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AID & ATTENDANCE: SPECIAL CARE PENSIONS FOR WARTIME VETERANS



ABOUT THE FIRM

The One-Stop Approach

To serve you the best we know how, we have created four companies:



- **Anselmo & Company, LLC** is the law firm that concentrates in taxation, wills and trusts, probate and trust administration, and elder law planning.
- **Brookside Tax Advisors** offers tax advice and tax return preparation services.
- **Brookside Insurance Advisors** offers insurance services; including, long-term-care, life insurance, Medicare supplements, and annuities.
- **Brookside Financial Advisors** is a registered investment advisor that supervises wealth management for clients.

Our Mission

The Mission of Anselmo & Company, LLC is to empower you to make sound decisions to safeguard your family and your wealth. We are dedicated to guiding you and your loved ones through the emotional and legal effects of disability and death, by providing quality estate planning advice and documents. We will build trusting and life-long relationships with you and your family. You can have the utmost confidence in our ability to deliver superior service and provide a comprehensive plan that gives you the peace of mind about your future.

In these turbulent times, if you or your loved ones would like a complimentary consultation to discuss your estate plan and financial strategy, visit our website at www.AnselmoLaw.com, or call us today at **(216) 485-1040** to schedule an appointment and see what we can do for you. We also present seminars on a variety of topics, including estate planning, elder law, Medicare and more; call us if you would like to be added to our seminar mailing list.

CONTACT US OR VISIT US ONLINE



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While many people are unaware it exists, the Veterans Administration (VA) Aid & Attendance Special Pension provides monetary assistance to wartime veterans – and surviving spouses of deceased veterans – who need regular personal assistance. Qualifying aid or assistance can be provided at home, in an assisted living facility, or in a nursing home, and can be provided by friends, family members, or healthcare professionals

For 2019, the Aid & Attendance pension can provide up to \$1,881 per month to an unmarried veteran, \$1,211 per month to a surviving spouse, or \$2,230 per month for a veteran who is married.

If you or someone you love is a veteran and needs help with daily activities like cooking, cleaning, dressing, driving, mobility, or other assistance, the Aid & Attendance benefit can provide funds you need to pay for that help. Many elderly veterans and surviving spouses whose incomes are above the congressionally-mandated legal limit for a VA pension may still be eligible for monthly Aid & Attendance benefits if they have high expenses for care, including nursing home expenses, that are not reimbursed by insurance or other sources.

Aid & Attendance benefits can make a real difference but, filing a claim can be complex and time-consuming. Like most entitlements, veterans' benefits are not awarded automatically – to receive them, you have to apply.

QUALIFYING FOR BENEFITS

The Basics

Who is eligible for Aid & Attendance? First let's look at the basics. For a qualifying wartime veteran or surviving spouse to qualify for this special monthly pension, the veteran must have:

- Served at least 90 days of active military service
- Served at least one day during a period of war, including:
 - World War I (April 6, 1917 – November 11, 1918)
 - World War II (December 7, 1941 – December 31, 1946)
 - Korean conflict (June 27, 1950 – January 31, 1955)
 - Vietnam era (February 28, 1961 – May 7, 1975 for Veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 – May 7, 1975)
 - Gulf War (August 2, 1990 – through a future date to be set by law or Presidential Proclamation) (so this includes Iraq and Afghanistan)
- Been discharged under conditions other than dishonorable

Once those criteria are met, a veteran could qualify for standard Aid & Attendance benefits or for Housebound benefits if they have both medical need and financial need. (Veterans cannot receive both Aid & Attendance and Housebound benefits at the same time.)

Medical Need

According to VA standards, veterans may be eligible for Aid & Attendance benefits if their medical needs fall in any of the following categories:

- They require the aid of another person in order to perform personal functions required in everyday living, such as bathing, feeding, dressing, using the restroom, adjusting prosthetic devices, or protecting themselves from the hazards of their daily environment.
- They are bedridden, and their disability or disabilities requires them to remain in bed apart from any prescribed course of convalescence or treatment.
- They are a patient in a nursing home due to mental or physical incapacity.
- They are blind, or so nearly blind as to have corrected visual acuity of 5/200 or less in both eyes, or concentric contraction of the visual field to 5 degrees or less.

Veterans who do not qualify for Aid & Attendance may still qualify for Housebound benefits when:

- They have a single permanent disability evaluated as 100 percent disabling and, due to such disability, they are permanently and substantially confined to their immediate premises; or
- They have a single permanent disability evaluated as 100 percent disabling and another disability or disabilities evaluated as 60 percent or more disabling.

Financial Need

Assuming you meet the basic requirements and the medical necessity requirement, you still need to have financial need in order to qualify. While the VA has always had a requirement of financial need, they instituted new, stricter rules for applications filed after the rules became effective in October 2018.

To have financial need, the veteran and their spouse must have net worth (*countable* assets plus *countable* income) below the Medicaid Community Spousal Resource Allowance (CSRA), which is \$126,420 in 2019, and is inflation-adjusted.

While this seems like a very low number, you have to look at what's *countable*. Countable assets don't include the home, regardless of value. Further, a vehicle is not countable, nor are household goods, furnishings, and personal effects.

Countable income doesn't include welfare or Supplemental Security Income (SSI). Income is reduced by unreimbursed medical expenses exceeding 5% of the Maximum Annual Pension Rate (MAPR) to arrive at countable income. The MAPR for a veteran and their spouse is \$26,765 in 2019. 5% of that is \$1,338. So, unreimbursed medical expenses above \$1,338 reduce countable income.

A significant feature of the new rules is a penalty for transfers of assets (at less than fair market value) within three years before the application. While the lookback is only three years, the penalty could be as long as five years. So, it's important to plan ahead and not trigger the penalty, if possible. Let's look at an example. Let's say a veteran is married and they make an uncompensated transfer of \$50,000 in order to get down to the new net worth limit. If that transfer was made within 3 years of the application, they would be penalized. The penalty would divide the amount transferred to get down to the net worth limit (here \$50,000) by their monthly MAPR (\$2,230). In this case, they'd have a 23-month penalty.

SOUND COMPLICATED?

Determinations of a medical need are based on medical reports and findings by physicians or from hospitals or nursing homes. If the veteran is a patient in a nursing home or is blind or nearly blind, medical qualification for benefits is almost automatic. In other cases, all of the disabling conditions in the list above are not required. The evidence simply must establish the veteran or spouse needs regular, scheduled, and ongoing Aid & Attendance from someone else. Care on a 24-hour basis is not a requirement.

But those are simply rough guidelines. The application process, the quality of your documentation, and ultimately the VA will determine whether you or a loved one qualifies for benefits.

APPLYING FOR BENEFITS

Gathering and preparing the right documents is critical. Once you gather the right documentation, the next step is to complete and submit the appropriate application form.

The process can take six to nine months (or longer), so make sure you do your best to avoid any additional delays along the way. The VA is working on speeding up the process through a paperless application process, but your application must be fully documented and complete to gain expedited approval through this process.

Keep in mind, while applying and qualifying does take time, benefit payments are retroactive to the date the VA received the application. During this time the applicant must be actually incurring

the costs of care. So, time is of the essence and an incorrect application will create a nightmare of expense and uncertainty.

Important Note: If you are applying on behalf of a parent who is incapacitated, you will need to complete additional paperwork. Without this paperwork you will not be allowed to deal with the VA on behalf of your parent. If you wish to receive benefits on their behalf as a fiduciary, you will have to be interviewed and approved by the VA. The VA does not recognize Powers of Attorney they have not approved.

CALCULATING BENEFITS

The calculation of benefits can be a little complicated. Let's look at an example:

John is a married veteran meeting the service requirements and has medical need. The maximum benefit he might qualify for in 2019 (MAPR) is \$26,765, or \$2,230 per month.

John and his spouse have the following assets:

A house worth \$300,000

A brokerage account with \$50,000

A bank account with \$3,000

John has the following income:

A pension of \$28,000 per year

Dividends of \$2,000 per year

At first glance, John doesn't qualify because the limit on combined assets and income in 2019 is \$126,420. But, remember that is a limit on *countable* assets and income. Since the home doesn't count, they're well under the limit.

In addition, their joint countable income must be less than the pension amount for which they are eligible. Since they have income of \$30,000 and the maximum benefit for which they might qualify is less than that, at first glance, they still wouldn't qualify. However, we haven't adjusted their income for their medical expenses. They had medical-related expenses such as assisted living, home health care, and Medicare premiums. Let's say their unreimbursed medical expenses are \$25,000. Everything above 5% of the MAPR reduces the countable income (but not below zero). After the \$1,338 reduction (5% of the MAPR), \$23,662 of remaining medical expenses will reduce their total income to arrive at *countable* income of \$6,338. This is subtracted from the maximum possible benefit in 2019 of \$26,765, to arrive at a benefit of \$20,427.

CONCLUSION

If you or your loved one meets the requirements, the Aid & Assistance Pension Benefit could provide thousands of dollars each year to meet medical expenses and provide necessary care.

But the application process is complicated and time-consuming. For many people, it is necessary to plan well in advance to transfer assets and shift income. Remember, to avoid a period of disqualification for VA benefits, transfers may have to occur more than three years before an application. If Medicaid benefits might be sought in the future, transfers may have to occur more than five years before an application for those benefits.

Schedule an appointment with our office to get professional, experienced assistance. Our office can help you gather the required documentation and complete the required paperwork. We can help coordinate the Aid & Assistance application, guide you through potential Medicaid issues, and create or modify your existing estate plan to ensure a veteran receives all the benefits he or she has earned by service to our country.

ABOUT THE ACADEMY

This report reflects the opinion of the American Academy of Estate Planning Attorneys. It is based on our understanding of national trends and procedures, and is intended only as a simple overview of the basic estate planning issues. We recommend you do not base your own estate planning on the contents of this Academy Report alone. Review your estate planning goals with a qualified estate planning attorney.



The Academy is a national organization dedicated to promoting excellence in estate planning by providing its exclusive Membership of attorneys with up-to-date research on estate and tax planning, educational materials, and other important resources to empower them to provide superior estate planning services.

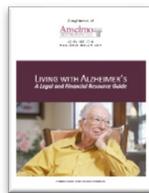
The Academy expects Members to have at least 36 hours of legal education each year specifically in estate, tax, probate and/or elder law subjects. To ensure this goal is met, the Academy provides over 40 hours of continuing legal education each year. The Academy has also been recognized as a consumer legal source by *Money Magazine*, *Consumer Reports Money Adviser* and Suze Orman in her book, *9 Steps to Financial Freedom*.

ADDITIONAL REPORTS

Request any reports of interest to you or your family. Simply call our office at **(216) 485-1040** or visit our website at **www.AnselmoLaw.com**.



7 Things You Need to Know Before You Choose a Nursing Home



Living with Alzheimer's: A Legal and Financial Resource Guide



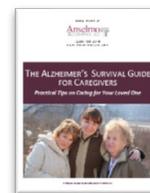
Plan Today for a Secure Tomorrow: Medicaid Planning with an Income-Only Trust



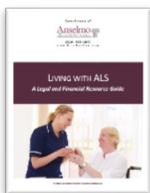
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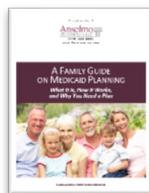
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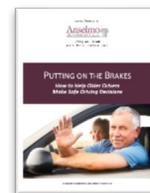
The Alzheimer's Survival Guide for Caregivers: Tips on Caring for Your Loved One



Living With ALS: A Legal and Financial Resource Guide



A Family Guide on Medicaid Planning: What it is, How it Works, & Why You Need a Plan



Putting on the Brakes: How to Help Older Drivers Make Safe Driving Decisions