

Vouga Elder Law, LLC

Veterans & Seniors Asset Protection

Helping YOU Get YOUR Ducks In A Row



Leading the Way in Special Needs and Elder Law

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Little Known Benefits for Veterans and/or Their Spouse

Our firm can assist veterans and surviving spouses of veterans to obtain valuable help when they need in-home care, are in an assisted living facility, or in a nursing home.

The Veterans Administration (VA) has an underused benefit called the Special Monthly Pension Benefit. This benefit is meant to help Veterans or their spouses who have out-of-pocket (not reimbursed by insurance) medical expenses that exceed their income. In 2010, this can mean up to \$1,950 TAX FREE a month for a Veteran and their spouse. If both spouses are Veterans and meet the eligibility requirements they can receive up to \$2,540 tax free a month.

Eligibility

There are four basic criteria for eligibility:

1. A Veteran must have served at least 90 days (in some instances 120 days) with at least one day during a qualifying “period of war,” and must have had an “other than dishonorable discharge.”
2. The Veteran or his or her spouse must now be “disabled” (over the age of 65) due to a “non-services connected” reason (aging related issues, dementia, Alzheimer’s, Parkinson’s, Multiple Sclerosis, and/or other mental or physical disabilities). However, in some circumstances a Veteran under the age of 65 also may be eligible.
3. A Veteran or his or her spouse are eligible if they require the aid of another person to perform Activities of Daily Living (bathing, feeding, dressing, continence, transferring or toileting) and/or Instrumental Activities of Daily Living (using the telephone, shopping, preparing food, housekeeping, laundry, transportation, handling medications or handling finances), AND whose out-of-pocket medical expenses exceed their income. Out-of-pocket (not reimbursed by insurance) expenses include Medicare, Medigap, and long-term care insurance premiums, long-term care costs, such as nursing home fees, the cost of an in-home caregiver that provides some medical or nursing services, the cost of an assisted living facility and in some cases even independent living facilities.

4. A Veteran or his or her spouse must also meet certain “countable” asset limitations. However, with proper legal and financial planning, we can help transform countable assets to non-countable assets to qualify the Veteran and the spouse.

A family member (other than a spouse) can even be paid to provide in-home care for a Veteran or the Veteran’s spouse. If the care services are being provided by an unlicensed caregiver, the services must be prescribed by a health care professional (e.g. Doctor, RN, LPN, or licensed physical therapist), and the professional must consult with the unlicensed caregiver at least once a month (in person or by telephone) to monitor the care services.

There must also be a valid personal care contract in place (drawn up by an Elder Law attorney) and the caregiver must be receiving no more than fair market value for services that he or she is providing. Without a valid personal care contract, the payments may not be considered payment for in-home care and will be considered gifts by Medicaid resulting in penalties that could have easily been avoided.



“A Veteran is someone who, at one point in his or her life, wrote a blank check made payable to ‘The United States of America’ for an amount of ‘up to and including my life.’”

Author Unknown

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