

New Law Change Will Have a Big Impact on Veterans

Since 1953, the U. S. Department of Veterans Affairs has provided a benefit for veterans or their surviving spouses that can be used to pay for home care, assisted living and nursing home costs.

Many veterans did not know this benefit existed, and now the VA is changing the rules to make the benefit more difficult to obtain. **The rule change goes into effect October 18, 2018. This leaves veterans who qualify or who may want to qualify a very short window to take action.**

The benefit is called the Aid and Attendance/Improved Pension benefit. This benefit can pay a married veteran \$2,169 a month for the rest of his or her life. An unmarried veteran can receive \$1,830 per month, and the surviving spouse of a veteran can receive \$1,176 per month. This money is deposited directly into the veteran's account the same day as they receive their social security check. Both checks come from the U.S. Treasury, and the funds can be used to pay rent, a caregiver, an assisted living facility, a nursing home or for any other purpose they choose.

To qualify, the veteran must be at least 65 years of age and must have served in one of the branches of the U.S. military or the U.S. Coast Guard during certain defined wartime periods. A veteran can qualify even if they did not serve in a combat zone, and the defined periods of wartime are generally much longer than the period of actual combat. For example, World War II was not over until December 31, 1946, for purposes of this program. For a surviving spouse to qualify, the spouse had to have been married to a veteran that met these service requirements.

"The sad thing is, it's been an entitlement since 1953, but the VA doesn't advertise it. My grandmother could have received this \$1,176 each month for many of the years she was in retirement," according to Cody Rogers who is the VA and Medicaid coordinator for Wilson+Miller PLLC, a Little Rock estate planning and elderlaw law firm.

Mr. Rogers' grandmother became eligible for the benefit at age 65 and she passed away at 85. It was only after his grandmother died that Rogers discovered she would have been entitled to as much as \$282,240 over past 20 years.

Applying for the benefit can be confusing and difficult. If a veteran knows the program's name and searches the Veterans Affairs website, what they find is an exhaustive list of forms along with a statement that says a veteran is not eligible for pension/aid and attendance unless the veteran is "totally disabled."

This is more than a little misleading.

"What people don't know is that when a veteran turns 65, the VA automatically classifies him or her as 'totally disabled,'" Rogers said. "And, if the veteran meets the guidelines of having served on active duty during a wartime period, then, at a minimum the veteran is eligible for the pension regardless of his or her current health." Bill Hunt, 90, who lives on the independent living side of an assisted living facility in Little Rock, is one of the lucky ones who applied for pension/aid and attendance — and got it. He heard it about through his granddaughter who works at Wilson+Miller PLLC which is a VA-accredited law firm. "They handled the paperwork, dealt with VA, and got me approved for \$1,830 a month in only two months."

The VA has arbitrary income and asset limits; however, they provide no education on how to qualify if the value of the veteran's assets is greater than their published limits. In many cases, the

veteran can still qualify, but the VA has no program to help veterans qualify. A common strategy to help veterans qualify for the benefit is to restructure the veteran's assets so that they are owned by a Veterans Asset Protection Trust (VAPT). Unlike the Arkansas Medicaid program, which has a five-year look-back period, transfers to a VAPT do not have a "look-back" requirement. Transfers can be made to a VAPT and an application for the aid and attendance benefit filed the following day. This is how the program has operated since 1953. However, the VA announced this past Tuesday, September 18, 2018, that veterans (or their surviving spouse) who have above average assets (assets with a value in excess of \$80,000), will be subject to a three-year "look-back" on transfers made after October 18, 2018. **In practical terms, this law change means that if you are a married veteran, single veteran, or widow of a veteran and need the \$2,169, \$1830 or \$1176 a month to fund long term care or living costs, a veteran or surviving spouse of a veteran must take action now and complete the planning process before October 18, 2018 to avoid the three-year "look-back" rule. If a potential applicant waits until after October 18 to reposition assets, the applicant will be disqualified from receiving the benefit for up to three years.**

Wilson+Miller PLLC is one of the leading estate planning and elderlaw planning law firm in the region. The firm works with clients to assist them in qualifying for the VA aid and attendance and improved pension benefit. There is still time to take advantage of this VA program under the existing rules, but that window will close on October 18. For more information, contact me, Stan Miller, the managing partner of the firm at (501) 221-7776 or at smiller@wilsonmillerlaw.com.

Yours Truly,

Stan Miller, managing partner of Wilson+Miller PLLC