

MISSISSIPPI DIVISION OF MEDICAID

Eligibility Policy and Procedures Manual

200.07.09A VA PENSION PAYMENTS

VA Pension payments are based on a combination of service, age or disability or death. With a few rare exceptions that are noted below, VA pension payments are federally-funded income based on need (IBON), which means the \$50/\$20 general exclusion is not applied to the payment. Pensions are usually paid monthly; however, when the payment due is less than \$19, VA will pay quarterly, bi-annually or annually. VA may also make an extra payment if an underpayment is due. Pensions, per the VA, are tax free monetary benefits payable to low-income wartime veterans or to low-income un-remarried spouses and/or unmarried children of a deceased veteran with *wartime* service.

Eligible Wartime Periods, under current VA law, are determined to be:

- Mexican Border Period (May 9, 1916 – April 5, 1917 for Veterans who served in Mexico, on its borders, or adjacent waters)
- World War I (April 6, 1917 – November 11, 1918)
- World War II (December 7, 1941 – December 31, 1946)
- Korean conflict (June 27, 1950 – January 31, 1955)
- Vietnam era (February 28, 1961 – May 7, 1975 for Veterans who served in the Republic of Vietnam during that period; otherwise August 5, 1964 – May 7, 1975)
- Gulf War (August 2, 1990 – through a future date to be set by law or Presidential Proclamation)

If a veteran served *outside* of any of the eligible periods shown above, *do not require* the individual to apply for a VA pension under the Utilization of Other Benefits provision.

The payment amount is based on the veteran's own income and the income of his/her spouse and children. Maximum annual pension rates are established by Congress. Disability pension payments take dependents' needs into account when determining the payment; however, the VA normally will not make a payment directly to a dependent during the lifetime of the veteran. Instead, the VA increases the amount of the veteran's basic pension if the veteran has dependents.

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The VA pension payment increased for dependents is an augmented VA payment. A VA pension payment paid directly to the dependent of a living veteran is an apportioned payment. A VA augmented or apportioned pension applies to disability pension payments, surviving spouse pension payments and Special Acts of Congress pensions but does not apply to surviving child or Medal of Honor pensions, as described below.

1. Disability Pension Payments

- Improved disability pension payments – When a veteran is eligible for a disability pension, he or she will receive benefits under the VA improved disability pension program which was established on January 1, 1979. A veteran is eligible for the improved pension when he or she has at least 90 days of active duty service with at least 1 day of service during a wartime period. A veteran who entered active duty after September 7, 1980, must have served at least 24 months or the full period ordered to active duty with at least 1 day of service during a wartime period. The veteran must have been discharged from military service honorably and also be 1) age 65 or over; or 2) totally and permanently disabled; or 3) a patient in a nursing home receiving skilled care; or 4) receiving Social Security disability benefits or SSI.
- Protected disability pension payments – Prior to the VA improved disability pension program, disability pensions were called Old Law and Section 306 disability pensions. These protected pensions were phased out and replaced by the improved disability pension program. Any pension recipient who elected to remain on the protected pension continued to receive the payment rate received when the program was phased out with no cost of living adjustments to the payment. Medicaid applicants in receipt of old law pension are required to apply for improved disability pension payments if it will result in an increased pension payment under the Utilization of Other Benefits provision.

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2. Surviving Spouse Pension Payments

- Surviving spouse improved death pension payments – When a surviving spouse is eligible for a death pension, he or she will receive benefits under the VA surviving spouse’s improved death pension program established on January 1, 1979. The VA provides this pension to low-income surviving spouses and unmarried children of deceased veterans with wartime service. To be eligible, spouses must not have remarried. For children to be eligible they must be under age 18 or under age 23 if attending a VA-approved school, or determined to be permanently incapable of self-support because of a disability before age 18.
- Surviving spouse protected death pension payments – Prior to the VA surviving spouse improved death pension program, the previous pension programs were called Old Law and Section 306 death pensions. These pensions were phased out with the improved pension program in 01/01/1979; however, spouses could elect to continue to receive a protected pension payment at the rate received when the program was phased out with no cost of living adjustments to the pension payments. Medicaid applicants in receipt of old law pension payments must apply for improved surviving spouse pension benefits if it will result in an increased payment under the Utilization of Other Benefits provision.
- NOTE: Divorced spouses and remarried spouses do not qualify for any VA benefits as a former spouse of a veteran. Do not refer divorced or remarried spouses of veterans to apply for VA benefits under the Utilization of Other Benefits provision.

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3. Surviving Child Improved Death Pension Payments

The VA provides pensions to low-income, unmarried surviving children of wartime veterans who are independent of the veteran's surviving spouse (e.g., the surviving child is no longer in the custody of the surviving parent or the surviving parent is deceased). An independent child receives VA benefits on his or her own award. The independent child must be under age 18 or under age 23 if attending a VA-approved school or determined to be permanently incapable of self-support because of a disability before age 18.

4. Medal of Honor and Special Act of Congress Pension Payments – Pensions NOT Based on Need

- A veteran who received a Medal of Honor is eligible to receive a special monthly pension payable as either a single entitlement or with another entitlement in a combined award. This type of pension is payable only to the recipient of the Medal of Honor.
- Special Act of Congress pensions are made to individuals in recognition of special acts. When awarded, the terms of the award set the rate, begin date and duration of the payment and whether cost of living adjustments will be applied to the payment.

5. Aid and Attendance and Housebound Benefits (Special Monthly Pension)

Veterans and surviving spouses who are eligible for VA pensions are eligible for higher maximum pension rates if they qualify for aid and attendance or housebound benefits. An eligible individual may qualify if he or she requires the regular aid of another person in order to perform personal functions required in everyday living, or is bedridden, a patient in a nursing home, or is substantially confined to his/her immediate premises because of a disability. VA Aid & Attendance and Housebound Benefits are not income and are excluded from the total VA payment when determining eligibility and Medicaid Income (if applicable). In addition, these payments are not considered third party medical payments.

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6. Unreimbursed Medical Expenses (UME)

When computing some needs-based pension payments, VA deducts unreimbursed medical expenses from countable income. The VA considers expenses, which exceed 5% of the maximum annual VA pension payment, as UME. This computation may result in an increase in a pension payment or in an extra payment. An increase or extra payment resulting from VA's consideration of UME is not income and is excluded from the total VA payment when determining eligibility and Medicaid Income (if applicable). UME is not countable as income for institutionalized individuals eligible under an Income Trust.

Unspent VA payments resulting from UME are resources if retained into the month following the month of receipt.