
INCOME

UNEARNED INCOME

**E. DEPARTMENT OF
VETERANS
AFFAIRS
PAYMENTS
(VA BENEFITS)**

The Department of Veterans Affairs (VA) has numerous programs which make payments to SSI/Medicaid recipients and their families. For SSI/Medicaid purposes, treatment of VA payments depends on the nature of the payments. The most common types are pensions, compensation, educational assistance, aid and attendance allowance, housebound allowance, clothing allowance, and payment adjustments for unusual medical expenses. Each type of payment is discussed in this subsection.

Explore the possibility of receipt of, or potential eligibility for, a VA payment, whenever it becomes known that an applicant or recipient is:

- a. a veteran;
- b. the child or spouse of a disabled or deceased service person or veteran;
- c. an unmarried widow or widower of a deceased service person or veteran (be alert to previous spouses who were veterans);
- d. the parent of a service person or veteran who died before January 1, 1957 from a service-connected cause.

NOTE: The Utilization of Other Benefits Provision specifies that an applicant or recipient who is potentially eligible for certain VA benefits must apply for those benefits as a condition of eligibility.

**1. VA
Pensions**

VA pension payments are made on the basis of a combination of service and an age of 65 or over, a nonservice-connected disability or death. With a few rare exceptions noted below, VA pension payments are also based on need.

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The VA may take dependents' needs into account in determining a pension. However, normally the VA will not make a pension payment directly to a dependent during the lifetime of the veteran. Instead, the amount of the veteran's basic pension is increased if the veteran has dependents. A VA pension payment that has been increased for dependents is called an augmented VA payment. A VA pension payment made directly to the dependent of a living veteran is called an apportioned payment. These types of payments are discussed later in this subsection.

VA pension payments are usually made on a monthly basis; however, when the payment due is small, the VA will pay quarterly, biannually or annually. The VA may also make an extra payment if an underpayment is due. VA payments made less frequently than monthly are income in the month received for eligibility purposes.

All VA pension payments except those listed below are federally funded income based on need. As such, the \$50 general income exclusion does not apply. Pensions paid to veterans or their dependents on the basis of:

- a Medal of Honor; or
- a Special Act of Congress

are unearned income but are not needs based. Therefore, the \$20 general exclusion applies to these payments.

The Veterans and Survivors Pension Improvement Act (referred to as VA Improved Pension) was signed into law October, 1978 with an effective date of January, 1979. The major change was in the method of determining the pension payable. The new rates of payment are not automatic; therefore, the veteran or survivor must file an application with

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VA to establish entitlement. In the majority of cases, entitlement under the improved pension results in increased payments; therefore, recipients who receive benefits under old VA law must file for the improved pension as a factor of eligibility under the utilization of other benefits provision. If approved for the improved pension, the client must accept the improved pension if it results in increased payments. If accepting the improved pensions results in less money, the client is not required to accept.

**2. VA
Compensation
Payments**

Compensation payments are made by the VA to a veteran because of a service-connected disability or to a widow, widower, child or parent of a veteran because of the service-connected death of a veteran. VA compensation payments are not based on need except in two instances:

- a. Death compensation to parents, and
- b. Dependency and indemnity compensation (DIC) paid to parents.

Eligibility for death compensation and DIC is determined by the parents' income; therefore, these types of payments are based on need and the \$50 general exclusion does not apply.

A living veteran's compensation payment may be increased (augmented) for dependents. In unusual circumstances, a VA compensation payment may be made directly to the dependent of a living veteran (apportioned). Refer to the discussion later in this subsection on augmented VA payments.

**3. VA
Educational
Benefits**

The VA provides educational assistance under a number of different programs including vocational rehabilitation. Depending on the nature of the VA program, different SSI income and resource policies apply.

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Generally, veterans have 10 years after leaving the service to complete their education and 12 years to complete a program of vocational rehabilitation. Payments are usually made on a monthly basis only for months in which the veteran is in school. However, if school attendance is less than half time, the payments may be made less frequently. Dependents and survivors of veterans may also be eligible for educational benefits.

Some programs are "contributory." That is, the money is contributed to an educational fund and the government matches the money when it is withdrawn while the veteran is pursuing an education. The veteran has the right to withdraw as a lump sum the funds he has contributed.

The following policy principles apply when educational benefits are involved:

- Payments made as part of a VA program of vocational rehabilitation are not income. Subsistence allowances received during vocational rehabilitation may be augmented but the augmentation is not income.
- Any VA educational benefit payment or portion of such a payment which is funded by the government and is not part of a program of vocational rehabilitation is unearned income.
- Any portion of a VA educational benefit payment which is a withdrawal of the veteran's own contributions is a conversion of a resource and is not income.

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- If payments are made under a contributory program or the nature of the program is in question, obtain evidence of the following:
 - a. The amount of the veteran's contributions remaining in the fund that can be withdrawn as a lump sum.
 - b. The portion of any VA educational benefit payment that is a withdrawal of the veteran's contributions to the fund.

4. VA Aid and Attendance and Housebound Allowances

The VA pays an allowance to veterans, spouses of disabled veterans and surviving spouses who are in regular need of the aid and attendance of another person or are housebound. This allowance will be combined with the individual's pension or compensation payment. VA Aid and Attendance (A&A) and household allowances are not income for eligibility purposes and must be excluded from the total VA payment when determining eligibility; however, A&A is a third party medical payment to be added to an institutionalized client's Medicaid Income through June 30, 1994. Effective July 1, 1994, VA A&A is no longer considered a third party medical payment.

Anyone in a nursing home who receives a VA benefit is potentially eligible for Aid and Attendance except:

- Individuals drawing a "child's" benefit. If an individual becomes disabled prior to age 18, he/she draws a child's benefit which continues into the adult years. A recipient of a VA child's benefit is not eligible for A & A.
- Individuals drawing only VA Insurance benefits. Usually someone who draws a VA Insurance benefit will also receive a DIC benefit; however, it is possible for someone to receive only the VA Insurance benefit. If an individual draws only VA Insurance benefits, that person is not eligible for A&A.

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A nursing home applicant potentially eligible for VA Aid and Attendance must be advised in writing to apply for the payment. However, as specified in the "Utilization of Other Benefits" policy provision, the penalty for failure to apply for the benefit is not applicable when the only benefit involved is VA A & A.

**5. VA
Clothing
Allowance**

A lump sum clothing allowance is payable in August of each year to a veteran with a service-connected disability for which a prosthetic or orthopedic appliance (including a wheelchair) is used. The allowance is intended to help defray the increased cost of clothing due to wear and tear caused by the use of such appliances.

A VA clothing allowance related to use of a prosthetic or orthopedic appliance is not income for eligibility or Medicaid Income purposes.

**6. VA
Payment
Adjustment
for UME
(Unusual
Medical
Expenses**

VA considers unusual medical expenses (UME) when determining some needs-based pension and compensation payments. (Unusual medical expenses are expenses that exceed 5 percent of the maximum annual VA payment rate.) VA does this by deducting UME from any countable income. UME may result in a higher monthly VA payment, an extra payment, or an increase in an extra payment.

a. Policy in effect through June 30, 1994

An increase in a needs-based VA pension or compensation payment which is the result of UME is income whether included with the regular VA payment or paid as a separate payment. The increase related UME is a pension or compensation payment.

Claiming UME is part of the VA Improved Pension application process. If claiming UME will result in a higher benefit, then an applicant or recipient must claim these expenses whether the client lives at-home or in a nursing facility, as part of the Utilization of Other Benefits provision.

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Note: There are instances where VA will not increase payments resulting from UME when a veteran enters a nursing home. One instance is due to Spousal Impoverishment rules that allow a Medicaid eligible Institutionalized Spouse (IS) to allocate his/her income to a Community Spouse (CS). The VA will not increase payments when a veteran will be allocating income to a CS. Form DOM-318 is used to notify the VA of any nursing home case involving a veteran IS allocating monthly income to a CS.

b. Policy effective July 1, 1994

Effective 07-01-94, SSI/Medicaid policy will no longer consider VA payments resulting from UME as income for eligibility and Medicaid Income purposes. SSI/Medicaid will consider such payments as reimbursements for medical expenses or services that are excluded from the definition of income.

Note: This change will affect the deeming process for certain individuals. The income of an ineligible spouse or parent who receives income based on need is not deemed to an eligible spouse or child in at-home cases. Needs-based pension and needs-based compensation payments are currently non-deemable income along with any other income of the ineligible. However, if an ineligible spouse or parent receives a VA payment that is only attributed to UME or A & A, then receipt of such payment will result in deeming the remaining income of the ineligible to the eligible. For example, if an ineligible spouse receives Social Security and VA and the VA is attributed solely to UME, then the ineligible's Social Security would be deemable to the eligible spouse effective 07-01-94. If the ineligible receives a VA needs-based pension or needs-based compensation payment in addition to payment for UME, then all income of the ineligible will continue to be non-deemable.

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c. Income Trust Cases With Basic VA Benefits

Effective 07/01/94, count only basic VA benefits (as verified by VA) as an Income Trust client's total income available to fund the Income Trust. Any UME/A & A that is not counted as income can be retained by the client and/or spouse. The Income Trust Detail Sheet would need to specify the amount of VA that is not income.

d. IS/CS Cases With Basic VA Benefits

For IS/CS cases whereby the IS receives UME/A & A that is not countable as income, effective 0/01/94 the CS will be allowed to receive the IS payment attributable to UME and A & A along with the CS allocation amount computed in the Medicaid Income Computation. If the CS is not entitled to Medicaid, the extra income will have no impact. However, if the CS is Medicaid eligible at-home, the income that represents UME and A & A payable to the IS is income to the CS. UME and A & A is disregarded as income only to the one entitled to the payment. When it becomes income available to a CS, it is income to the CS. If the income is given to anyone else, the possibility of a transfer of resources exists.

If the CS does not receive the income attributed to UME/A & A, then the possibility of excess resources building up for the IS exists and resources must be monitored closely.

**7. VA Benefit
Allocated
to a Spouse
Receiving
IBON**

In cases where the spouse of an applicant or recipient receives IBON (Income Based On Need as defined in Unearned Income), the source of the IBON may count a portion of the VA benefit as income to the spouse receiving the IBON. When this is the case, a deduction will be made from the VA benefit of the Medicaid client equal to the amount counted as income by the source of the IBON.

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Verify from the source of the IBON (not VA) the amount of the VA benefit counted as income to the spouse. This amount will be deducted from the countable VA benefit verified by VA.

For example, an applicant receives a VA pension and his spouse receives SSI. If SSI counts a portion of the VA pension as income in the spouse's SSI computation, then deduct the amount of the VA benefit verified by SSI as the SSI recipient's income.

**8. VA
Contract
Patients
in Nursing
Facilities**

Certain veterans qualify for VA contract payments which cover nursing home care for one to six months. The contract period begins with the date of nursing home placement and covers the date of admission but not the date the contract expires. For example, if a veteran is placed in a nursing facility under VA contract effective January 15, the contract will expire July 15 and VA will not reimburse the facility for the day of July 15.

It is possible for a service-connected veteran to be under VA contract in a nursing facility for an indefinite length of time. These individuals are not subject to the six-month limit for a VA contract as are nonservice-connected veterans.

Eligibility for Medicaid benefits other than nursing home reimbursement can begin prior to the date a VA contract expires, depending on the date application is filed and provided the applicant is eligible on all other factors. Reimbursement cannot begin until the date the VA contract expires. Do not count VA contract money paid to the nursing home as income to a MAO applicant. Although VA contract payments are a third party medical payment, it is not a payment subject to recovery by Medicaid.

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It is possible for a veteran's ongoing VA benefits to be reduced during the VA contract period and returned to the full amount the month following the expiration of the VA contract. When verifying VA income for eligibility purposes during a VA contract period, it is important to determine if reduced benefits are involved and to determine when full benefits will resume. Benefits are usually raised in the month following the month the VA contract ends.

**9. Reduction
in VA
Pension
for Veterans
& Surviving
Spouses
in Nursing
Homes**

Public Law 101-508 (OBRA-90) amended 38 USC 3203 to limit paying improved pension to \$90 per month for veterans having neither spouse nor child who are in a Medicaid approved nursing facility and who are covered by Medicaid. Effective October 1, 1992, the Veterans Benefit Act of 1992 (P.L. 102.568) extends the reduced pension payment to surviving spouses (widows or widowers of veterans in the same manner as the provision applies to a veteran. The \$90 is a maximum payment; the payment can be less than \$90. A reduced pension of \$90 or less is not income for eligibility purposes. Since federal law prohibits counting the reduced pension toward the veteran's or surviving spouse's cost of care (Medicaid Income), the Personal Needs Allowance (PNA) for all client's receiving a reduced pension is equal to the pension payment. Refer to the "Personal Needs Allowance" budgeting policy for further discussion.

Single veterans and surviving spouses of veterans in nursing homes (with no dependents) who become Medicaid eligible must be referred to the VA to determine if their pension is subject to the \$90 limit. The worker must set appropriate ticklers to check with VA to determine appropriate case action.

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- 10. Income Trust Cases & \$90 VA Reduced Pension**
- When a client who is eligible for LTC Nursing Home coverage under an Income Trust becomes entitled to the \$90 Reduced Pension and the client continues to need the Income Trust to remain eligible, do not count the \$90 as income to the Income Trust client. The \$90 pension is entered in MEDS as VA Reduced Pension and the remaining income of the client (which should continue to be \$1 less than the Institutional Income limit) is shown as Trust Income. By doing this, the client will correctly receive the \$90 PNA in the Medicaid Income computation. A new Income Trust Detail Sheet is required to show the \$90 PNA.
- When an Income Trust client's pension is reduced to \$90 and this results in total countable income that no longer exceeds the Income limit, the Income Trust must be dissolved.
- 11. Payments to Vietnam Veterans' Children With Spina Bifida**
- Public Law 104-204 authorizes VA to provide benefits, including a monthly monetary allowance, to certain Vietnam veterans' children who suffer from spina bifida. Beginning after 10/01/97, VA will make monthly payments to or on behalf of certain Vietnam veterans' natural children, regardless of their age or marital status, for any disability resulting from spina bifida. These VA payments are excluded from income and resources for SSI Medicaid purposes. Interest earned on unspent payments is not excluded.
- 12. Determine Amount of VA Payment**
- Whether or not an entire VA payment is counted as income depends on the type of VA payment being made and the policy in effect in the month of the payment.
- Overpayments recovered from VA benefits are included as income in determining eligibility and Medicaid Income. Refer to the discussion of "Amount of Unearned Income" for policy governing overpayments withheld from unearned income.

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Note: In cases where VA "suspends" VA Improved Pension benefits for failure to verify medical expenses, it is not correct to adjust the VA benefit to zero. VA benefits are only temporarily suspended and will be restored back to the date suspended when verification is received. The benefit in effect prior to the suspension date continues to count as income until VA benefits are restored because the recipient remains entitled to the VA benefit. Any lump sum retroactive VA payment to restore suspended benefits is not counted as income since the income has already been counted.

**13. Augmented
VA Payments**

In some instances, the VA considers the number of dependents a veteran has in determining the amount of the veteran's or widow(er)'s benefit. Benefits which are increased because of dependents are termed "augmented" benefits. However, the presence of dependents in VA or SSA records does not necessarily mean a payment will be augmented. VA benefits which may be augmented are pensions, compensation and educational assistance. When a benefit is augmented, the augmentation (i.e., increase for dependent) may be included in the payment to the veteran or widow(er); or a payment may be made by apportionment (i.e., separate check to the dependent).

Augmented VA payments are income to the veteran. Apportioned VA payments are income to the dependent receiving the separate payment.

**14. Verification
of VA
Payments**

Verification of benefits paid by the VA is obtained by writing the appropriate VA Center. Written verification is obtained by use of the attached unnumbered VA form. These forms are mailed to:

Veterans' Service Division
VA Regional Office
1600 E. Woodrow Wilson Drive
Jackson, MS 39216

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This form is used to verify veterans' benefits for several veterans or surviving spouses on one form. VA will verify the "Total" benefit amount and the "Basic" amount if the total benefit includes UME and/or A & A. If there is a difference in the "Total" and the "Basic", use the amount entered by VA as the Basic payment as income. The difference in the two payments is attributable to UME or A & A, or both. VA will not provide a breakdown of A & A and UME since both are excluded from income.

If the "Type of Benefit" is pension and the "Total Benefit Amount" equals \$90 and "\$0" is entered as "Basic", then this indicates the client receives a \$90 Reduced Pension.

Any amounts that VA enters as "Back Pay" will be basic amounts only.

To obtain written verification of VA Insurance benefits, write to:

VA Center
P. O. Box 8079
Philadelphia, MS 19101

Note: VA Insurance benefits do not change once the benefit amount has been determined. Therefore, once the benefit amount has been verified, it is not necessary to re-verify the benefit amount.