

# DENTON COUNTY VETERANS SERVICE OFFICE



BENEFITS AVAILABLE THROUGH THE DEPARTMENT OF  
VETERANS AFFAIRS FOR ASSISTED LIVING, HOME HEALTH  
CARE AND/OR NURSING HOME

Denton County Veterans Service Office

Rates current until 12/31/2010

# Eligibility Requirements for Improved Pension

- **Improved Pension:** (Public Law 95-588 – CFR38 Book B 3.3). A benefit payable by the Department of Veterans Affairs (DVA) to veterans of a war time period that are disabled because of non-service-connected disabilities or age. The qualifying periods of war for this benefit are the World War I, World War II, the Korean War, the Vietnam War and the Persian Gulf War, served in the active military, naval or air service for a period of 90 consecutive days or more and such period began or ended during a period of war. **If you entered active duty on or after September 7, 1980, generally you must have served at least 24 months or the full period for which called or ordered to active duty (There are exceptions to this rule).** Since this program is a income-based program there are income and net worth guidelines.
- **Improved death pension,** (Public Law 95-588 – CFR38 Book B 3.3). A benefit payable by the DVA to a veteran's surviving spouse (surviving spouse as defined by the DVA is person married to veteran at time of death) and in some cases a child; of a veteran that served during a war time period. The deceased veteran must meet the criteria as laid out for Improved Pension. Since this program is a income-based benefit there are income and net worth guidelines.
  - World War II. December 7, 1941, through December 31, 1946, inclusive. If the veteran was in service on December 31, 1946, continuous service before July 26, 1947, is considered World War II
  - Korean War. June 27, 1950, through January 31, 1955, inclusive
  - Vietnam War. The period beginning on February 28, 1961, and ending on May 7, 1975, inclusive, in the case of a veteran who served in the Republic of Vietnam during that period. The period beginning on August 5, 1964, and ending on May 7, 1975, inclusive, in all other cases.
  - Persian Gulf War. August 2, 1990, through date to be prescribed by Presidential proclamation or law

# How the program works

- The program falls under the M21-1-4 (16.31 (b)(10) (a)) Authorization Procedures
  - Medical Expenses - CFR38 Book B 3.272 (g)
    - Medical expenses can be used to reduce and/or zero out all other income
    - If a disabled person is maintained in an adult day care, rest home or other facility which does not qualify as a nursing home the following guidelines apply to allowing a medical expenses deduction for fees paid to maintain a disabled person in that facility.
      - Disabled Person Aid and Attendance (A&A) or Housebound (HB) – If the disabled person has been rated AA or HB by the DVA, allow all reasonable fees paid to the facility as long as the facility provides some medical or nursing services for the disabled person. The services do not have to be furnished by a licensed health professional. The DVA Regional Offices (RO) in Texas use TVC16 Attending Physician Statement to determine AA or HB rating. If the disabled person is not rated AA or HB the DVA will **not allow** expenses paid to that facility as a medical expense.
    - Allowing Medical Expenses Prospectively
      - Normally, medical expenses are allowed as a deduction after the fact based on expenses actually paid. However, medical expenses may be allowed prospectively if there is a “recurring medical expense” being paid to a Nursing Home (NH) or other facilities (Assisted Living Facility (ALF) Home Health Care provider (HHC) where medical expenses are reasonably predictable. The DVA RO in Texas uses TVC15a Nursing Home Statement, TVC15b Assisted Living Statement or Contract Agreement or other documentation with a HHC provider as a statement from the expected provider of the medical expenses being paid by the disabled person.

# Example of how program works

- Single veteran with combined income from SSR\* of \$800, other retirement of \$403 and interest/dividends of \$42 per month = \$1,245 per month
  - If the \$1,245 is paid to NH, ALF or HHC the award paid by the DVA would be according to the rating decision of HB\*\* or A&A\*\*
- Single veteran with combined income from SSR\* of \$1,100, other retirement of \$1,900 = \$3,000 per month
  - If the NH, ALF or HHC cost are \$2,500 then the veteran would have \$500 in excessive income. The DVA would then reduce the award by \$500 for excessive income
- Married veteran with a **combined family income** from SSR\* of \$1,100 for veteran and \$595 for wife, other retirement income for veteran of \$800 and \$300 for wife and interest/dividends of \$100 per month would = \$2,895 per month.
  - If the \$2895 is paid to the NH, ALF or HHC the award paid by the DVA would be according to the rating decision of HB\*\* or AA\*\*
- Married veteran with a **combined family income** from SSR\* of \$1,500 for veteran and \$900 for wife, other retirement income for veteran of \$2,000 and \$800 for wife and interest/dividend of \$300 per month would = \$5,500.
  - If the NH, ALF or HHC cost are \$4,500 then the veteran would have \$1,000 in excessive income The DVA would then **reduce** the award \$1,000 in excessive income

\*SSR = Social Security Retirement and/or Disability income

\*\* =Covered later in the packet

## Example of how the program works

- Widow of the veteran has combined income from SSR\* of \$750 and other retirement of \$350 and interest/dividends of \$35 per month = \$1,135 per month.
  - If the \$1,135 is paid to the NH, ALF or HHC the award paid by the DVA would be according to the rating decision by the DVA from information provided by the TVC16 – either HB\*\*or A&A\*\*
- Widow of the veteran has combined income from SSR\* of \$1,200 and other retirement of \$1,800 = \$3,000
  - If the NH, ALF or HHC cost are only \$2,500 then the widow would have \$500 in excessive income. The DVA would then reduce the award by \$500 for excessive income

\*SSR = Social Security Retirement and/or Disability income

\*\* =Covered later in the packet

## How the program works

- Other factors to consider:
  - Since both pension programs are income based programs there is a net worth factor to be considered
    - Net worth is always an issue in the adjudication of Improved Pension claims. The decision as to whether a claimant's net worth is excessive depends on the facts of each individual case. If net worth is a factor for the benefit claimed, consider if it is reasonable, under all the circumstances, for the claimant to consume some of his or her estate for maintenance. A life expectancy chart will also be taken into consideration. If it is determined the claimant's net worth should be consumed for maintenance, disallow the pension claim. Pension entitlement is based on need and that need does not exist if a claimant's estate is of such size that he or she could use it for living expenses. Homesteads are excluded as net worth, but any other real property can be counted as net worth.
    - Pension is not intended to protect the veteran's assets or build up the estate for the benefit of heirs. Net worth is excessive if over \$80,000. ***Net worth amounts over \$80,000 will be determined by the DVA based on income, assets and life expectancy.*** If claim is denied based on net worth there is the opportunity to reopen the claim if the net worth becomes depleted.
    - Stocks, bonds, IRA, Certificates of Deposit, interest and/or dividends, earned and unearned income (social security), winning the lotto – any income is countable

# **DURABLE POWER OF ATTORNEY**

**THE DEPARTMENT OF VETERANS AFFAIRS (DVA) WILL NOT ACCEPT DURABLE POWER OF ATTORNEY SIGNATURES IN LIEU OF THE SIGNATURE AND/OR MARK OF THE CLAIMANT. THE DVA DOES NOT ACKNOWLEDGE GENERAL POWER OF ATTORNEYS' FOR DVA PURPOSES. THE DVA WILL RETURN THE APPLICATION FOR SIGNATURE AND/OR MARK OF CLAIMANT.**

## How the program works

- **Criteria for determining need for Aid or Attendance (A&A)**
  - The following will be accorded consideration in determining the need for regular aid and attendance: Inability of claimant to dress or undress himself (herself), or to keep himself (herself) ordinarily clean and presentable, frequent need of adjustment of any special prosthetic or orthopedic appliances which by reason of the particular disability cannot be done without aid (this will not include the adjustment of appliances which normal persons would be unable to adjust without aid, such as supports, belts, lacing at the back etc.); inability of claimant to feed himself (herself) through loss of coordination of upper extremities or through extreme weakness; inability to attend to the wants of nature; or incapacity, physical or mental, which requires care or assistance on a regular basis to protect the claimant from hazards or dangers incident to his or her daily environment.
- **Criteria for determining Housebound (HB)**
  - "Permanently housebound" by reason of disability or disabilities. This requirement is met when the veteran and/or widow is substantially confined to his or her dwelling and the immediate premises or, if institutionalized, to the ward or clinical area, and it is reasonably certain that the disability or disabilities and resultant confinement will continue throughout his or her lifetime.
    - A person who can not leave their immediate premises unless under the supervision of another person is HB. The person can not drive because of disabilit(ies)

# Complete Packet.....means faster turn around times

- Packet for single veteran should include:
  - 21-22 - Appointment of Veterans Service Organization
  - 21-526 – Parts A, C, D for Improved Pension only
  - VA Form 21-2680 - <http://dentoncounty.com/dept/VetPage/Forms/21-2680-HBAA.pdf>
  - Care Expense Statement – <http://dentoncounty.com/dept/VetPage/Forms/CareExpenseState.pdf>
  - **Certified Copy** of military separation papers (DD214, Report of Separation, Record of Service)
- Packet for married veteran should include:
  - 21-22 – Appointment of Veterans Service Organization
  - 21-526 – Parts A, C, D for Improved Pension only
  - VA Form 21-2680 veteran – <http://dentoncounty.com/dept/VetPage/Forms/21-2680-HBAA.pdf>
  - VA Form 21-2680 spouse – <http://dentoncounty.com/dept/VetPage/Forms/21-2680-HBAA.pdf>
  - Care Expense Statement for **veteran** – <http://dentoncounty.com/dept/VetPage/Forms/CareExpenseState.pdf>
  - Care Expense Statement for **wife** – <http://dentoncounty.com/dept/VetPage/Forms/CareExpenseState.pdf>
  - **Certified Copy** of military separation papers (DD214, Report of Separation, Record of Service)
  - Copy of marriage license
  - All prior marriages should be terminated by copy of divorce papers and/or death certificates
    - [www.va.gov](http://www.va.gov) will have VA Form 21-22, 21-526
    - [www.vetrecs.archives.gov](http://www.vetrecs.archives.gov) is a good source if the discharge papers can not be located

# Complete Packet.....means faster turn around time

- Complete packet for widow should include:
  - 21-22 Appointment of Veterans Service Organization
  - 21-534
  - VA Form 21-2680 - <http://dentoncounty.com/dept/VetPage/Forms/21-2680-HBAA.pdf>
  - Care Expense Statement – <http://dentoncounty.com/dept/VetPage/Forms/CareExpenseState.pdf>
  - ***Certified Copy*** of veterans military separation papers (DD214, Report of Separation, Record of Service)
  - Copy of veterans death certificate
  - Copy of marriage license
  - If prior marriages list as much information you have, provide all terminating documents you have, and in the comment section write “I know of no legal impediments in my marriage to the veteran”.
    - [www.va.gov](http://www.va.gov) will have VA Form 21-22, 21-534
    - [www.vetrecs.archives.gov](http://www.vetrecs.archives.gov) is a good source if the discharge papers can not be located

**CRITICAL INFORMATION THAT NEEDS TO BE ADDED TO THE COMMENT SECTION OF APPLICATION FORMS 21-526 OR 21-534**

- **38 CFR 3.272 (g)** Exclusions from income; Medical Expenses. Within the provisions of the following paragraphs, there will be excluded from the amount of an individual's annual income any unreimbursed amounts which have been paid within the 12-month annualization period for medical expenses regardless of when the indebtedness was incurred. An estimate based on a clear and reasonable expectation that unusual medical expenditure will be realized may be accepted for the purpose of **authorizing prospective payments** of benefits subject to necessary adjustment in the award upon receipt of an amended estimate, or after the end of the 12-month annualization period upon receipt of an eligibility verification report.
- **M21-1-4 – 16.31 Medical Expenses; Authorization Procedures; b.** Allowable Medical Expenses **(10)** Adult Day Care, Rest Home, Group Homes, Etc. The following guidelines apply to allowing a medical expenses deduction for fees paid to maintain a disabled person in an adult day care center, rest home, group home, or similar facility which does not qualify as a nursing home.
  - **(a) Disabled Person A&A or HB.** If the disabled person has been rated HB or A&A by VA, allow **all reasonable fees paid to the facility as long as the facility provides some medical or nursing services for the disabled person.** The services do not have to be furnished by a licensed health professional.

# CRITICAL INFORMATION DATED 9/21/2006

- **Guidance on Four Pension Issues:** We expect that the Manual Rewrite of current M21-1 Part IV Chapter 16 will soon be delivered to the field. In the meantime, we are providing updated guidance on four recurring pension issues.
- **1. UME Deduction of Assisted Living Center (ALC) or In-Home Care Expenses:** M21-1, Part. IV, Chapter 16.31b(2) and (10) state that ALC or in-home care expenses may be allowed as unreimbursed medical expenses (UMEs) *as long as the "disabled person has been rated housebound or in need of A&A by VA."* However, the manual does not provide instructions for handling those cases in which preparation of a rating decision on behalf of the "disabled person" (i.e., the veteran's spouse) is not possible. The following information is provided to remediate this deficiency.
- It is neither necessary nor appropriate to prepare a record-purpose rating to establish that a veteran's spouse is housebound (H/B) or requires aid and attendance (A/A) for the sole purpose of allowing UMEs. (Preparation of a rating decision to establish a spouse's need for A/A is appropriate if the veteran has service-connected disability(ies) that are at least 30 percent disabling.)
- Allow all ALC or in-home care expenses if paid on behalf of a dependent or other relative for whom UMEs may be allowed, as long as a licensed medical doctor certifies that the disabled person has a medical condition that makes such level of care necessary.
- A physician's statement specifically addressing the issue of whether the person needs to be in a protected environment must be of record, even if the person's diagnosis is known. (Example: Even if the evidence of record confirms that a veteran's spouse has Alzheimer's, do not allow all ALC or in-home care expenses unless a physician's statement is of record indicating that the spouse needs to live in a protected environment.)

# ADDITIONAL INFORMATION

Denton County Veterans Service Office  
1505 E. McKinney St. Suite 183  
Denton, TX 76209  
940-349-2950

**Please visit your local County Veterans Service  
Office for assistance**  
Visit [www.tvc.state.tx.us](http://www.tvc.state.tx.us) for the listing of the County  
Service Officer in your area

## **Mailing address for applications is:**

Department of Veterans Affairs  
One Veterans Plaza  
701 Clay  
Waco, TX 76799  
1-800-827-1000  
1-254-299-9380

## **CURRENTS RATES FOR 2009**

- Single veteran – HB \$1204
- Single veteran – A&A \$1644
- Married veteran – HB \$1509
- Married veteran – A&A \$1940
- Widow/er – HB \$807
- Widow/er – A&A \$1055

# Additional Information

POINTS OF INTEREST - Other programs available to the veteran and dependents that meet **Eligibility Requirements for Improved Pension**

- Additional Information about NH benefits
  - If the veteran and/or widow qualify for Medicaid through the Texas Department of Human Services there is a benefit of \$90 and is to be used only for personal items and not to be paid to the Nursing Home
- Under HB or A&A medications for the veteran can be provided by the DVAMC when written by his private doctor
- This benefit is a federal benefit and is available nation wide
- Dependency and Indemnity Compensation
  - Usually the widow/or will already have this benefit in place. It is a benefit payable if the veteran died while on active duty and/or died of a service connected disability
  - There is an extra monthly amount payable if the DVA makes a rating of HB or A&A. The current rate for 2009 \$286 per month for A&A and \$135 for HB
- Disability Compensation – a veteran can be receiving this benefit and may be eligible for pension as the greater benefit. A veteran under compensation may also be eligible for an increase and/or A&A or HB under his service connected disability(ies).