

Understanding the Opportunities with Aid & Attendance Benefits

A Strauss & Associates, P.A. Memo to Advisors

Even advisors who focus on higher net worth clients should not discount the opportunities that exist with Aid and Attendance pension benefits. There are now over 25 million US veterans eligible for some type of VA benefits, many of whom have no idea Aid and Attendance pension benefits exist (and their local VA office won't tell them about it!). Moreover, World War II veterans are dying at the rate of approximately 1,800 per day. Thus, the need for this type of planning is greater than ever.

Many of the veterans or their surviving spouses you discuss this planning with may not qualify, but they could become traditional wealth planning clients. Alternatively, this benefit may be of interest to their aging parents, siblings or other family members.

What is Aid & Attendance?

Aid and Attendance is a “special monthly pension” available to wartime veterans or surviving spouses of wartime veterans. Aid and Attendance is not actually a stand-alone benefit. Rather, it is an additional allowance that a veteran or surviving spouse who is already entitled to certain VA pension benefits (because of his or her wartime service and non-service-connected disability) may additionally be entitled to upon meeting certain medical and financial requirements. Aid and Attendance differs from compensation, which is available to all veterans who suffer from a service-connected disability. Table 1 below identifies periods of war for purposes of all VA pension benefits.

Planning Tip #2:

While Aid and Attendance pension benefits are only available to a limited segment of the population, the general lack of knowledge regarding this benefit makes it a marketing opportunity for all wealth planning professionals, not just those who focus on Elder Law.

Planning Tip #1:

Benefits are retroactive to the month after application submission, so advisors should help clients apply as quickly as possible while also helping to ensure that the application is complete.

Prerequisite Benefits

A veteran or surviving spouse (called a claimant by the VA) must first be eligible for what the VA refers to as “regular pension.” Regular pension is available when a wartime veteran (one with 90 days of active duty, and at least one day beginning or ending during a period of War) has limited income and assets and suffers from a non-service-connected permanent and total disability. In some circumstances, being over the age of 65 may qualify a claimant without the need to show a disability.

Permanent and total disability includes a claimant who is:

Planning Tip #3:
Aid and Attendance pension benefits are additional veterans' benefits available to wartime veterans who need the "aid and attendance" of another to meet their daily needs.

1. In a nursing home;
2. Determined disabled by the Social Security Administration;
3. Unemployable and reasonably certain to continue so throughout life; or
4. Suffering from a disability that makes it impossible for the average person to stay gainfully employed.

Asset & Income Requirements

The financial eligibility requirements of Aid and Attendance benefits address a claimant's net worth and income. A married veteran and spouse can currently have no more than \$80,000 in countable assets (less for a single veteran or surviving spouse), which includes retirement assets but excludes a home and vehicle. However, the \$80,000 limit is a guideline only; it is not a rule set by the VA. The VA looks at a claimant's total net worth, life expectancy, income and medical expenses to determine whether the veteran or surviving spouse is entitled to special monthly pension benefits.

There is no income limit for VA pension benefits. There is, however, what the VA refers to as Income for VA Purposes (IVAP), or a claimant's gross income from all sources less countable medical expenses. If a claimant's IVAP is equal to or greater than the annual benefit amount, the veteran or surviving spouse is not eligible for benefits. Tables 2 and 3 show the applicable income and pension amounts for both veterans and surviving spouses.

Is the Claimant Housebound?

If a claimant qualifies for regular pension and is housebound, the claimant's maximum allowable income increases (as does the annual benefit amount) to the special monthly pension. The VA defines housebound as being substantially confined to the home or immediate premises due to a disability that will likely remain throughout the claimant's lifetime. A veteran with no dependents who is housebound is eligible for benefits of up to \$13,356 in annual income.

Planning Tip #4:
Many times the advisor's most difficult task in this area is to reduce a claimant's assets down to the applicable level (or what one hopes will be acceptable to the VA). Like Medicaid planning, this often requires income tax planning and the utilization of financial products such as annuities.

Unreimbursed medical expenses will reduce a claimant's income dollar for dollar. But remember, to be eligible for a special monthly pension for being housebound, the claimant's IVAP must be less than the annual income threshold.

To illustrate, a veteran with exactly \$13,356 in annual income would not be eligible for a special monthly pension for being housebound. However, if that veteran was able to show annual income of \$20,000 and unreimbursed medical expenses of \$25,000, the veteran would be eligible for \$13,356 in annual special pension (paid on a monthly basis) because the veteran has negative IVAP. A surviving spouse with no dependents who is housebound can have an annual IVAP of up to \$8,957.

Does the Claimant Require the Aid and Attendance of Another?

If a claimant can show, through medical evidence provided by a primary care physician or facility, that the claimant requires the aid and attendance of another person to perform activities of daily living, that veteran or surviving spouse may qualify for an additional monthly special pension commonly referred to as aid and attendance pension benefits.

Planning Tip #5:

The maximum pension for a married veteran is \$1,801 per month (\$21,615 per year), while the maximum pension for a veteran's widow is \$1,165 per month (\$13,976 per year). The VA pays this pension directly to the claimant, and it makes no difference whether the claimant receives medical care at home, in an assisted living facility or in a nursing home.

Planning Tip #6:

The client's advisors (particularly the attorney and financial advisor) must work together to determine the best combination of strategies and financial products that will gain eligibility for special monthly pension but not disqualify the client from Medicaid.

The VA defines the need for aid and attendance as:

1. Requiring the aid of another person to perform at least two activities of daily living, such as eating, bathing, dressing or undressing;
2. Being blind or nearly blind; or
3. Being a patient in a nursing home.

Qualification

As stated above, the VA looks at a claimant's total net worth, his or her life expectancy, and his or her income and expenses to determine whether the claimant should qualify for special monthly pension. Unlike Medicaid, there is no look-back period and no penalty for giving assets away. However, one must use caution when considering a gifting strategy to qualify a veteran or surviving spouse for special monthly pension benefits, as this will cause a period of ineligibility for Medicaid which could be as long as five years. Other Medicaid planning strategies may

apply when trying to qualify a veteran or surviving spouse for special pension with aid and attendance.

For example, Bob, an unmarried wartime veteran, suffers from dementia and needs help dressing, taking medication and bathing. He has assets of \$150,000 and social security income of \$1,100. Bob lives at home and pays a home health aide \$2,000 per month. He has negative income for VA purposes (the applicable annual rate is \$18,234 or \$1,519 monthly) and is running short \$900/month in covering his medical expenses. However, Bob's assets will most likely prevent him from receiving improved pension with aid and attendance.

To qualify Bob for special monthly pension with aid and attendance, one option might be for him to use \$100,000 of his assets to purchase an immediate annuity structured to pay less than \$900 per month (the annuity should be actuarially sound so as not to cause a problem with Medicaid eligibility). Even with the annuity payment, Bob can show negative annual income, assets of only \$50,000, and he can show a medical need for the benefit. Therefore, Bob would most likely be eligible for the maximum annual pension rate of \$18,234 (paid in monthly payments of \$1,519.50).

The Application Process

While the application process for special monthly pension can be agonizingly slow - some applications take over a year before the VA makes a decision - the benefit is retroactive to the month after application submission. Having the proper documentation in place at the time of application (for example, discharge papers, medical evidence, proof of medical expenses, death certificate, marriage certificate and a properly completed application) can cut the processing time in half.

Conclusion

Even advisors who do not wish to practice in the area of Aid and Attendance special pension benefits should be able to recognize the opportunity for prospective and existing clients. They should also be ready to recommend someone who can assist in this area.

Because of the impact transfers may have on the client's eligibility for other benefits such as Medicaid, it is critical that the client's advisor team work together to maximize the benefits available to the client.

Final Planning Tip: Benefits are retroactive to the month after application submission, so advisors should help clients apply as quickly as possible while also helping to ensure that the application is complete.

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