

An hourglass-shaped graphic with a globe inside. The top bulb is dark blue, and the bottom bulb is light blue. The globe is a darker shade of blue. The hourglass is centered on the page.

WikiLeaks Document Release

<http://wikileaks.org/wiki/CRS-RS22804>

February 2, 2009

Congressional Research Service

Report RS22804

Veterans' Benefits: Pension Benefit Programs

Carol D. Davis, Knowledge Services Group; Christine Scott, Domestic Social Policy Division

February 6, 2008

Abstract. The Department of Veterans Affairs (VA) administers several pension benefit programs for veterans as well as their surviving spouses and dependent children. The most current pension programs available (for those meeting the eligibility criteria on or after January 1, 1979) are the Improved Disability Pension for certain low-income veterans and the Improved Death Pension for certain low-income surviving spouses or children of veterans. There is also a special pension for Medal of Honor recipients. This report describes these programs, including the eligibility criteria and current benefit levels.

WikiLeaks



CRS Report for Congress

Veterans' Benefits: Pension Benefit Programs

Carol D. Davis
Knowledge Services Group

Christine Scott
Domestic Social Policy Division

Summary

The Department of Veterans Affairs (VA) administers several pension benefit programs for veterans as well as their surviving spouses and dependent children. The most current pension programs available (for those meeting the eligibility criteria on or after January 1, 1979) are the Improved Disability Pension for certain low-income veterans and the Improved Death Pension for certain low-income surviving spouses or children of veterans. There is also a special pension for Medal of Honor recipients. This report describes these programs, including the eligibility criteria and current benefit levels. This report will be updated as needed to reflect legislative activity and changes to benefits or eligibility requirements.

Overview

The Department of Veterans Affairs (VA) administers several pension programs for veterans and their surviving spouses and dependent children. There are two types of pension programs administered by the VA: (1) pension programs for veterans of specific periods of war; and (2) pension programs for certain low-income veterans. The pension programs for specific periods of war are for periods before World War I. They include pension programs for veterans, as well as their surviving spouses and dependent children, of certain periods of war such as the Civil War, the Indian Wars, and the Spanish-American War. The pension programs for certain low-income veterans include the Old Law Disability Pension, the Section 306 Disability Pension, and the Improved Disability Pension. The VA pension programs for certain low-income surviving spouses and dependent children of veterans include the Old Law Death Pension, the Section 306 Death Pension, and the Improved Death Pension.

In addition to the pension programs related to periods of service for certain low-income veterans and surviving spouses and dependent children, the VA administers a special pension program for Medal of Honor recipients.

This report will provide information on the most current pension programs — those programs for which a veteran, a surviving spouse, or a dependent child becomes eligible on or after January 1, 1979 — and on the special pension program for Medal of Honor recipients. The current pension program for veterans is the Improved Disability Pension, which is for certain low-income veterans. The current pension program for certain low-income surviving spouses and dependent children of veterans is the Improved Death Pension. Both pension programs were created by P.L. 95-588, the Veterans and Survivors Pension Improvement Act of 1978.

The Improved Disability Pension Benefit

The Improved Disability Pension provides a monthly benefit to certain low-income veterans. The monthly benefit is based on a maximum annual benefit, and the actual benefit received by the veteran reflects a reduction (from the maximum amount) of the veteran's "countable" income. This means that a veteran with countable income above the maximum benefit amount is not eligible for the pension.

Maximum Annual Benefit Amount. The maximum annual benefit amounts for the veterans' pension benefit are set in statute¹ and are based on the presence of a spouse or dependent child (or children) and the need for aid and attendance.² The annual benefit amounts are adjusted automatically by law³ each year to reflect a cost-of-living adjustment (COLA) equal to the COLA for Social Security benefits. For example, beginning December 1, 2007, the maximum annual amount for the pension benefit is \$11,181 for a veteran and \$14,643 for a veteran with one dependent.⁴ If two veterans are married to each other, the maximum annual amount is \$14,643, the same as for a veteran with one dependent. The maximum annual benefit amount will be higher if the veteran is housebound or requires aid and attendance.⁵

Eligibility Criteria. To be eligible for the pension benefit, a veteran must meet eligibility criteria related to combat/period of service; income/net worth; and age or disability.

Combat/Period of Service. A veteran must meet military service requirements related to combat, or service during a period of war.⁶ Specifically, a veteran must have been discharged from military service under conditions other than dishonorable and must have served in the active military:

¹ 38 U.S.C. §1521(b)-§1521(g).

² Aid and attendance is provided when a veteran needs another person's help to perform activities of daily living, such as eating, dressing, or taking a shower.

³ 38 U.S.C. §5312.

⁴ These figures reflect the cost-of-living adjustment (COLA) for Social Security benefits beginning January 2008. For more information on the Social Security COLA, see CRS Report 94-803, *Social Security: The Cost-of-Living Adjustment in January 2008*, by Gary Sidor.

⁵ For more information on current rates, please see the Department of Veterans Affairs Website at [<http://www.vba.va.gov/bln/21/Rates/pen01.htm>].

⁶ 38 U.S.C. §1521(j).

- for at least 90 days during a period of war;⁷
- during a period of war and was released from service for a service-connected disability;
- for 90 or more consecutive days which began or ended during a period of war; or
- for a total of 90 days or more in two or more separate periods of service during one or more periods of war.

Income/Net Worth. As noted previously, the pension benefit for a veteran who meets the other eligibility requirements (combat/period of service and disability/age) is calculated by subtracting the veteran's annual countable income from the statutory annual maximum benefit. This means that a veteran with annual countable income above the annual maximum benefit amount will receive no pension benefit. A veteran with annual countable income below the annual maximum benefit amount will have his or her benefit reduced dollar for dollar by the amount of annual countable income. In addition, a veteran may not have a net worth, or estate, large enough that it would be reasonable for part of the estate to be used for the veteran's maintenance.⁸

Annual countable income includes income from nearly all sources. However, there are several specific sources of income that are *not included* in determining annual countable income:⁹

- donations from public welfare or private relief organizations;
- pension benefits administered by the VA;
- expenses paid by a veteran's spouse (or the veteran's surviving spouse or child) for the veteran's last illness, burial, or debts;
- amounts paid by the veteran for the last illness and burial of the veteran's spouse or child;
- amounts paid by a veteran's spouse for the last illness and burial of the veteran's child;
- insurance reimbursement for property casualty loss (up to the greater of fair market value or replacement value);
- profit from disposing of personal or real property (other than in the course of business);
- amounts in joint accounts the veteran acquires by the death of the other owner(s);
- amounts paid by the veteran, spouse, or child for unreimbursed medical expenses (limited to a maximum of 5% of the pension benefit); and
- amounts paid by a veteran or surviving spouse to pursue education, vocational rehabilitation, or training, including tuition, fees, books, and, if the veteran or surviving spouse needs aid and attendance,

⁷ For information on periods of war, see CRS Report RS21405, *Periods of War*, by Barbara Salazar Torreon.

⁸ 38 U.S.C. §1522.

⁹ 38 U.S.C. §1503.

travel expenses above reasonable expenses for a nondisabled person.

Disability/Age. To be eligible for the pension benefit, the veteran must be totally disabled¹⁰ due to non-service connected injuries or illnesses that are not a result of the veteran's willful misconduct.¹¹ However, to determine if a veteran is totally disabled, the Secretary of Veterans Affairs may combine the disability ratings for service-connected disabilities with the disability ratings for non-service connected disabilities. The restriction is that if the veteran's service-connected disabilities have contributed to making the veteran eligible for the pension benefit, the veteran will receive the greater of the pension benefit or the disability compensation benefit (for the service-connected disabilities). A veteran cannot receive both disability compensation and the pension benefit.

P.L. 107-103, the Veterans Education and Benefit Expansion Act of 2001, extended the pension benefit to veterans aged 65 or over, regardless of disability status (or disability rating), who meet the other pension requirements (combat/period and income/net worth).

Other. The pension benefit for a veteran convicted of a felony or misdemeanor will be stopped beginning 61 days after the veteran is imprisoned, and it will resume when the imprisonment ends. The veteran's pension benefit may be paid to the veteran's spouse or dependent children during the veteran's imprisonment.

To apply for the pension benefit, a veteran must complete and submit VA Form 21-526, which is the application form for both disability compensation and the pension benefit. As part of the claims processing, the veteran will receive a disability rating, which may require a physical examination.

Interaction with Social Security and Supplemental Security Income (SSI). Countable income for the veterans' pension benefit includes any Social Security benefits received. Therefore, the receipt of Social Security benefits can reduce or eliminate a veteran's pension benefit. Countable income does not include any Supplemental Security Income (SSI) payments received. However, because the SSI program includes veterans' benefits as unearned income in calculating the income limitations for SSI, a veteran's pension benefit could reduce the veteran's SSI benefit.¹²

¹⁰ The VA rates disability on a scale of 0-100 in 10% increments, with 100% being totally disabled. The rating is used for pensions and for disability compensation. For more information on disability evaluation by the VA, see the "VA Disability Evaluation" section of CRS Report RL33991, *Disability Evaluation of Military Servicemembers*, by Christine Scott, Sidath Viranga Panangala, Sarah A. Lister, and Charles A. Henning.

¹¹ 38 U.S.C. §1513 and 38 U.S.C. §1521.

¹² For more information on the SSI program, see CRS Report 94-486, *Supplemental Security Income (SSI): A Fact Sheet*, by Scott Szymendera, and CRS Report RS20294, *SSI Income and Resource Limits: A Fact Sheet*, by Scott Szymendera.

The Improved Death Pension Benefit

The surviving spouse or dependent child of a veteran may be eligible for the Improved Death Pension Benefit if eligibility requirements with respect to the deceased veteran and surviving spouse or dependent child are met, along with an income requirement.

Deceased Veteran. The deceased veteran must have met the military service requirements for the Improved Disability Pension with respect to the veteran's discharge and period of service.¹³ However, for the Improved Death Pension, an individual who has at least two years of honorable military service and who dies in military service but not in the line of duty is also considered a veteran.¹⁴

Surviving Spouse. The surviving spouse cannot be remarried and must have been married to the deceased veteran:¹⁵

- for at least one year (there is no minimum if the surviving spouse and veteran had a child), and
- must have been wed before December 14, 1944 for deceased veterans of the Mexican border period and World War I; before January 1, 1957 for deceased veterans of World War II; before February 1, 1965 for deceased veterans of the Korean conflict; before May 8, 1985 for deceased veterans of the Vietnam era; or before January 1, 2001 for deceased veterans of the Persian Gulf War.

Surviving Children. Surviving children must be under age 18 (or under age 23 if in school) or must have become incapable of self-care before age 18.

Income. The countable income for a surviving spouse or child is calculated like that of a veteran for the Improved Disability Pension. However, for a surviving spouse with custody of a deceased veteran's child, part of the child's income that is available to the surviving spouse may be included in countable income.¹⁶ For a veteran's surviving child, his or her current work income is excluded from countable income, if the income is not more than the income level at which a federal income tax return must be filed¹⁷ *plus* postsecondary education or vocational rehabilitation or training expenses paid by the

¹³ 38 U.S.C. §1541(a) and §1542(a).

¹⁴ 38 U.S.C. §1541(h).

¹⁵ 38 U.S.C. §1541(f).

¹⁶ 38 U.S.C. §1541(g).

¹⁷ The income level at which a tax return must be filed (the filing requirement) is equal to the sum of the standard deduction and personal exemption amounts. For tax year 2008, the filing requirement for a single taxpayer is \$8,950 for a taxpayer under age 65.

child.¹⁸ In addition, for a surviving spouse or child, the proceeds from a life insurance policy on the veteran is excluded from countable income.¹⁹

Maximum Benefit Amount. The maximum annual benefit amounts for surviving spouses and dependent children, like those for veterans, are set in statute and are automatically increased to reflect the COLA for Social Security benefits. For example, effective December 1, 2007,²⁰ the maximum annual benefit amount for a surviving spouse without a dependent child is \$7,498, and \$9,815 for a surviving spouse with a dependent child (there is an incremental amount for each dependent child). Maximum annual benefit amounts are higher if the surviving spouse is housebound or requires aid and attendance.²¹ For a surviving child, the maximum annual benefit amount is \$1,909.

Medal of Honor Pension

A veteran who has been awarded a Medal of Honor is eligible for a monthly pension (\$1,129 as of December 1, 2007).²² Eligibility for the pension is based solely on receipt of the Medal of Honor, and receipt of the special pension (the Medal of Honor recipient must elect to receive the special pension) does not reduce any other benefits under U.S. law. A veteran who has received more than one Medal of Honor is, however, limited to receiving only one Medal of Honor pension benefit.²³

¹⁸ 38 U.S.C. §1503(a)(10).

¹⁹ 38 U.S.C. §1503(a)(11).

²⁰ These figures reflect the cost-of-living adjustment (COLA) for Social Security benefits beginning January 2008. For more information on the Social Security COLA, see CRS Report 94-803, *Social Security: The Cost-of-Living Adjustment in January 2008*, by Gary Sidor.

²¹ For more information on current rates, please see the Department of Veterans Affairs Website at [<http://www.vba.va.gov/bln/21/Rates/pen02.htm>].

²² The pension benefit was increased to \$1,000 and a COLA was provided by P.L. 107-330, the Veterans Benefits Act of 2002.

²³ 38 U.S.C. §1562.