# Veterans Act Now, Time is Running Out!

By Attorney Ben Kiniry

For years now the Veteran's Administration (VA) proposed a number of significant changes to the "Veteran's Pension" or what is also often referenced as the "Aid & Attendance" pension or program. New rules are forthcoming later this year in an effort to clarify some of the issues that have historically led to inconsistent decisions, but the proposed changes will also make it difficult for our veterans to be eligible for this valuable benefit.

**What is the Veterans Pension?**

The VA helps Veterans and their spouses who have low-income (can be higher income offset by unreimbursed medical expenses) with supplemental income, or in other words, a tax-free monetary benefit.

For example, the VA pension can provide a wartime veteran with up to $21,456 per year ($1,788 per month) to cover care at home or in assisted living. The surviving spouse of the veteran can receive up to $14,352 per year ($1,196 per month). However, there are three levels of benefit: Basic Pension, Homebound and Aid and Attendance. The numbers above are under the Aid and Attendance, which is the highest level.

**Who is Eligible?**

A veteran must have at least 90 days of active duty service, with at least one day during a wartime period, as set by law. Also, the veteran must be age 65 or older, or totally and permanently disabled, or a patient in a nursing home receiving skilled nursing care, receiving Social Security Disability Insurance, or receiving Supplemental Security Income.

The VA places limits on the amount of assets the veteran and/or the veteran's spouse can retain and still qualify for the VA pension. If the veteran is over the asset limit, he or she can spend them down to the allowable limit or transfer assets out of his or her name (yes there is a trust for this, often referenced as a Veteran's Asset Protection Trust (VAPT)). Once the spend down has been accomplished, the veteran can apply for the benefit in the following month. In some cases, the veteran needs to be receiving help with the activities of daily living, which include: bathing or showering, dressing, eating, getting in or out of bed or a chair, and/or aid with the wants of nature.

In my experience, the typical client is experiencing a decline in health and is paying others to help out around the house and with some of the activities of daily living discussed above. The out of pocket, non-reimbursed, expenses start adding up quickly. The veteran may or may not need to conduct some type of spend down or transfer of assets. The veteran applies for and receives the benefit, which helps the veteran slow, or even stop, the depletion of his or her assets, and is therefore able to maintain a better quality of life.

**Why is time running out?**

Historically, the VA has not imposed what is called a "look-back period" on asset transfers. Look-back periods have been utilized by the Medicaid program for many years (current look-back period is five years). One of the proposed and likely changes to be implemented by the VA is such a look-back period.

The proposed look-back is three years with a penalty period of up to ten years. The penalty period is imposed if you make a transfer of assets in the three-year period prior to applying, then you will be disqualified from receiving the benefit for a period time based on value of the assets transferred (The penalty will be determined by dividing the value of the transferred asset(s) by the maximum annual pension rate the veteran would have otherwise qualified for).

Another proposed change is the limit on the amount of a veteran's net worth. Historically, the VA never gave an exact asset limit, but the most commonly mentioned asset limit (more of a guideline) was stated to be $80,000.

The proposed rules will track the Medicaid's programs maximum community spouse resource allowance, which is currently $119,220. At first glance this seems to allow for a higher net worth, however, the veteran's annual income will be added to their actual net worth to reach the $119,220 limit. The other significant change has to do with the veteran's residence. Under the new rules the veteran's net worth would not include the value of his/her primary residence along with an area not to exceed two acres of land. Extra land would disqualify the veteran, however, there are some exceptions that will aid many veterans in retaining the exemption. If the residence is sold, the proceeds are countable, unless utilized to purchase a new home within one calendar year of the sale.

**I'm a veteran, do I qualify?**

Who can aid a veteran with determining whether or not they qualify for the Pension benefit? The VA provides Veteran Service Officers to aid veterans for free in evaluating their particular situation. They are, however, limited in any planning that could be done in preparation for submitting an application.

Who else can help? Attorneys who have been accredited by the veteran's administration. I have been accredited for many years and am happy to report that I have helped many of our heroes acquire the VA pension benefit.. If you are a veteran, then you have earned this benefit. Don't delay if you're considering applying, act now so you can take advantage of the current eligibility requirements.

If you're not sure, let us help you figure out whether or not you qualify for this almost too good to be true financial benefit.