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*Veterans Benefits:
Justly Yours For Serving
Your Country*

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*Many of the monetary and other guidelines discussed in this booklet change frequently. Please be certain to verify their accuracy before acting based on these numbers.

The Importance

Millions of Americans do not take advantage of their rightful benefits.

- Between veterans, their spouses, family members, and survivors, more than 70 million people are eligible for veterans benefits.
- In the next decade, the number of veterans 85 and older will triple.
- Florida is the state with the highest number of people over 65 years old.

With statistics like these, it is critical to remember to use veterans benefits as part of your long-term financial and physical care planning.

Who is a “veteran”?

A veteran is a person who served in the active military, naval, or air services, including the US Army, Navy, Air Force, Marines, Coast Guard, as well as other categories of services, such as the US merchant marines.

You must have 90 days of active military service with at least one day of war-time service, or have a permanent and total disability, or be 65 years or older

receiving social security benefits. Your income and net worth must also fall within certain limits.

How do I apply for benefits?

To apply for non-service related benefits, you must submit the following:

- DD Form 214
- Discharge certificate
- Your latest available social security award letter with all sources of income
- Supporting medical assessment or medical statement
- ACLF letter
- Marriage and/or birth certificates if benefits are for a spouse and/or children

Generally, your assets must fall under \$80,000 for eligibility. Unreimbursed medical expenses, however, can be used to reduce your income for eligibility purposes.

You do not have to enroll if you have a service-related disability of 50% or more, if you were discharged within the last year and have not been rated for a disability benefit yet, or if you are only seeking care for service-related disabilities.

If you do not have a copy of your records, proving your veterans status can be difficult since a

warehouse fire in St. Louis in 1973 destroyed a large percentage of the government's discharge records. To prove veteran status, you may find it easier to go through County Veteran Service Officers or other service organization. A complete list of the CVSA offices can be found at www.floridavets.org. You may, of course, call our office for advice and assistance in proving your status.

Veteran status opens eligibility for a number of benefits, including Aid and Attendance, healthcare, disability compensation, pension, home loan guarantees, life insurance, and burial benefits. We will discuss many of these benefits in detail below. If you have additional questions, please do not hesitate to contact our office.

Aid & Attendance

Available to veterans who have a need for help with basic daily activities such as bathing, dressing, and eating, Aid and Attendance is a program that many veterans find particularly helpful. The benefits can be paid to someone from outside the home (which may include family members) or to the veteran's spouse. If the benefits are paid to the spouse, however, the funds count as income when determining eligibility for the program.

If you are accepted into the Aid and Attendance program, you obtain access to the VA pharmacy.

On an annual basis, the Aid and Attendance payments currently are as follows

Single: \$16,509
 Married: \$19,570
 Surviving spouse: \$10,606

It is worth noting that in the mid 1990s the policies on the use of Aid and Attendance funds were clarified. You are allowed to use Aid and Attendance funds anyway you see fit, including for the care of your spouse. If you are also eligible for Medicaid, you are not required to use the Aid and Attendance benefit for your nursing home care.

Finally, if you qualified for Aid and Attendance for the previous year, but your condition prevented you from applying for benefits during that period, you may be able to apply now and receive those benefits.

Healthcare

Veterans enrolled in the Medical Benefits Package receive a range of healthcare services, including primary healthcare, preventive services, diagnosis and treatment, surgery, mental healthcare and substance abuse treatment, home healthcare, hospice and palliative care, emergency care, and pharmaceuticals.

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To enroll, you must apply at any veterans benefits office or VA healthcare facility. Upon enrollment, you will be placed into one of seven priority groups, based on military service and disability. The VA also has an income component, and eligible veterans can receive an 80-percent reduction in co-payment rates.

Residency in State Veterans' Nursing Homes

Another veterans benefit is access to residency in a state veterans' nursing home. To qualify, you must be:

1. A veteran as determined by Florida statutes
2. A resident of Florida for one year prior to application
3. In need of nursing home care for services that fall within the level of care the home provides.

Veterans with service-connected disabilities and veterans unable to afford nursing home care have priority in the selection process.

The VA also provides for non-institutional care, including home-based primary care, adult day care,

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and respite care. Veterans in a state veterans' nursing home may also plan for Medicaid benefits. For more information, please refer to *Elder Care and the Law*.

Family Coverage

Spouses and disabled children may qualify for veterans benefits. The spouse must have been married to the veteran one year or more before the veteran's death, or any amount of time if a child was born during the marriage. The spouse and veteran must have lived together continuously, except for temporary separations due to health, work, or separations caused by misconduct on the part of the veteran.

Children of veterans younger than 18 qualify for benefits, as do children up to the age of 23 who are enrolled in a VA-recognized college. Children older than 18 dependent on others due to a physical or mental disability that was sustained before the age of 18 also qualify for benefits.

Dependent parents of veterans may be eligible for Depend and Indemnity Compensation, benefits, or service-connected death benefits.

Philosophy of the System

The VA system is based on a non-adversarial

process. Because of this, claimants are given the benefit of the doubt, which means that even if the evidence is slightly out of the claimant's favor, the VA will generally grant the claim. The VA also has an obligation to help organize evidence to support the veteran's claim.

Some adversarial elements do exist, however. The amount of supplemental documentation can seem overwhelming, and adjudications are made on a case-by-case basis. Veterans may, however, request free representation from a veterans service organization or contact our office for help with the adversarial elements.

You have a right to appeal a decision regarding your status or benefits, and our office can assist you with that process.

Claims Processing

The processing of a claim for veterans benefits can be slow because of the coordination required between different government agencies. On average, medical records take 108 days to obtain, Social Security Administration records 66 days, and the US Army and Joint Services Environmental Support Group takes 143 days to provide evidence about military incidents.

It has been the experience of this office that it

takes about six months after the application is filed to obtain the first Aid and Attendance payment, a payment which begins accruing from the date of application, so the first check is usually rather significant.

Being aware of these delays will help alleviate concerns when you are pursuing the benefits that are rightly yours.

Conclusion

Veterans benefits are, in general, a very under-used tool in elder law planning, and we welcome your questions and the opportunity to speak with about maximizing your veterans benefits.

As with all areas of elder law, constantly changing state and federal laws and regulations make this a particularly difficult area of the law to navigate. Our firm keeps current on these changes not only by tracking legislation, but by regularly attending and presenting at local, state, and national elder law seminars. We look at our clients' situations in a holistic manner, taking into consideration physical, spiritual, and financial needs.

For additional helpful articles on elder law, please visit our website at www.law4elders.com.

Jack M. Rosenkranz

Jack M. Rosenkranz received his law degree from the Walter F. George School of Law at Mercer University and his undergraduate degree from Memphis State University. In college, and again in law school, he used his skills and his knowledge of political science and public surveys to bring much-needed changes to campus policies. As a result of his efforts at college, he was awarded the John W. Burgess Award for Meritorious Achievement in Political Science.

Mr. Rosenkranz now uses his natural abilities and legal training in his Elder Law practice, which includes Medicaid and Medicare planning, estate planning, advanced directives, Veterans benefits (such as Aid and Attendance), probate, supplemental trusts, and other long-term care planning needs. He was the first to receive both the Outstanding Achievement Award for the Florida Chapter of National Academy of Elder Law Attorneys and the Member of the Year Award for the Elder Law Section of the Florida Bar in the same year.

His peers have selected him as a Leading American Attorney in Elder Law, and he has an AV rating, the highest possible, with Martindale Hubbell. He remains active in the Elder Law Section of the Florida Bar, the Florida Academy of Elder Law Attorneys, and the National Academy of Elder Law Attorneys, Inc. Mr. Rosenkranz mentors new elder law practitioners, sharing with them the knowledge he has obtained from attending and presenting at numerous local, state, and national seminars each year since he began his practice in 1991.

Mr. Rosenkranz has co-hosted a weekly radio program, "The Informed Elder," on 570 WHNZ. He regularly gives presentations and other informative talks about elder law to the public and to other attorneys.