination for Housebound Status or Permanent Need for Regular Aid and Attendance

Statement of Medical Care

- Care Worksheets (found at the end of the application)
 - Proof of Payment from care provided (Canceled checks, bank statements, etc.)
 - Signed verification from care service provider

Dependent Children (Requested in Section VIII and/or Pages 4 and 5 of Instructions)

- If children are adopted, the adoption decree or a revised birth certificate is required.
- If your child is over 18 but under 23, please submit VA Form 21-674, Request for Approval of School Attendance.
- Medical records for each seriously disabled child.

Medical Expenses (Requested in Section X)

- If additional space is needed, submit VA Form 21P-8416, Medical Expense Report.



VETERANS LAW

Dependency & Indemnity Compensation



“To fulfill President Lincoln's promise to care for those who have served in our nation's military and for their families, caregivers, and survivors”



Dependency and Indemnification Compensation (DIC)

- Refers to a tax-free monetary, monthly compensation benefit that is paid to an eligible survivor of a veteran who passes away under certain circumstances related to the veteran's entitlement to (or eligibility for) service-connected disability compensation.
- Not based on income, or any disability of the spouse or dependent, minor, children.
 - But other survivors may have to prove other criteria for entitlement.



Dependency and Indemnification Compensation (DIC)

- **Eligible survivors:**
 - **Spouse:**
 - Married to veteran at time of death and cohabitating and
 - Married for 1+ year or had a child with Veteran
 - Not currently remarried (under age 57)
 - **Child:**
 - Surviving child under age 18 (not of surviving spouse's household)
 - Surviving unmarried child under 23 (student)
 - Over age 18 or 23, but deemed "helpless" (permanently incapable of self-support) prior to age 18
 - **Parent**
 - Must demonstrate financial dependence on the deceased veteran



Dependency and Indemnification Compensation (DIC)

- DIC may be paid to an eligible survivor when a veteran passes away under any of the following circumstances:
 1. Due to a service-connected disability;
 2. Not due to a service-connected disability, **but** was eligible to receive VA compensation for SC disability rated as totally disabling for certain period -
 - For at least 10 years before death; or
 - Since release from active duty and for at least 5 years immediately before death; or
 - For at least 1 year before their death if they were a former POW who died after 9/30/1999



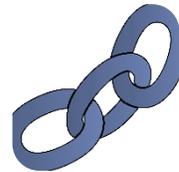
Dependency and Indemnification Compensation (DIC)

- DIC due to a **service-connected disability**:
 - Primary Cause of Death
 - Conditions listed on the death certificate are generally the same as the service-connected conditions
 - Contributory Cause of Death
 - Service-connected conditions contributed in some meaningful way to the conditions listed on the death certificate

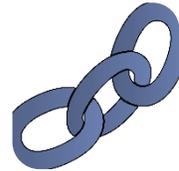


Dependency and Indemnification Compensation (DIC)

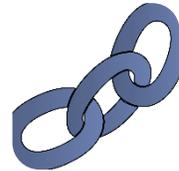
Contributory Cause of Death



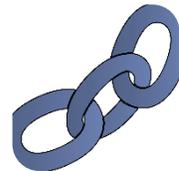
Contributed substantially or materially



Combined to cause death



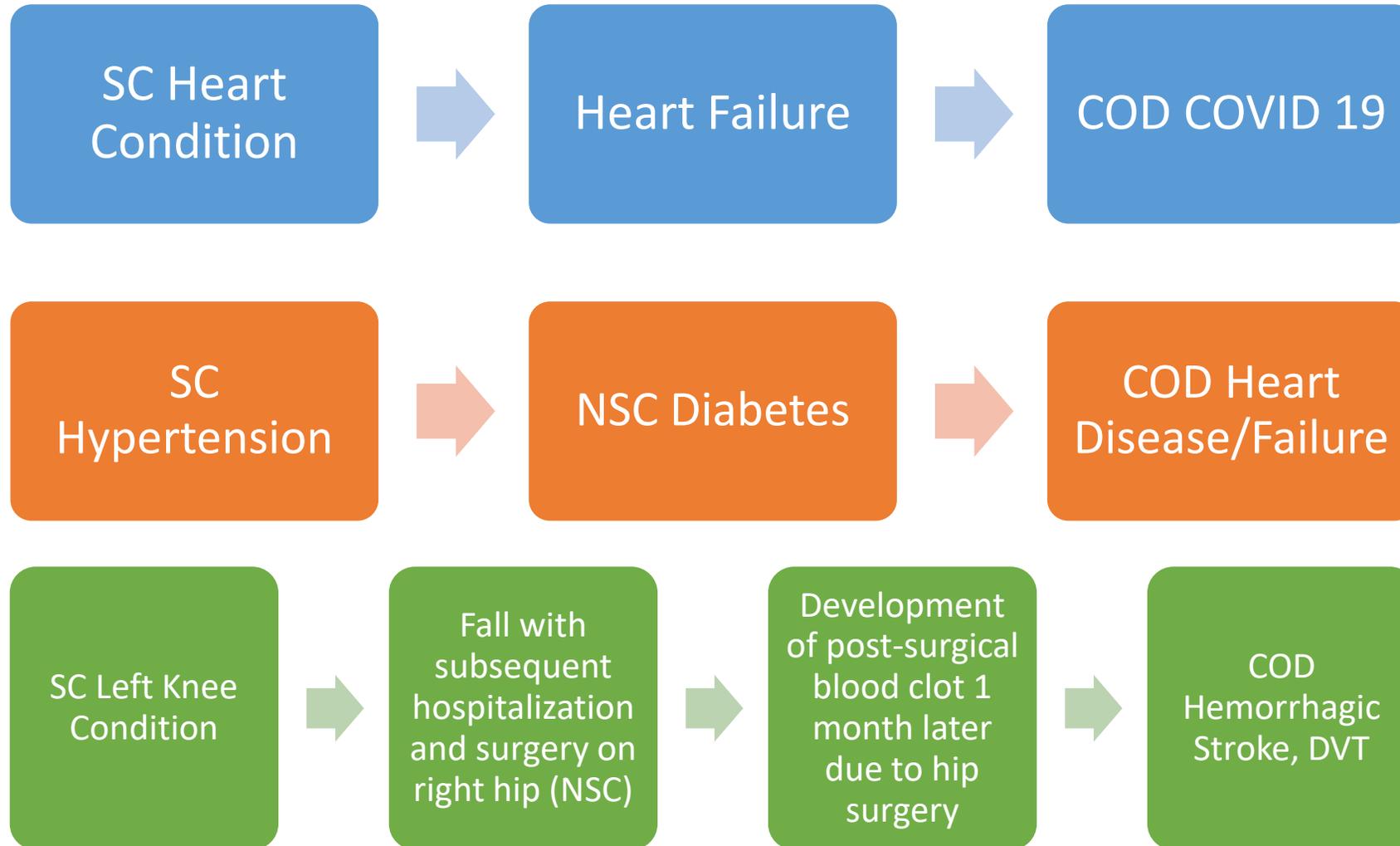
Aided or lent assistance in the production of death



Materially less capable of resisting the effects of other disease or injury primarily causing death



Dependency and Indemnification Compensation (DIC)





Dependency and Indemnification Compensation (DIC)

Does the condition that led to/contributed to the veteran's cause of death need to be service connected before the veteran passes away?



Dependency and Indemnification Compensation (DIC)

No!



Dependency and Indemnification Compensation (DIC)

- Service Connection can be established “after the fact”
 - The survivor will have to prove that the condition was subject to service connection first (3 elements). Then prove that the condition was the primary or contributory cause of death
 - Example: Vietnam veteran dies of ischemic heart disease. He never filed for a heart related condition during his lifetime. The surviving spouse can still file a claim for DIC, asserting that his ischemic heart disease was presumptively related to his exposure to herbicides



Dependency and Indemnification Compensation (DIC)

- Monthly rate (Veteran died after Jan 1, 1993):
 - \$1699.36 per month (2026 rate) PLUS
 - \$360.85 (2026 rate) if vet was receiving disability compensation at 100 percent/total for 8 years preceding his death and 8 years of marriage overlapped PLUS
 - \$421.00 per child under 18 per mo + \$359 2-year transitional benefit
 - \$421.00 if surviving spouse is eligible for A & A
 - \$197.22 if surviving spouse is eligible for housebound
- Example: Surviving widow with 2 teenage children – veteran dies from 10-year 100 percent SC disability = \$3,261.21 monthly for 2 years (then \$2,902.21)
- Equals \$39,134/34,826.52 tax free



Dependency and Indemnification Compensation (DIC)

- ITF – Preserves Effective Date
- VA Form 21P-534EZ
- Evidence:
 - Veteran: DD-214, **Death Certificate**
 - Spouse: Marriage Certificate / Statement
 - Common Law Marriage
 - Divorce decrees from each party
 - Child: Birth Certificate, or other legal document in the event of adoption, etc. If over 18, school or permanent disability information
 - Evidence to support merits of cause of death related to service and/or asserting DIC due to length of P&T status



NVLSP

