



## 2009 VA HEALTH, INCOME AND OTHER BENEFITS

*By Thomas McCormack 1/01/09*

Many fans of movie musicals can recall Joan Blondell belting out “Remember My Forgotten Man” against a moving tableau of World War I doughboys in Busby Berkeley’s film, *Golddiggers of 1933*. In one of Hollywood’s rare early forays into social issues, the song and dance number called for better treatment of the World War I veterans who’d just been spurned by President Hoover, the lame-duck GOP Congress and even future World War II hero General Douglas MacArthur, who used tanks to disperse thousands of unemployed and disabled veterans demonstrating peacefully for benefits in Washington the year before.

But more than 75 years later, Blondell’s torch-song lament still rings true: Most of us aren’t aware of benefits which are available to *all* veterans – and especially disabled veterans – and they and the benefits due them too often remain “forgotten.” Here’s a brief survey of income and health coverage programs for veterans of active duty— ***if*** they have general or honorable discharges.

### **VA Disability “Pensions” For Needy “Wartime” Veterans**

Veterans who are **permanently and totally disabled or over age 65** and have served at least 90 days active duty, including at least one day **during what the VA defines as “wartime”**— ***even if they never actually entered the war zone***—can receive pensions for *non*-service-connected disabilities (that is, disabilities *not* arising from the time in service) if their incomes and assets are below certain levels. In 2009, the pension level for a single veteran without dependents is \$985.83<sup>+</sup> monthly and additional amounts are added and paid for invalids and

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<sup>+</sup> The VA insists on calculating, totaling---and even just *stating* the amounts of---pensions on an *annual* basis---unlike the *monthly* basis used by other needs-based programs. Yet when actually paid, benefits are issued in *monthly* checks, and rounded *down* to the next whole dollar.

those with dependents. But see the sidebars below for more details about pension income levels, for the officially-recognized “wartime” dates and for details about, and exceptions to, the extra two-years-of-service minimum rule for those who first enlisted after September 7, 1980.

### **Income and Asset Rules For VA Pensions**

In spite of its name, the VA “pension” is, in fact, a welfare program: those with low enough assets, and *countable* income below the pension amount, receive pension payments to bring them up to the pension level. Thus, all other countable income – except welfare, needs-based payments such as Supplemental Security Income (SSI)\*, State Supplementary Payments (SSP) added to SSI, Temporary Aid to Needy Families (TANF, formerly AFDC), state Temporary Disability Assistance welfare, state General Assistance welfare and state Home Relief welfare, as well as the money value of Medicaid, food, housing and home energy assistance – reduces the pension payment dollar-for-dollar, and if the other income is high enough, it prevents any pension eligibility at all. (Veterans’ spouses’ and even their minor children’s assets and income are counted. But, in 2009, the first \$9,350 a year in a minor *child’s* earnings are disregarded.) Allowable assets include one lived-in home of any value, one vehicle of any value and \$80,000 net worth in savings, other real estate, other vehicles, boats, property or investments. VA pensions cannot be garnished for private debt, except for child support and alimony orders (for details, see 8/5/98 testimony of VA General Counsel before House Veterans’ Affairs Committee, searchable at [www.VA.gov](http://www.VA.gov))

### **Disability Standards For VA Pensions**

To qualify for a pension, a “wartime” veteran need *not* show that his or her disability arose from time on active service. But he or she nevertheless must be considered permanently and totally disabled (which *generally* means being “rated” 100 percent *presently* disabled) in the present by the VA under its disability regulations.—*even if* from a malady that started *after* discharge. (But financially eligible veterans over 65 *don’t* have to be found medically disabled to get pensions; their *age alone* qualifies them.) The VA disability definitions and rules are similar to, but somewhat more liberal than, those of Social Security. Unlike Social Security, however, the VA will consider such purely “social” factors as chronic unemployability. And, by law, it must resolve all borderline or doubtful questions in favor of the veteran. For an example, see the quote in the sidebar below from the VA’s disability regulations on HIV disease. Disability is determined by VA review of veterans’ submitted military and even *non-military* medical records, physician statements, etc.—and, almost always, “ratings examinations” which the VA orders to be performed by VA physicians at VA medical centers.

### **Pensions For Surviving Spouses and Disabled Grown Children of Wartime Veterans**

Surviving spouses of *wartime* veterans can also collect VA pensions if they are poor enough. Unlike veterans, they *need not show* that they’re disabled themselves *or even* that the wartime veterans they survive were disabled or received VA pensions when they were still alive. Even grown disabled children of wartime veterans – again, if they’re poor enough – can receive VA pensions, although in these cases such a grown child (called a “helpless adult child” by the VA bureaucracy) *must satisfy VA disability standards* by submitting his or her own medical records, appearing for a VA “ratings examination” and *proving that his or her own disability started before age 18*. (However, such grown disabled children need *not* have been found disabled by Social Security, either as

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\* SSI (plus any state supplements, or SSPs, added to it) is a welfare program for the needy aged and disabled; it is *distinct* from “regular” Social Security (SSDI and OASDI), which is an earned insurance payment based on wages on which one paid “FICA” payroll taxes while working.

minors or adults.) See the chart below for pension levels that apply to surviving spouses, their dependents and surviving “helpless adult children”. (The last surviving widow of a Union Civil War soldier—who wed the veteran, surely by then in his 80s, as a much younger bride in the 1920s—received a VA pension until her own death in 2002, according to news stories. In May, 2003, former VA Secretary Principi stated on C-SPAN that about 10 long-grown-up, but now-quite-old “helpless adult children” of Union Civil War soldiers were then still receiving VA pensions!)

### **Pension Add-ons If You Need “Aid & Attendance” or Are “Housebound”**

Pension levels of veterans are increased by up to \$658.83 monthly in 2009 if the VA finds they need “Aid and Attendance”, or “A & A” (surviving spouses and surviving disabled grown children can also get smaller A & A increments). This broad class covers almost anyone who can *medically document* that he needs help because of substantial limitations with mobility, housekeeping, dressing, grooming, bathing, toileting, eating, meal preparation, errand, communication, social interaction, mental acuity, chore capabilities and other Activities of Daily Living (ADLs). Those who receive extra “Aid and Attendance” payments—while they’re intended for the costs of medically necessary, disability-related personal assistance and care—are *not* required to prove they actually spend the add-ons on such care. A similar increment—\$218.91 monthly in 2009—is added to pensions of those veterans whom the VA determines are physically “House-bound.” by their conditions This category defines itself, but is far less widely used—and pays far less—than the “Aid and Attendance” add-on. Pensioners cannot receive both add-ons at the same time. Authorizations for “Aid and Attendance” and “Housebound” pension increments for veterans and their surviving spouses and “helpless adult children” require the submission of medical documentation of that need and, almost always, appearance for a VA “ratings examination”. See the sidebar below and the “Improved Pension” Rate Tables at [www.VA.gov](http://www.VA.gov)

### **VA Pensions, Supplemental Security Income (SSI) and Medicaid**

VA pensions count all family members’ income to reduce (and, if the other income is high enough, even to eliminate) the pension payment: wages, private pensions, *regular* earned Social Security benefits, bank interest, investment income, etc. (Again, though, in 2009 up to \$9,350 yearly of a *minor child’s* earnings are disregarded.) But *welfare-type payments*, such as Supplemental Security Income (SSI), State Supplementary Payments (SSPs) added to the SSI level, Temporary Aid to Needy Families (TANF), General Assistance, state Temporary Disability Assistance, Home Relief, food stamps, the value of Medicaid-purchased medical care, energy assistance and housing aid *don’t count* as income for VA pension purposes.

But the reverse *is not* true: SSI, SSPs, TANF, welfare, food stamps, Medicaid, energy and housing programs *do count* that basic portion of VA pension income meant for the support of the pensioner veteran *himself*—*but not necessarily any additional increments meant to support spouses and dependents*—as income to him even though it *is* a welfare-type payment. However, SSI, SSPs, Medicaid and welfare will attribute, or “deem”, only the pension’s *dependent increment* itself (and *not* the veteran’s *own basic portion* of the pension allowance) to spouses and children *themselves* (and only to them) when and if *they themselves* are the SSI, SSP, Medicaid or welfare applicants. But these other assistance programs shouldn’t ever count the “Aid and Attendance” and “Housebound” add-ons to pensions as *anyone’s* income, since they’re exempted from being counted because they’re grants to cover medical care purchases rather than income *per se*. But where this issue comes up, it almost always requires one to painstakingly explain (possibly even with written materials or notes from the VA) the “A & A” and “Housebound” payments and their purpose to get SSI, SSPs, Medicaid and other welfare programs exempt them from being counted as income.

What all this means is that someone who is on SSI, an SSP, Medicaid or welfare *will not* have their simultaneous receipt of these benefits counted as income by the VA, but *SSI, SSPs, Medicaid and other welfare programs may well count the VA pension or some portion of it* in determining welfare eligibility for a veteran or his dependents. Since this sort of situation can get quite complex with families in which both the VA pension and SSI, an SSP, welfare and/or Medicaid are received or are being applied for, expert advice from VA-experienced legal aid attorneys or other advocates is a must.

### **The VA Pension Doesn't Count Income Spent on Unreimbursed Medical Expenses (UME)**

As already mentioned, in counting income, the VA disregards (that is, it does not count toward eligibility or how much a pension payment will be) a child's earnings up to \$9,350 yearly in 2009. In addition, income *above 5% of the prior year's basic* pension amount for a family of that size – but *not* including of any add-ons to the pension level for “Aid and Attendance” or “Housebound” status -- is *not* considered (i.e., it is disregarded) in calculating eligibility for, and the amount of, pension payments if it is to be spent on such medically-related expenses.

These expenses can include costs not covered by one's health insurance; insurance co-payments and deductibles; transportation to medical care (busses, subways, taxis, tolls, parking fees, gasoline and mileage); premiums for Medicare and any other health insurance; care, services or drugs provided by or through—and to be paid for out-of-pocket in cash---other health coverages or Medicaid; and *even in some circumstances medical costs of non-veteran family members*.

For a single veteran in 2009, this means that other, ordinarily countable, income over \$49.29 monthly, which is 5% of 2008's lower monthly single veteran pension rate--- if it's to be spent on medical care--- won't be deducted from his or her pension amount. This feature is called the “Unreimbursed Medical Expense” or “UME” deduction, and is a way of shielding income meant for medical care from being counted as income in the VA pension eligibility budgeting calculations. To adjust one's pension to take account of income spent on medical care, use VA Form 21-8416. See the example in the sidebar below.

### **VA Medical Care Eligibility and Enrollment**

All veterans with honorable or general discharges who have served at least 180 days of active duty can receive care at VA medical centers -- *even if they are not disabled under VA or Social Security rules or have not served in a war zone or during wartime*. High-priority, free care with *no* co-payments is guaranteed to those with service-connected disabilities above 50%, former prisoners of war and *any* veteran (whether or not he or she has a service-connected disability) for at least two years after he serves in a combat zone. (But see the sidebar below for details about, and exceptions to, the two year service minimum for those who first enlisted after September 7, 1980.) Care available through the VA includes inpatient hospital stays, outpatient hospital services, clinic and physician services, surgery, complete laboratory and radiological services and outpatient prescription drugs. According to a 2002-03 GAO study, nearly one third of VA medical centers then failed to offer home health services (as they're required to do) and some improperly deny them to eligible, but non-service-connected, veterans; in response, the VA promised in 2003 to begin making home health care more widely and equally available (for

details, see <http://www.gao.gov/cgi-bin/getrpt?GAO-03-487> ). Besides hospitals, there are also hundreds of freestanding VA outpatient clinics; [www.VA.gov](http://www.VA.gov) lists locations within each state.

Veterans typically begin the enrollment process with interviews at VA medical facilities, bringing discharge papers (DD214s) \*, documentation of any *private* health insurance they might have and, for those of limited income seeking Priority Group 5 or 7 care (see below), proof of dependents, income and “net worth” (assets other than lived-in homes and one car). Enrollment is completed once veterans are assigned to a Primary Care Team (often denoted by colors: “red”, “green”, etc.) and are scheduled for Team intake examinations---after which referral to specific departments and clinics for ongoing care is arranged and scheduled. After either the enrollment interview or the intake examination, they’re issued plastic VA patient identity cards, usually with photos (those with purple triangles indicate the coveted, priority status of “service connected”).

But, anytime, those presenting themselves at the emergency room for *genuine* emergencies--- *even those who haven’t yet applied for or completed the regular enrollment process!*--- are seen with the same medical triaging, waiting and processing used at *any* hospital emergency room. In practice, a not-yet-completely-enrolled veteran arriving at a VA emergency room *without any* documentation (proof of discharge, income and assets, health insurance papers), who verbally alleges he’s a qualified veteran will be treated for emergent care and, if medically essential for life or limb, he’ll even be admitted to inpatient care. But if he *doesn’t* medically require inpatient admission or anything more than outpatient emergent care in the ER, he *won’t* be given free VA-issued prescriptions on-site (although he *would* be given VA-issued prescriptions which he could pay for *himself* at commercial “civilian” pharmacies). Those not-yet-fully-enrolled patients arriving at ERs *with* documentation of discharge, income and assets and insurance are handled the same. But, if *they’re* not admitted overnight, they *will also* be given “free”---then and there at the VA’s in-house pharmacy---any prescriptions that the VA physician orders.

Assume a veteran moves from one area of the country to another---and, in particular, if he or she (perhaps only nominally and temporarily) moves from one area to another to avoid long waits in his or her own home area (for example, to take advantage of shorter waits for the initial intake examination and primary care team assignment in a less-crowded area) for Priority 5 or 7 non-service-connected veterans' health care. Does the move to the new area mean that he has to re-enroll all over again and *still again* go through a long wait for his initial intake examination and assignment to a "primary care team"? *No!* When an already-enrolled, already-examination-intaked Priority 5 or 7 non-service-connected veteran moves to a new area, he need only appear

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\* Most veterans keep copies on hand of their discharge forms (DD214s); but those who’ve lost them can request copies by writing to the National Personnel Records Center (Military Personnel Records), 9700 Page Avenue, St. Louis, MO 63132 – 5100. One can also request military medical care and other records from this facility. Requests can be made with an ordinary written letter, or on a SF 180 form, downloadable at <http://usmilitary.about.com/library/blsf180htm> or at [www.VA.gov](http://www.VA.gov) . Provide one’s full name, date of birth, dates of service, military service number, Social Security number, branch of service, military rank at discharge and current address. Getting a response can take months---and a 1973 fire destroyed the only known copies of many records stored prior to that date.

at the nearest VA hospital or clinic for care or the routine scheduling of care, without the need to wait for a new intake examination.

Showing his VA ID card (issued at first enrollment) and mentioning his Social Security number calls up his record on the VA's nationwide computer. In such cases, the veteran would, of course, be assigned by clerical intake staff to a "new" primary care team at the new hospital or clinic (a necessity, of course, because of the move!). There would then be only the same waits for primary care appointments or specialty care referrals as are faced any other local, already-enrolled, already-intake-examined veteran. (But, of course, those "routine" waits can be, and often are, weeks and sometimes months even in the *least* busy VA hospitals and clinics.)

In recent years, more and more older World War II, Korea, Vietnam, Cold War and Terrorist War veterans who don't have good prescription coverage have learned that they can get prescriptions from the VA and have begun crowding into VA hospitals. Since 1996, the VA patient caseload has grown from 2 million to well above 6 million. In areas with many retirees---like Florida, Nevada, North Carolina, Southern California, Arizona, Texas and Hawaii ---this has caused delays of many weeks, or even months, in scheduling newly-enrolling veterans for their intake examination appointments. Waiting times for care in specialty clinics have also increased.

To cope with this, the VA issued regulations to give first priority in scheduling these intake examinations to those veterans who have *service-connected*, VA-recognized disabilities; others, including those whose disabilities are *non-service-connected* (e.g., only recognized by Social Security), have a secondary scheduling priority for intake examinations. But, in spite of the Bush Administration-- quite unsuccessfully-- proposing restrained VA spending its fiscal 2006, 2007, 2008 and 2009 budgets, in every recent year Congress has appropriated massive increases for the VA health budget and will continue to do so to handle the crowding. Higher VA health budgets are popular with Congress: Conservatives almost always favor any sort of "military" expense; while liberals know well that the VA cares for the poor, the disabled and the elderly.

### **VA Health Care Priority Groups, Service-Connected Veterans and Co-Payment Rules**

Except for genuine emergencies, the VA prioritizes access, waiting times and medical service availability for elective and other non-emergency care, using eight priority groups:

1. 50% or more service-connected disabled veterans
2. 30% and 40% service-connected disabled veterans
3. 10% and 20% service-connected disabled veterans; former prisoners of war; Purple Heart recipients
4. Veterans, *no matter how "rich"*, whom the VA finds to be "catastrophically disabled", *even if from a non-service-connected cause*, (see sidebar below for a list of qualifying conditions); or who get pension or compensation payments for Aid and Attendance or as Housebound; those who served in war zones within the last two years, *even if* they're otherwise *ineligible* in another Priority Group.
5. Non-service-connected veterans considered "poor" under VA income/asset rules (see below)
6. Vietnam War (1962-75) Agent Orange victims and those with other designated conditions; First Gulf War (1990-91) and Iraq War (1998- ) veterans with Gulf War Syndrome and other

7. Non-service-connected veterans considered “near poor” under VA income/asset rules (see below)
8. Non-service-connected veterans not considered poor or even “near poor” under VA income/asset rules (see below)

Service-connected veterans always get free care, without even the \$8 prescription co-payment, for their service-connected conditions---no matter how high their income or assets. If they have private health insurance it is never billed for treatment of service-connected conditions. But service-connected and other Priority 1 through 4 veterans must pay the co-payments of the Priority 5, 7 or 8 Groups that their incomes and assets would otherwise assign them to for treatment of non-service-connected conditions except that those rated 30% or more service-connected disabled are exempt from paying the (Priority Group 5, 7 or 8) **non**-prescription co-payments (even for non-service connected conditions’ care) that their incomes and assets would otherwise require of them. In other words, a service-connected veteran, no matter how high his income or assets, is exempted even from paying the applicable income/asset-based Priority 5, 7 or 8 co-payments (except for prescription co-payments) that he “deserves”, for care of a non-service-connected condition, if he’s rated 30% or more service-connected disabled. So, as a result, even service-connected and other Priority 1 through 4 veterans---in particular, those rated 30% or below---still do need to have their income and assets evaluated in order to be assigned the applicable Priority Group 5, 7 or 8 and their co-payment schedules (plus, if they’re very poor, the extra *prescription co-payment exemptions* mentioned below) for treatment of non service-connected conditions. Debts owed the VA for any co-payments dues can be waived on grounds of “equity and good conscience” by hospital fiscal officers (see amendment to 38CFR17.05 in the April 20, 2004 *Federal Register*).

### **Upgrading Bad Conduct, Dishonorable, Less-Than-Honorable & Undesirable Discharges; Having Discharges Reclassified To Being For Disability or Hardship**

Bad conduct, dishonorable, less-than-honorable or undesirable military discharges---and “too-early” discharges that need to be rewritten to more clearly reflect that they were actually for hardship or disability reasons---which may now prevent eligibility for VA medical care, pensions, compensation or other benefits--- can be changed by applying to appropriate military services’ discharge review boards. The website [www.usmilitary.about.com](http://www.usmilitary.about.com) offers clear, concise explanations and instructions for doing so, with relevant forms and addresses. For attorneys and professional advocates who need more exhaustive information, the National Veterans Legal Services Program ([www.nvlsp.org](http://www.nvlsp.org)) sells a thorough discharge upgrade manual for about \$100.

### **What About Those Veterans Who Seek Only VA Prescription Drugs But Want To Retain Their Own Civilian Doctors?**

Some veterans may argue that enrolling in VA medical care (for example, to gain valuable prescription drug coverage) might require their giving up their own civilian doctors (whom they see through Medicare or as patients in various low income clinic programs). Actually, this isn’t so. There’s no rule denying VA eligibles the right to also see civilian doctors at non-VA expense---and, in fact, a surprising number do so. As mentioned in the previous paragraphs, VA

facilities are very crowded now *precisely because* many older veterans use their Medicare to see *civilian doctors but then go to the VA to (redundantly) see VA doctors to have the prescriptions they need ordered and written on VA prescriptions forms which they then fill at the VA for \$8!*

The VA's rules still require that its prescription drugs are only available for prescriptions written by VA doctors for patients they actually see. So, to get VA-covered drugs, many, many older patients go through the motions of seeing a VA doctor to get him to write the very same prescriptions that their civilian doctors have already ordered for them---but now on VA prescription forms. VA doctors know this and are quite used to it---they quickly assess the patient's state of health and what prescriptions the civilian doctor ordered. If everything seems reasonable, proper and necessary they quickly counter-issue the desired prescriptions on VA forms, send such patients on their way and rapidly move on to their many other tasks.

Of course, even abbreviated, "pro forma", but redundant, VA patient visits like these *are* wasteful of VA resources (and the time of patients, who resent having to be seen by a second doctor just to get VA drugs). But under its current rules, the VA requires that its own doctors be responsible for decisions to issue prescriptions. Some veterans, members of the public, Congressmen and the General Accounting Office have called for considering abandoning the "see a VA doctor first" prescription rule and the VA has begun to study doing so.

The VA will allow *some* eligible veterans with *already*-issued prescriptions from *private, non-VA* doctors---those who've signed up for VA care but still awaiting their post-enrollment "intake" exams for at least 30 days as of 7/25/03---to fill them via its mail-order system to ease the current backlog of veterans waiting to be in-processed to the VA system.

Only those privately-prescribed drugs that are otherwise VA-covered, that are non-narcotic, that don't have to be injected and that can be mailed out can be offered by this temporary stop-gap for those veterans *now* queued-up in the current backlog. But those who only became "backlogged" *after 2003* aren't eligible for this temporary, stopgap coverage unless VA rules are again changed.

The VA still maintains its requirement that, in general, VA-issued drugs can only be written by VA physicians for those veterans they actually see as patients. Nevertheless, the GAO, many Members of Congress and some veterans' organizations still want *regular, ongoing* access to VA-issued drugs for those who remain in treatment with private doctors---and the VA has said it is considering such a permanent change in policy.

A press release on the temporary policy is at

<http://www.va.gov/opa/pressrel/PressArtInternet.cfm?id=639> and the text of the temporary interim stopgap rule is printed in the 7/25/03 *Federal Register* at

<http://a257.g.akamaitech.net/7/257/2422/14mar20010800/edocket.access.gpo.gov/2003/03-19011.htm>

## More On VA Prescriptions

VA prescriptions are issued by the prescribing doctor on a VA prescription form, which usually indicates how many refills are to be allowed. Patients then drop them off at in-house VA pharmacies---where, typically, dozens of patients are waiting at any given time. With waits that usually exceed those at commercial pharmacies, patients are given their prescriptions (they're usually later billed by mail for their \$8 co-payments). Those non-service-connected veterans claiming exemption from co-payments because they can't afford them (see below) at this point can encounter time-consuming red tape that might well require an hour or two *more* of processing (and only then if the finance and pharmacy offices are open for such business). Service-connected veterans are *not* charged co-payments for care related to their disabilities. And, yes, in practice the difficulties VA staff face in distinguishing, Solomon-like, between care for service-connected conditions and other conditions can, and often does, result in some service-connected veterans getting co-payment exemptions for care for what may really be *non-service-connected* conditions.

Patients can---and, where it's medically possible, many do---choose *not* to wait on-site for the prescription to be filled: They can instead opt for mail delivery service to their homes (most prescriptions not picked up on the day of submission are mailed out the next afternoon). But this can, and often does, take several days or even a week; shipments are often late or lost in the mail; and medications that are narcotics or are heat- or refrigeration-sensitive can't be mailed in any case. Patients pay their billed co-payments by mailing back checks or money orders to the VA. But those who become seriously delinquent may well then be required to make on-site, up-front cash co-payments for future prescriptions.

The VA, as federal agency, is not subject to applicable state medication prescribing and dispensing laws. Hence, patients generally must accept what the VA physician orders; for example, they can't (without convincing the prescribing doctor or, what's worse, going through the long, arduous appeals process) ask for a brand name instead of a medically equivalent generic or invoke other substitution options that might be available under state law at commercial pharmacies. It's also important to note that the VA permits even registered nurses and physician assistants to prescribe in many cases---even where otherwise-applicable state law might not permit this for prescriptions to be filled at ordinary civilian, commercial pharmacies.

For details on VA drug prescribing policies and practices---including how the VA formulary (i.e., list of covered drugs) actually *can* and *does* fully meet variable medical needs and does *not* adversely constrict patient access to genuinely necessary off-formulary drugs---see "The Big One" in Volume 7, Issue 8 (2/22/07) of the *Asclepios* e-newsletter at [www.medicarerights.org](http://www.medicarerights.org).

And the VA can, and often does, allow prescriptions to be refilled more times than is allowed at "civilian" pharmacies. Patients can request this when first given prescriptions and as they drop them off at the VA's own on-site pharmacies. Refills can be scheduled/diaried for "automatic" mail refill or can be specifically re-ordered via telephoned- in computerized systems. Those who don't wish to wait at the VA for their prescriptions---if they're willing and able to pay cash themselves---can fill those signed by a state-licensed *physician* at commercial pharmacies.

One nice advantage of the VA system is that it issues “prescriptions” (at the often-attractive “bargain price” of an \$8 co-pay!) for many “over-the-counter” items---bandages, dressings, braces, lotions, salves, cough medicines, antacids, patent medicines, crutches, canes, walkers, wheelchairs, adult diapers and other first aid supplies---that civilians must pay full cash prices for even though they may not need physician prescriptions to buy them at regular pharmacies.

### **Transportation To Distant VA Hospitals and VA Medical Travel Payments**

In metropolitan areas with good, economical public transit, getting to VA medical care via buses or subways is reasonably cheap and service is reasonably frequent and accessible. But many patients living in rural or far-out suburban areas lack a family automobile, have little or no income to pay for their gas or reimburse others for rides or live in areas that aren’t served by *any* reliable or frequent-enough public transit or even long distance bus service (e. g., Greyhound).

For travel to medical care and compensation and pension ratings exams in 2009, the VA pays or reimburses---subject to a deductible of \$7.77 per one way trip/ \$15.54 per round trip, which is waived for the rest of a month after deductibles applied during that month total to \$46.62---at a rate of 41.5 cents per mile. Rates can be somewhat more for those scheduled for *repeat* ratings exams--- and deductibles can be totally waived but only if veterans are 30%-or-more service-connected disabled; getting care for *any* service-connected condition; VA pensioners or those with incomes under the applicable family-sized pension level; and traveling to VA compensation or pension ratings exams. With advance authorization (unless it’s for genuine emergency care), the often-even-higher costs of veterans traveling to VA medical care or ratings exams are also covered if they medically require ambulance, ambulette or special handicapped van service and can’t pay the cost. And trips to ratings exams and by medically necessary ambulance, ambulette and handicapped vans aren’t subject to the \$7.77 and \$15.54 deductibles; and also, on request, those with incomes under the applicable pension income level can be exempted from the travel deductibles. Submission of appropriate records and receipts is necessary; see VA hospital and clinic travel and/or finance offices for details and arrangements.

The Disabled American Veterans ([www.DAV.org](http://www.DAV.org)), a nationwide non-profit organization, provides daily, free door-to-door van transport service to disabled and indigent veterans living in areas without adequate public transportation who otherwise can’t get to VA medical appointments. In many areas, only one morning “inbound” and one late afternoon “outbound” trip is offered---meaning that, even for brief appointments, whole days are consumed. On the DAV website, the terms “transportation network”, “hospital coordinator” and “volunteer services” refer one to a hospital-by-hospital listing of, and telephone numbers for, those DAV workers who supervise the van transport system serving each hospital. They have details about local van service, scheduling, reservations and priorities. The drivers are usually volunteers---as are many of the transport coordinators. Donations fund this private, non-profit system.

Those veterans who live in *very* remote areas (e.g., the Alaska “bush”, Hawaii’s Neighbor Islands, parts of the Mountain States and many US territories) and need to travel to distant VA or other medical facilities---if they’re ambulatory and don’t need medical care en route---may also be eligible for free air transport from Angel Flight America ([www.angelflightamerica.org](http://www.angelflightamerica.org) ; 1-877-621-7177), a private non-profit group. Proof of financial need may be required.

## **Case Management and Patient Advocacy for VA Patients**

Because the VA is a classical large, often-impersonal bureaucracy, patients' needs can sometimes be overlooked or forgotten: Mail-ordered prescriptions may not come on time or at all; mail-order and other prescriptions may expire, their expiration perhaps overlooked by busy physicians; and more vulnerable, less self-proactive patients may not get the detailed case management and treatment/drug regimen training that they need.

While the VA benefits system does offer appeals and hearings for those who are aggrieved, it is attuned almost exclusively to the needs of those seeking money Pension and Compensation payments rather than timely, quality medical care and related supportive services. Veterans have one year after the denial of a benefit, or being given a substandard service, to appeal in writing to their servicing VA Regional Office, using VA forms available at [www.VA.gov](http://www.VA.gov) or even by simply writing a letter. But in 2008 appeals are backlogged by many hundreds of thousands and typically take a year or two to be resolved. Hence, the VA appeals system just isn't timely enough to help with medical care quality complaints.

More vulnerable veterans—those who are frail, are intellectually-challenged, have limited education, are confused or intimidated by the massive, complex VA system, or need detailed case management, guidance and assistance with appointment schedules, treatment orders or drug therapy regimens--- can seek help from, or be referred to: the “service representatives” (middle-aged and older veteran volunteers from groups like the American Legion, the Veterans of Foreign Wars, etc. who work from offices in VA hospitals—although what skills they have are more often focused on Pensions and Compensation questions); Patient Advocates and Ombudsmen who are on staff in VA hospitals just as they are in civilian hospitals and handle patient complaints about treatment and quality of care; and---above all !—VA hospitals' own medical Social Work departments, which offer treatment-related supportive counseling and services to *all* VA patients, including *even* those treated by *outpatient* clinical departments.

The VA medical care system, at least theoretically, requires one to secure unscheduled or between-appointments medical care through the Emergency Room. But that can take many hours' wait, only to be seen by a generalist physician unfamiliar with the patient's individual care. He can (at most) offer temporary care solutions and impermanent, stopgap prescriptions for expired, lost-in-the-mail or about-to-expire medications. Some more proactive patients successfully deal with this inevitable eventuality by chatting up friendly acquaintance-ships with---and getting direct phone numbers for--their main treating clinical department's receptionists, clerks, nurses and social workers. These contacts can then squeeze them in for last-minute appointments or arrange to have a physician renew an expiring prescription or write a stopgap prescription for one that's lost or delayed in the mail.

## **Special Rules For VA-Paid Care at Non-VA Facilities**

Note that (except for rare, arranged-in-advance purchases of specialty care at non-VA hospitals) the VA *does not pay* for care at non-VA facilities, with three exceptions:

First, with advance permission, some veterans—usually, *only* those who get *service-connected* compensation benefits (see below)--- can be treated by selected non-VA medical staff or facilities in Colorado, Wyoming, Utah, Montana, Idaho and parts of central Florida under special, limited pilot programs.

Secondly, *service-connected* compensationers--but *not* other veterans—can with advance permission be treated by approved foreign medical providers and foreign US military medical facilities for emergencies when overseas. Contact the VA Foreign Medical program office, P.O> Box 65021, Denver, CO 80206-9021 (303) 331-7590 (call [877] 345-8179 if living or traveling in Australia, Britain, Costa Rica, Germany, Italy, Japan, Mexico, Panama or Spain). There are numerous authorization and billing forms which are required. Request a copy of the pamphlet “Department of Veterans Affairs Foreign Medical Services Program”. Nevertheless, in spite of the restriction of care at overseas US military medical facilities only to service-connected compensationers who have secured advance permission, there are anecdotal reports that *other* veterans who have VA patient identity cards *have* secured emergency care at overseas U.S. military medical facilities. This is because non-VA-employed military hospital clerks there understandably have trouble mastering the VA’s complex (and, to them, alien) rules. Hence, they might well fail to distinguish between the classes of eligible and ineligible VA patient identity cardholders.

Lastly, any otherwise-eligible veterans----*but only if (1) they have already enrolled for VA health benefits; (2) have actually already received some actual VA treatment within the last 24 months; and (3) are not covered by private health insurance, Medicare or Medicaid*---can receive emergency care paid for by the VA at a non-VA hospital in the US when 1) such a hospital is nearer than a VA one and 2) delaying care to reach a more distant VA facility (under a “prudent person” standard) would seriously endanger life or health. Ambulance and related emergency medical services which appear necessary (also under a “prudent layperson” standard) can likewise be covered. In cases of inpatient admission or emergency room treatment, the veteran, his family, his legal representative or the non-VA facility itself must get authorization from the veteran’s regular VA clinical staff within 48 hours. That VA staff also decides when the patient is medically ready for discharge or transfer to a VA facility---after which VA liability to pay for care at a non-VA facility ends.

### **Coverage of Eyeglasses, Hearing Aids & Related Exams and Dental Services**

The VA not only covers eye examinations and audiology tests and writes eyeglass and hearing aid prescriptions for its eligible patients. In many cases it *also* actually provides eyeglasses and hearing aids---sometimes *even* for *some* non-service-connected Priority 4, 5, 6, 7 and 8 patients. Veterans' Health Administration Directive 2002-039 of July 5, 2002 [paragraph 4.a.(1)] authorizes eyeglasses and hearing aids for:

- \* those getting service-connected compensation for *any* reason or at *any* percentage;
- \* former prisoners of war and those awarded Purple Hearts;
- \* those getting Housebound or Aid and Attendance increments to needs-based disability Pensions;
- \* those needing eyeglasses or hearing aids due to *any other* (even non-service-connected) *significant* medical cause, such as those that limit Activities of Daily Living (ADLs) ; and

\* those with *any other* functional or cognitive impairment-- as shown by ADL deficiency(ies) -- who need eyeglasses or hearing aids to participate in their own care.

Replacements are allowed in cases of loss and breakage and for new or changed prescriptions. Hearing aids, without a prescription change or loss, must last 4 years. Issuance of spares is determined by the audiologist or eye care specialist.

*Yet in spite of this still-in-force directive, the VA website [www.VA.gov](http://www.VA.gov) (accessed 1/9/04 and since then) has later **quite erroneously** stated that eyeglasses and hearing aids are provided **only to service-connected veterans, to former prisoners of war and to some other more limited categories.***

[Middle class persons only recently plunged into poverty by disability or illness often continue to think that eyeglasses for reading and driving can only be prescribed and purchased through professional ophthalmologists, optometrists and opticians (eyeglass stores). Yet, as the long-term poor already know well, such outlets as Sears, Target, WalMart, CVS, Wahgreen's, Dollar Stores, Rexall, Rite-Aid and Eckard's actually sell off-the-rack, ready-to-wear eyeglasses, in a wide variety of differing strengths, for reading and driving at far better prices (\$10 to \$20--or even much less-- a pair vs. \$120 and up at optician stores). In fact, the American Academy of Ophthalmology finds that "Ready-to-wear reading glasses are effective, safe and economical. Self-selection and over-the-counter purchase of these glasses appears to be medically acceptable, cost-effective and in the best overall interest of the public." But while these glasses work well for those with simple prescriptions---or who only seek "spares" for contact lenses they usually wear---they are *not* adequate for those with astigmatism; those who need different strength prescriptions in each eye; or those whose eyes are very close together or far apart. Since ready-to-wear glasses are usually labeled with their strengths, wise shoppers who can afford to do so can and should seek strengths that match prescriptions written for them by physician-ophthalmologists. Optometrists can also prescribe---but then they'll likely also try to sell one their own higher-priced "professional" eyeglasses.]

Dental services ordinarily are offered by the VA only to 100% disabled , service-connected veterans, those whose service-connected conditions include dental problems and those held as prisoners of war for at least 90 days; but other, *non*-service-connected veterans may apply, only within 90 days of discharge from active duty, to get dental treatment that wasn't completed while on active duty. Often, the VA then authorizes and pays for care with selected private dentists.

Those not eligible for VA eye care might contact the Seniors' Eyecare Program ( [www.eyecareamerica.org](http://www.eyecareamerica.org) ; 800-222-3937) if they're limited income citizens or legal aliens over 65; it offers some limited eye care---although *not* eyeglasses or eyeglass prescriptions. Local Lions' Clubs [www.lionsclubs.org](http://www.lionsclubs.org) , United Way affiliates [www.unitedway.org](http://www.unitedway.org) , Salvation Army chapters [www.salvationarmyusa.org](http://www.salvationarmyusa.org) and, above all, the Lenscrafters' Gift of Sight Program ( [www.lenscrafters.com/gos.html](http://www.lenscrafters.com/gos.html); 800-541-5367) sometimes offer help with eye exams, eyeglass prescriptions and/or eyeglasses. New Eyes for the Needy [www.neweyesfortheneedy.org](http://www.neweyesfortheneedy.org) offers vouchers to purchase eyeglasses to those it finds eligible.

The American Academy of Otolaryngology ([www.entnet.org/healthinfo/hearing](http://www.entnet.org/healthinfo/hearing)) lists some resources for free or discounted hearing exams and hearing aid resources---as do some Easter Seal Society ([www.EasterSeals.org](http://www.EasterSeals.org)) groups. For “members”, the Costco stores offer free hearing evaluations by audiologists and licensed hearing aid professionals at 200 locations; call 1-800-774-2678. But *most important of all*, the Starkey Hearing Foundation ([www.starkey.com](http://www.starkey.com); 800-328-8602) provides over 10,000 hearing aids a year to the needy using its own privately-set income eligibility rules.

Most state Medicaid programs deny dental care (other than emergency extractions to relieve pain), dentures, eyeglasses and hearing aids to adults. Go to [www.kff.org/medicaidbenefits](http://www.kff.org/medicaidbenefits) for states’ Medicaid coverage of these services. In addition, the report “State of Decay” at [www.oralhealthamerica.org](http://www.oralhealthamerica.org) surveys whether, and to what extent, each state Medicaid program covers adult dental services. However, the National Association of Dentistry for the Handicapped ([www.nadh.org](http://www.nadh.org); 303-573-0264) organizes dentist volunteers to give free dental care to poor disabled persons in at least 32 states. And almost all dental schools offer heavily discounted dental care by student dentists whose work is supervised by dental professors. The American Dental Association ([www.ADA.org](http://www.ADA.org); 312-440-2500) has a list of all American dental colleges and itself also enlists dentist volunteers to give free care to the needy aged in its Access to Oral Health Care for Older Americans program.

Where state Medicaid programs don’t cover dental care---especially dental care for adults over age 18, which most state Medicaid programs even now still don’t cover---about 70% of federally-supported low income health clinics do so for free or heavily reduced fees. For a listing of such local clinics go to [www.ask.hrsa.gov/pc/index.cfm](http://www.ask.hrsa.gov/pc/index.cfm) . In addition, city and county health departments will know of other local low income health clinics funded by other sources. Call individual clinics first to get details about available dental coverage. The private Doral Dental firm has lists of many (but not all) Medicaid-enrolled dentists in many (but not all) states and localities. Call 800-417-7140 or go to [www.doralusa.com/FindAProvider/FindAProvider.asp](http://www.doralusa.com/FindAProvider/FindAProvider.asp).

### **Medical Care Rules For Priority Group 5: Income, Assets and Co-Payments**

In 2009, single veterans with annual incomes below \$29,403, or \$2,450.25 monthly ----known as **Priority Group 5**---- are eligible for free care without any co-payments (except for \$8 per prescription), after those with service-connected and “catastrophic” disabilities, former prisoners of war, those who served in combat zones within the past two years and certain other priority classes are served. (\$5,882 *more* yearly and \$490.16 *more* monthly is allowed for one dependent and \$2,020 *more* yearly and \$168.33 *more* monthly is allowed for each additional one; here, too, in 2009 the first \$9,350 of a *child’s* earnings is not counted.) Allowable assets per family include a lived-in home of any value, one vehicle of any value and \$80,000 of “net worth” in other vehicles, boats, bank accounts, other property, investments, etc.. If a veteran does happen to have private health insurance, the VA will bill the plan for what it can, but it will not bill the veteran if he or she has income below this level, except for the \$8 prescription co-payment (*which is the only co-payment for Priority 5 veterans*).

### **Suspending All Rx Co-pays for the Very Neediest Veterans and Those With Many Rx’s**

Priority Group 2 through 6 veterans' prescription co-payments can be suspended for the rest of the year once they incur \$960 of such charges in 2009—as is also true for any applicable prescription co-payments that might otherwise be required of 40%-or-less service-connected disabled veterans or for treatment of a service-connected disabled veteran's *non*-service-connected condition. In addition, **all veterans with incomes under the prior year's applicable basic pension level (so, for example, in 2009, that would be 2008's \$931.75 monthly pension level for a single veteran, plus \$288.50 more for those with one dependent and \$159.08 more for each additional dependent) are exempt from any prescription co-payments.** When first enrolling for VA care, those under this income level should be sure to insist that their enrollment file specifies that they're designated as co-payment-exempt and those who originally enrolled at higher income levels—but whose income later falls to within the co-payment exemption income range—should re-visit the VA hospital or clinic's enrollment/eligibility office with revised, current proofs of income to request that their records be corrected to now exempt them from drug co-payments.

Debts owed to the VA for any co-payments can be waived on grounds of “equity and good conscience” by hospital fiscal officers (see amendment to 38CFR17.05 in the April 20, 2004 *Federal Register*).

### **“Space Available” Care With Added, Small Co-Pays For “Wealthier” Priority Group 7 Veterans**

After higher-priority cases such as service-connected disabled veterans, former prisoners of war and lower income Priority Group 5 veterans are served, VA medical centers *may at their option* also give care to Priority Group 7 veterans---*those non-service-connected veterans whose incomes exceed the Priority 5 eligibility levels but are below Priority 8 levels.* Priority 7 “net worth” asset levels are the same as for Priority 5, however---namely, \$80,000, not counting household goods, a lived-in home of any value and one vehicle of any value.. (The special limits for those who first enlisted after 9/7/80 apply here too; see the accompanying sidebar.) In Priority 7 cases, some other co-payments are charged---\$0 for preventive care outpatient appointments, \$15 per primary care outpatient encounter, \$50 per specialty care outpatient encounter and \$2 per night plus \$213.60 for the first 90 days of inpatient hospital care in 2009 (and \$106.80 plus \$2 per night for most subsequent admissions within 2009)---but this is still far, far cheaper than it would be for those who'd otherwise need to pay full costs in cash or do without. And if these “near-poor” veterans do happen to have some private health insurance, the payments from the insurance to the VA for the care are counted off the amount the veteran must pay in co-payments. See the accompanying chart of VA medical care co-payments for Priority Group 7 veterans.

### **“Space Available” Care *with Even Bigger Co-pays for Even Wealthier* Priority Group 8 Veterans**

On October 1, 2002, the VA created a new Priority Group 8 for health care eligibility to implement the VA Health Care Programs Enhancement Act, which was enacted in January, 2002. Priority 8 patients are those non-service-connected veterans with a “net worth” in assets *over* \$80,000 (not counting household goods, a lived-in home of any value and one vehicle of any value) *and/or income over the levels used by HUD as the upper limits for lower income housing assistance eligibility.* The HUD levels---which the VA calls “Geographic Mean Test (GMT)” levels-- vary state-by-state, by Standard Metropolitan Statistical Areas (SMSAs) within

states and by family size, depending upon local costs-of-living. See the sidebar below and the VA website to locate a local area's income level for dividing Priority 7 from Priority 8 veterans.

**Non-service-connected veterans' with income ABOVE this income level are now in Priority Group 8 !** Priority 8 patients must make co-payments of \$8 per prescription, \$15 to \$50 per outpatient encounter, \$1,068 plus \$10 per night for the first 90 days of inpatient hospital care in 2008 and \$534 plus \$10 per night for most subsequent hospitalizations during 2009. Here, too, any private health insurance which a veteran has is billed; then, any payments the VA receives from the insurance are counted off what he owes for co-payments.

Moreover, on January 17, 2003, the VA published Interim Final Regulations in the *Federal Register* (Vol. 68, No. 12, pp.2669-2673) **immediately suspending further enrollment of Priority 8 veterans.** But newly-applying veterans who'd now be classified as Priority 8 who are determined by the VA to have "catastrophic"---even *non*-service-connected!—"disabilities" (see the sidebar below) can *still* become eligible. In addition, even those *without* such catastrophic disabilities who *already enrolled* and originally qualified for Priority Groups 4, 5, 6 or 7 but whose income or assets *only later* rise into the Priority Group 8 range are "grandfathered-in" and *not* totally disenrolled; they're merely transferred to Priority 8. In addition, Congressional Veterans Committees have since favorably considered bills which invalidate the 2003 VA regulations—which President-elect Obama has pledged to revoke---and would allow the enrollment now of *all* Priority 8 veterans for VA health care (which the Bush Administration has opposed). Moreover, HR 6445, which passed the House in 2008 but which still awaits Senate action, would prohibit the VA from imposing *any* co-pays at all on Priority 4 "catastrophically disabled" non-service-connected veterans.

### **Compensation For Veterans with "Service-Connected" Full or Partial Disabilities**

The VA pays "compensation" to veterans whose disabilities arose from their time in active service -- ***even if off-base, off-duty, on a pass or on leave*** and whether or not overseas or during wartime. These **"service-connected" disabilities** can include disease or injury that a veteran proves was contracted during service, ***even if disabling symptoms only appear after discharge.*** (Conditions for which treatment is sought and documented within one year of discharge can be *presumed* to be service-connected too, even in the absence of contemporaneous medical records from the *actual* calendar periods of active duty.) Military medical records—and even evidence from non-military sources---can be used to demonstrate this. Here too, appearing for VA "ratings examinations" is almost always required as well. It's usually a long, legalistic process. But veterans who can demonstrate any percent of *service-connected* disability are entitled to basic lifetime tax-free monthly payments.

**In 2009, single veterans can get monthly service-connected compensation awards for disabilities that cause *partial* incapacity in increments of 10% (\$123), 20% (\$243), 30% (\$376), 40% (\$541), 50% (\$770), 60% (\$974), 70% (\$1,228), 80% (\$1,424) or 90% (\$1,604)---and, of course, at a full 100% (\$2,673).** Rules in force since early 2003 provide that in-country Vietnam veterans who now have diabetes are *presumed automatically* to be service-connected disabled if rated at least 10% (20% if also on regular medication for diabetes), with higher ratings possible for serious diabetic complications (amputations, serious and recurrent healing deficiencies, peripheral neuropathy, poor circulation, cardiovascular and kidney

problems, etc.). Current tracheal, laryngeal, bronchial and lung cancers and chronic lymphocytic leukemia of in-country Vietnam War veterans can be presumed to be service-connected due to exposure to Agent Orange. Veterans of the 1990-91 First Gulf War--and now *any* conflict or assignment---who presently have ALS (Lou Gehrig's Disease) are *automatically presumed* to have a 100%, full service-connected disability. In 2004, the VA also began automatically presuming multiple sclerosis in Vietnam and post-Vietnam war zone veterans as being service-connected. The more elusive, difficult-to-diagnose-and-document "Gulf War Syndrome" conditions of those who served in or near the First Gulf War's or the Iraq or Afghanistan Wars' combat zones in many cases can also merit compensation awards---as can some cirrhosis cases.

Those veterans rated at **30% or more *service-connected*** disabled can have *dependent allowances* added to their compensation payments, and, if they medically qualify for it, the compensation program's *own* Aid and Attendance enhancement (a benefit with similar qualification rules, but distinct from, that for pensioners) of \$95 in 2009 for an A & A-qualified invalid spouse (which requires submission of medical documentation and a VA ratings examination). In addition to basic dependent increments for each child under age 18 for veterans rated 30% or more, the compensation program also pays a *second additional* monthly increment of up to \$168 for each child *over* 18 attending school, college or trade school, with rates rising with the percentage of disability. See the Rate Tables under "Compensation and Benefits" at [www.VA.gov](http://www.VA.gov) for details. Compensation is *not* a needs-based program like pensions, so compensationers can have any amount in other income, earnings or assets. Compensation benefits, like pensions, are rounded *down* to the next whole dollar in making actual payments.

### **Post-Traumatic Stress Disorder (PTSD), Alcoholism, Drug Addiction, HIV/AIDS and "Illegal" Activities**

VA compensation claims for post traumatic stress disorder (PTSD, which are continuing and seemingly permanent psychological and behavioral incapacities resulting from events---often, but not always, in combat---while in military service) are well-known as part of the Vietnam veterans' story, but PTSD also afflicts other veterans too. Resources and suggestions for assembling and documenting PTSD claims appear at [www.VA.gov](http://www.VA.gov) , [www.vva.org](http://www.vva.org) , [www.ncptsd.org](http://www.ncptsd.org) and at other websites by entering "PTSD" and "DSM-IV" into search engines.

By law, the VA does *not* recognize alcoholism or drug addiction as *compensable* disabilities *themselves* (nor does it for *pensions* either). However, underlying psychological disabilities that might give rise to alcoholism or drug addiction as symptoms *are* compensable---and, in those cases, alcoholism or drug addiction histories can even serve as symptom evidence to buttress such claims.

Injuries or illnesses resulting from *illegal* activities can never, under the law, be compensable. But, in practice, only those illegal activities which are facially quite obvious---or are (foolishly) voluntarily *admitted to* by a service person while still on active duty (and so officially recorded) , or by a veteran in the unlikely event that VA staff directly question him on this point during claim processing---are actually considered (or, much less, are formally adjudicated as) illegal. For at least a decade the military services have pre-screened new recruits for the HIV virus and they've also conducted periodic re-testings of those on duty as well. As a result, few of more

recent veterans ever submit qualifying evidence (e.g., positive tests for the HIV virus contemporaneous with military service time) that demonstrates a seroconversion before discharge.

But more veterans who are HIV-positive and who served *before* the adoption of comprehensive military HIV blood tests (before 1990 or so) *can* get compensation now if they submit qualifying, contemporaneous medical evidence of being positive, having recognized HIV symptoms or seroconverting while on active duty. For example, the VA estimates that approximately 2,800 veterans have contracted HIV through blood transfusions while on active duty, according to the St. Paul *Pioneer Press* (3/10/04). And this can be so in spite of the apparent roadblock that the ban on illegal activity (e.g., homosexual activity; sharing needles while using illegal drugs, etc.) seems to impose because, as mentioned above, only facially obvious, officially adjudicated or voluntarily admitted-to events, in practice, come under the “illegal activities” ban.

(For example, an active duty serviceman paralyzed by a gunshot during a shootout with police as he robbed a bank would probably be denied compensation; but a serviceman who became HIV-positive while on active duty would *not* be denied compensation, absent any obvious, compelling, dramatic or voluntary evidence or admission to particular “illegal” activities. Even if directly asked, there are other believable explanations—“I was in some bar fights with a lot of biting and blood”; “I think I once got a transfusion after I was in a car accident, but it was so long ago that I forget exactly where and when”; “I used to see lots of (female) prostitutes”; “I just *knew* sitting on those dirty public rest room toilet seats could give me something”, etc. Moreover, long-after-discharge admissions to *post*-discharge homosexual or intravenous drug activities doesn’t compromise one’s discharge *or* one’s basic eligibility for VA benefits.)

### **Service-Connected Disabled Veterans’ Dependents & Survivors & *Their* Medical Coverage**

The compensation payments go up for those with dependents and include not only priority VA medical care for the veteran himself, but also---only for 100% service-connected disabled veterans or those who die on active service--- medical coverage for dependents and survivors in the VA’s **CHAMPVA** medical insurance plan. The **CHAMPVA** medical plan is premium-free for those who are eligible, is *not* medically-underwritten (there are no “pre-existing condition” restrictions and no medical history questionnaires, blood tests or exams are needed to qualify) and it offers coverage similar to major medical plans of large employers, including some deductibles and co-payments.

It can even continue to cover now-grown, but first-disabled-as-minors (“helpless adult”) children, including *even after* the death of the veteran *and even* after that of his or her surviving spouse! Where families with such grown disabled children only tardily discover the existence of this lifetime coverage, they *can* enroll late *but only for prospective coverage* (past medical coverage is lost). But, again, note that **CHAMPVA** is *only* for dependents and survivors of 100% service-connected disabled compensationers: Even though those still-living veterans with just 30% service-connected disability ratings can get dependent *payment* allowances added to their compensation checks, they *cannot* thereby qualify those dependents for CHAMPVA. And it’s also important to note that disabled wartime **pensioners’** (as opposed to **compensationers’**) *dependents and survivors are not eligible for CHAMPVA* or any other VA care either---

although they can often get some medical expenses indirectly met by the Pension system's Unreimbursed Medical Expenses (UME) provisions if they can't get Medicaid or other coverage.

### **Dependency and Indemnity Compensation (DIC) Payments For Surviving Spouses and Children of Deceased 100% Service-Connected Disabled Veterans**

Surviving spouses of deceased *service-connected* **100%** disabled veterans---or those who die on active duty-- get payments called Dependency and Indemnity Compensation (DIC), as well as premium-free, lifetime continued **CHAMPVA** health coverage, *even if they themselves aren't disabled at all*. (See the CHAMPVA pages at [www.VA.gov](http://www.VA.gov).) For a single surviving spouse widowed after 1993, the monthly payment is \$1,154 in 2009; \$286 *more* is paid for each dependent child. An additional increment of \$246 *more* is paid in 2009 to the surviving spouse if a married veteran lived with her at least 8 years before his death while, or as a result of being, 100% disabled; or at least 5 years before his death after he became so disabled; or at least one year before his death if he was a prisoner of war.

Surviving DIC spouses, if medically qualified *themselves* (by submission of medical records and through a VA "ratings" examination), also get added DIC allowances of \$286 for their own Aid and Attendance-- or \$135 if Housebound-- for themselves in 2009. In addition to the above amounts, the Veterans Benefits Improvement Act of 2004, HR 3936, pays *still another, extra \$250 DIC increment* for the first two years after the DIC initial award date where a surviving spouse has one or more minor dependent children. The DIC program, like that for Pensions, makes a "helpless adult child" payment to grown, 100% disabled children first incapacitated as minors (which, of course, also requires submission of medical records and VA ratings exams). See the Compensation and DIC Rate Tables at [www.VA.gov](http://www.VA.gov). DIC benefits, like pensions and compensation, are rounded *down* to the next whole dollar in making actual payments.

### **Compensation & DIC Are Tax-Free, Non-Garnishable, Non-Welfare Benefits**

Compensation and DIC benefits are tax-free, and are not needs-based like "pensions". One can have additional income without affecting a compensation or DIC payment. But, since they are tax-free and are not themselves welfare-type payments, need-based programs such as SSI, Medicaid, housing and other welfare programs can and do count them as income. VA compensation and DIC benefits can't be garnished for any private debt---except for child support and alimony orders and also except for private debt garnishments ordered in those rare, unusual cases where part of a compensation award is received *in lieu* of career military retired pay and that portion alone is garnished (and even this is so only because a designated portion of military active and retired pay *is* garnishable for private debt). For details, see 8/5/98 testimony of VA General Counsel before House Veterans' Affairs Committee, which is searchable at [www.VA.gov](http://www.VA.gov)

### **Servicemembers' Group Life Insurance (SGLI), Veterans' Group Life Insurance (VGLI), Service-Disabled Veterans' Life Insurance (SDVLI) and Other Active Duty Death Benefits for Survivors**

Veterans being discharged have the right to retain life insurance policies of up to \$400,000 in 2009, with some of that coverage premium-free for those in combat zones (with the free combat zone portion of the premium for up to the \$400,000 coverage level retroactive to 2001). These

policies are issued in those amounts by the Servicemembers Group Life Insurance (SGLI) plan to almost all active duty service persons, including activated Reservists and Guardsmen, and they can be converted later without medical underwriting (such as pre-existing condition restrictions, blood tests or health questionnaires) within 120 days of discharge into Veterans Group Life Insurance (VGLI) or private, individual, commercial whole life policies (which have much higher premiums) for up to the same amounts through the Office of Servicemen's Group Life Insurance, at 213 Washington Street, Newark, NJ 07102. Those who are totally disabled at the time of discharge have up to one year thereafter to convert. SGLI and VGLI have small, economical premiums---which one can have automatically deducted from active military pay, VA pensions, VA compensation and military retirement pay (but one must pay any individual, private, commercial *conversion* policy premiums directly oneself).

SGLI- and VGLI- insured service members and veterans can also purchase---often without medical underwriting (medical exams, medical history questions, etc.), *if* they enroll at the *first* opportunity---life insurance for their spouses in \$10,000 increments up to \$100,000 and smaller amounts for their children.

Both SGLI and VGLI policies on service members and veterans can be “*accelerated*” to pay out, before death, up to 50% of the death benefit, to those who submit physicians’ statements certifying a life expectancy of 9 months or less. (Unless they’re totally unreasonable-seeming facially, physicians’ statements are accepted without further inquiry; there’s no penalty if the insured person actually lives longer; and the remaining insurance death benefit amount stays in force for later payment to beneficiaries or--if the policyholder so desires-- for conversion of the remainder death benefit amount to a private, individual, commercial whole life insurance policy.) SGLI policies (at, or shortly after, discharge) and VGLI policies (at any time) can be *converted* without any medical underwriting, through participating insurers, into *individual* whole life policies---albeit with the typically somewhat higher private policy premium rates--- that are then suitable for “*viatication*” (i.e., the “*sale*” of life insurance benefits, at a discounted price below the full face death benefit amount, to investors by policy-holders who are terminally ill, need nursing home or home health care or are simply over age 62). To accelerate or convert a SGLI or VGLI policy, contact the SGLI/VGLI office in Newark, which can also provide lists of participating private insurers for conversion (but *not* necessarily viatical firms).

Those found to be at least partially disabled for service-connected *compensation* purposes (but *not* just for pensions) can get \$10,000 in Service Disabled Veterans Life Insurance (SDVLI)---separate and apart from, and in addition to, whatever SGLI or VGLI insurance they might or might not have-- by applying for it within two years of getting their service-connected disability compensation award. And if the SGLI/VGLI office finds that they are *now* *totally* disabled and unable to work---whether from a service-connected, compensable cause or, indeed, *any other* cause---they may purchase \$20,000 *more* of SDVLI. (This insurance *is* *partially medically underwritten* in that it is designed to *ignore* the *service-connected* medical disability of the veteran—but *not other medical conditions*—in determining if, and for how much in premiums, the veteran can get this insurance.) Unlike SGLI and VGLI, SDVLI policies can *not* be converted, accelerated or viaticated—although, of course, they can still provide well for loved ones who are beneficiaries after death.

Yet it may also be possible for still-living, seriously ill veterans with SDVLI (or other policies which can't readily or completely be sold or accelerated) to secure private loans, from better-off relatives or acquaintances with whom they have long-standing, trusted relationships, in exchange for naming that person the life insurance beneficiary. While such arrangements would not always be ironclad-enforceable under the law, they can work out where the insured person has the full trust of a relative, friend, former employer or other person with cash to advance for such a loan or with the ability to raise that cash (e.g., through a reverse home mortgage, in the case of a cash-poor older, but home-owning, relative).

The premiums for SDVLI are very, very low (for example, only about \$35 monthly for a male aged 55 for the additional \$20,000), and the first \$10,000 is *free* for those rated 100-percent disabled. The SGLI/VGLI office in Newark has further details.

In addition to the life insurance, all military branches pay tax-free "death gratuities" of \$12,420--and an even higher \$100,000, but only for those dying *in the actual line of duty*, retroactive to 2001--- for those who die *while on active duty* (which therefore can cover *non-war zone* and *non-combat*, but on-duty, deaths, but *not* off-duty, on-pass or on-leave deaths). Such survivors also get up to 6 months of the service member's housing allowances after the death, full coverage of burial costs, an income tax reduction for at least one year, tax breaks on survivors' post-death home sales and child care, generous veteran's preferences for federal (and often state and local) civil service jobs, VA educational benefits for both surviving spouses and children, some military "space-available" travel and premium-free **Tricare** health coverage (see [www.osd.Tricare.mil](http://www.osd.Tricare.mil) for details) of survivors for at least 3 years (and in any case they can alternatively get virtually identical, premium free, lifetime **CHAMPVA** health coverage instead of Tricare in the very unlikely event that Tricare coverage ends), *plus* many other applicable VA and even *state* veteran survivor benefits. See the CHAMPVA pages at [www.VA.gov](http://www.VA.gov), [www.osd.Tricare.mil](http://www.osd.Tricare.mil), <http://www.moaa.org/benefitsinfo/default.asp>, "Armed Forces Tax Benefits" at [www.irs.gov](http://www.irs.gov) and *state* veterans' offices listed at [www.NASDVA.org](http://www.NASDVA.org) for details.

### **Vocational Rehabilitation and Job Placement**

In addition to the quite well-known VA educational benefits for college (which won't be addressed here), the VA also offers vocational rehabilitation and related job training, education and placement services to those who get compensation for service-connected disabilities. Vocational rehabilitation services can include job readiness counseling, career evaluation, job placement, career and on-the-job training, and, in some cases, even payment for college courses.

Those in a full-time program received benefits of up to about \$474.27 monthly in 2004 (with an additional \$114.03 for one dependent, \$104.95 *more* for a second dependent and \$50.54 *still more* for each additional one; 2009 rates may well be higher on account of the 5 yearly cost-of-living increases likely made since then), and the VA can also cover books, fees, transportation, tutoring and other related costs. Generally, VA vocational rehabilitation programs must be completed within 48 months; in exceptional cases, an additional 18 months are allowed. In some instances, living allowances over and above compensation and pension levels may be authorized.

Once a veteran successfully completes a vocational rehabilitation program and is successfully and gainfully engaged in full-time work for one to 12 months, compensation and/or pension benefits can be ended; priority medical care eligibility continues, however.

## **Filing Applications for VA Benefits and Appealing Denials**

Application forms for VA pensions, compensation, medical care and education benefits are available at VA hospitals, clinics, outreach centers and Regional offices and at [www.VA.gov](http://www.VA.gov) and can be downloaded and printed off that site. (One can even fill out applications and apply on-line at [www.VA.gov](http://www.VA.gov).) To apply for medical care, visit the “Eligibility Office” at any VA hospital (listed at [www.VA.gov](http://www.VA.gov)) in person, bringing one’s DD Form 214, identification, birth and marriage certificates for all family members, written proof of family income and assets and health insurance papers. Applications for pensions, compensation and other benefits are ordinarily made by mail to the VA Regional Office (locate the nearest one at [www.VA.gov](http://www.VA.gov)).

Help with applications and appeals is available from *state* veterans’ agencies for free (see [www.NASDVA.com](http://www.NASDVA.com)). In addition, “service representatives”---sometimes professional staff, but more often middle-aged and older veteran volunteer specialists, from groups like the American Legion ([www.legion.org](http://www.legion.org)), the Veterans of Foreign Wars ([www.VFW.org](http://www.VFW.org)), the Disabled American Veterans ([www.DAV.org](http://www.DAV.org)), and the Vietnam Veterans of America ([www.VVA.org](http://www.VVA.org))---have work space to counsel veterans at, in or near many VA Regional Offices and almost all VA hospitals. Ask for the “service representative”. And the website [www.vctassist.org](http://www.vctassist.org) offers free information and forms downloads on disability and survivor pensions for wartime veterans and spouses.

Some veteran advocates feel that the expertise of state veterans’ advocates and service representatives isn’t sufficient for more complex cases or those requiring assembly of detailed medical data and histories. More difficult applications and appeals might be handled---for those who qualify as poor enough---by those few local legal aid offices that are skilled with VA benefits. But sadly, few legal aid offices *are* skilled or experienced with VA benefits.

Yet hiring a *private* or *paid lawyer* or *advocate* for yourself during the application and the administrative appeals process was until recently almost impossible because of **a post-Civil War federal law which forbids lawyers or anyone else from charging more than \$10 to help with veterans’ benefit cases**. This law was passed to prevent widespread, serious abuses in the late 19<sup>th</sup> century. However, if one does lose one’s final administrative appeal at the Board of Veterans’ Appeals, a long-standing exception to this law does allow one to then pay a lawyer *regular*--and higher-- fees to appeal further to the US Court of Veterans’ Appeals and beyond.

In addition, the Veterans Benefits, Healthcare and Information Technology Act of 2006 recently authorized the hiring of privately-paid attorneys and other advocates for fees *above* the \$10 ceiling to represent veterans at and during the VA’s administrative appeals process as well as at the court level beyond it---that is, once veterans do formally request such appeals (i.e., but *not* at or during the initial application process). This change in the law was elaborated on in more detail by amendments to Volume 38, *Code of Federal Regulations*, Parts 14, 19 and 20, published May 22, 2008 in the *Federal Register*.

These regulations allow fees charged by attorneys and other advocates who've met VA standards for administrative appeal and also subsequent Court of Veterans Appeals (i.e., further appellate) representation to be charged on a fixed fee, hourly rate or percentage of past due benefits basis, or a combination thereof. Fee agreements can provide for direct payment by the VA to attorneys and other representatives of the allowable fees they charge. The VA will presume that fees which exceed 33 1/3% of past due benefits are unreasonable unless an attorney or representative proves to the VA with clear and convincing evidence that the case's difficulty or expense merits such higher charges. See 38 *Code of Federal Regulations* 14.63 and 14.637 for details on allowable appeal representation fees and expenses.

To locate such *paid* lawyers and other advocates specializing in VA appeals, contact the National Organization of Veterans' Advocates at (877) 483-8238 (see its website at [www.vetadvocates.com](http://www.vetadvocates.com)) or--for attorneys alone, since lay advocates, of course, can't practice law in the courts-- the Court of Veterans Appeals at (800) 869-8654. Even if a veteran has no money, it is often possible under the new regulations for a veteran to hire a lawyer or other qualified representative on a "contingency" basis (the lawyer or lay representative gets a percentage, up to 33 1/3 %, of any back-due benefits, if he or she wins the case appeal [s], and nothing if he or she loses it).

To get detailed instructions yourself for how to fill out a veterans benefits application and assemble medical evidence (especially for compensation, pensions and DIC dependents' payments) get a copy of "The Vietnam Veterans of America's *Guide on VA Claims and Appeals* from <http://www.vva.org> or by calling (301) 585-4000. Soldiers seriously wounded in combat can get free, expert, special advocacy help with enrolling for all benefits from the joint Army- and VA-sponsored Disabled Soldier Support System (DS3), on the web at [www.armyds3.org](http://www.armyds3.org) ; or by calling 800-833-6622.

In addition, to strengthen and/or raise the rating percentage for a service-connected compensation claim, complete a *Veteran's Application for Increased Compensation Based on Unemployability*, Form 21-8940; see <http://www.vba.va.gov/pubs/forms/21-8940.pdf>; if the link doesn't work, go to [www.VA.gov](http://www.VA.gov), then to Compensation, then to "Forms", then to "Forms series 21- " to find it. This "Individual Unemployability" or "IU" provision is often useful for raising disability ratings of only 60%, 70%, 80% or 90% to a full, and much more lucrative, 100%--- which can be above what they'd otherwise be, on the medical evidence alone, for those who've been largely unemployable because of, or after suffering, their service-connected impairment. (By 2005, over 200,000 veterans had their ratings artificially raised to 100% in this way, bringing them over \$4 billion more in added, "extra" compensation payments. As a result, by late 2005 the Bush White House, the VA and the then-GOP-chaired Congressional veterans' committees began studying ways to limit such "extra", possibly "undeserved", compensation amounts.) And while on its face Form 21-8940 isn't ordinarily used for wartime *non*-service-connected disability *pension* claims too, submitting it with a pension claim that's based only on an otherwise insufficient, less-than-100% -ratable disability or one that's hard to prove or shaky certainly can't hurt.

Generally, a denial of benefits or medical care eligibility--- or complaints about medical care quality or the timeliness or adequacy of medical specialty referrals--- must be appealed within one year of the denial to the VA Regional Office (see [www.VA.gov](http://www.VA.gov) for locations). But at any

given time, this VA appeals system is overwhelmed and backlogged with hundreds of thousands compensation, pension and DIC income benefit appeals which often take two or more years to decide. (This is because medical care complaints are handled by the very same slow and overcrowded appeals system as the income benefits cases.)

By law, veterans' access to VA medical care is ranked by statutorily-defined "Priority Groups" (1 through 8). Patients are served *only subject to the law's prioritization* and care access, as a matter of basic reality, is constrained by the (limited) funds appropriated by Congress. Priority Group 5, 7 and 8 patients have many others who have priority before them---"service connected" disabled veterans, former prisoners of war, Medal of Honor winners, the "catastrophically disabled", recent returnees from combat zones and so on. This means that long waits for care, or specialty referrals, or lack of wide provider choices-- and other medical "amenity" standards that would ordinarily be applicable within a *civilian entitlement* medical care program context-- simply *don't* have traction in the VA system. Again, VA care is prioritized, space-available care and *not* an entitlement! Moreover, even *valid* legal claims against the VA for substandard or negligent care are seriously limited or prohibited by the legal doctrine of sovereign immunity. These realities mean that appeal rights---while they do *nominally* apply to medical care as well as other VA benefits---don't always offer timely or adequate redress.

### **VA Death and Burial Benefits *Other Than* Income, Life Insurance, Education and Health Coverage**

The VA provides free burials and gravesites to any honorably- or generally-discharged active duty veteran, his or her spouse or widow(er) or minor child at several dozen national cemeteries across the country and at dozens of *state* veterans' cemeteries. Burials are done on a space-available basis; gravesites are no longer available at Arlington National Cemetery, except for high officials, highly decorated veterans and certain other notables, and in much of California. However, niches for cremated remains are available everywhere. Free VA markers and (if permitted in that particular cemetery) full-size headstones for veterans *are* provided, and these can include not only the name and life dates, but also certain military decorations. The VA pays to transport the remains to a gravesite *only if* the veteran died in a VA hospital.

In 2007, the VA paid about \$132 toward non-government headstones and up to about \$300 for plots in private cemeteries, *but only for* service-connected disability compensation recipients, "wartime" veterans or any other veteran otherwise entitled to a burial allowance. It paid about \$300 for burial plots to survivors of disability payment recipients or survivors of *any* veteran dying in a VA hospital---and \$2,000 for burial of 100% disabled service-connected veterans.

The VA also drapes a deceased veteran's casket with an American flag (which is then ceremonially folded and presented to the next of kin) and arranges for a military honor guard, a gun salute and the blowing of *Taps* by a bugler at graveside. In the early 1990s, the manpower-short military services tried to reduce the size of honor guard contingents, substitute honor guards from Reservist or ROTC squads for military units and even use tape-cassette recordings of *Taps* rather than live buglers. An outcry from veterans groups and Congress stamped out most of these "economies". But such cutbacks can and will return if military commitments reduce available manpower---as was shown when the Army had to send even members of its elite

Arlington Cemetery ceremonial burial unit (widely seen in historical newsreels from President Kennedy's 1963 state funeral, with its quite striking horses, flags, caissons, funeral march music, buglers, swords, dress uniforms, cadences and gun salutes) as reinforcements to Iraq in 2003.

Finally, the VA arranges for a letter signed by the President thanking the deceased veteran's next of kin, or a friend, for his or her service to the nation. For benefits for those dying on active duty, also see <http://www.moaa.org/benefitsinfo/default.asp> , [www.VA.gov](http://www.VA.gov) and "Armed Forces Tax Benefits" at [www.irs.gov](http://www.irs.gov).

### **Additional State Benefits For Veterans, Dependents & Survivors\***

Surprisingly, almost all *states* not only offer free advocacy help for federal VA benefits to their residents; all of them *also* provide *their own, separate state veterans' and veterans' survivor benefits as well!* These vary enormously from state to state---often depending upon whether a veteran is service-connected disabled, the percentage of the disability, wartime or combat service, or whether a veteran suffers from, or dies of, war-, combat-, or service-connected causes, or was decorated.

They can include: free or reduced cost fishing, hunting, camping, boating, drivers' or professional licenses; free or discounted state park, fair or museum admission; free, reduced fee and/or specially-marked auto license plates; free cemetery interment or burial allowances; exemption from, or reductions in, state income taxes or even local real estate or personal property taxes; free or reduced tuition in state colleges\* and vocational training courses; other loans, grants or scholarships for veterans, children and spouses of disabled or deceased veterans; rights to reside for free or at low rates in state veterans' residences and nursing homes; home mortgage, or home or car disability adaptation assistance; extra state payments to disabled, blind, combat, wartime or decorated veterans; waivers of some or all real estate transfer or courthouse fees; and a host of other miscellaneous benefits. Illinois offers state-subsidized *Veterans Care* health coverage (with a \$40 monthly premium and small co-pays) to many of its non-service-connected, non-"catastrophically disabled", non-dishonorably-discharged Priority 8 veterans who've been uninsured for at least 6 months and who aren't eligible for VA, Medicare, Medicaid, state FamilyHealth or employer health benefits; while Maryland offers something of a health care access guarantee too. Massachusetts (\$1,000, plus \$2,000 continuing annuities for some), New Hampshire (\$100 to Iraq & Afghanistan veterans), Pennsylvania (\$150 continuing monthly pensions to some fully disabled veterans), South Dakota (\$500), Vermont (\$120 to in-country Vietnam veterans) and perhaps other states offer one-time or even continuing payments to those who've served on active duty in Iraq, Afghanistan and/or other war zones (and Massachusetts even also gives \$500 to *non*-conflict-zone veterans). Minnesota, Nebraska, North Dakota, Pennsylvania and perhaps other states offer grants (or, instead, loans on very easy terms) for rent, mortgage, utilities and other living costs to low income disabled veterans facing financial crises.

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\* Wisconsin grants free tuition and fees at *state* colleges to active duty veteran-residents who enlist from, and are discharged back home to, the state. Alabama, California, Massachusetts (possibly only for its own National Guard-activated war zone veterans), New York, Pennsylvania, Texas, West Virginia and other states do so too; while Kentucky, Michigan and perhaps other states also do so for spouses, children and survivors of disabled veterans.

To find out which states offer which of this wide range of benefits (and, of course, most states offer far less than the full potential range of them) contact staff at state veterans' agencies, which are listed with their telephone numbers and (where available) websites at [www.NASDVA.org](http://www.NASDVA.org) or [www.NACVSO.org](http://www.NACVSO.org). State *education* benefits (i.e., free or reduced tuition at state colleges, etc.) are summarized at [www.military.com/veterans-report/state-vetern-benefits](http://www.military.com/veterans-report/state-vetern-benefits) .

### **Other Benefits for Veterans, War Zone Service Military and Activated Guardsmen and Reservists**

The commercial website [www.veteransadvantage.com](http://www.veteransadvantage.com) , for an annual membership fee of \$19.95, offers a wide range of retail discounts---including 15% or more off Amtrak fares. Call 1-866-838-7392 for Amtrak details. The Disabled American Veterans ([www.DAV.org](http://www.DAV.org) ), the Paralyzed Veterans of America ([www.PVA.org](http://www.PVA.org) ), the American Legion ([www.legion.org](http://www.legion.org) ), the Veterans of Foreign Wars ([www.VFW.org](http://www.VFW.org) ) and the Vietnam Veterans of America ([www.vva.org](http://www.vva.org) ) offer a wide range of benefits and various discounts to their members, dependents and survivors.

Activated Reservists and Guardsmen have Congressionally-mandated return-to-work, fringe benefit, seniority and durational retirement accrual rights with their civilian (including public) employers; see <http://www.abanet.org/legalservices/reservists/home.html> about legal rights---and many employers, including the US Postal Service, at least 29 state governments, numerous local government bodies and more than 500 private firms, supplement military pay up to civilian pay levels (if higher) and even extend employer health coverage (see [www.esgr.org](http://www.esgr.org) and its “Outstanding Employers” listing).

Aliens serving, or alien veterans who have served, honorably in the armed forces (or activated Reserves or National Guard) *and their civilian dependents*--- even if they weren't originally admitted legally to the United States---are given an accelerated legalization (“green card”) status; enjoy all available military and VA benefits; are eligible for *all other* domestic benefit programs, *including* even all those ordinarily denied to illegal or even certain *legal* aliens; and enjoy swifter citizenship processing (which is often immediate and posthumous for those dying in combat).

Affiliated, private non-profit organizations like Army Emergency Relief ([www.aerhq.org](http://www.aerhq.org) ), the Air Force Aid Society ([www.afas.org](http://www.afas.org)), the Navy-Marine Corps Relief Society ([www.nmcrrs.org](http://www.nmcrrs.org)), And the Coast Guard Mutual Association ([www.cgmahq.org](http://www.cgmahq.org)) offer a wide variety of social services and counseling-- plus emergency financial assistance for rent, mortgage, utilities, medical care, funerals and other basic needs-- to active duty service persons (including activated Guardsmen and Reservists), career and disability retirees and their families and survivors.

Operation Hero Miles ([www.heromiles.org](http://www.heromiles.org) ) transfers donated airline frequent flyer miles to combat-area, overseas military personnel to fly them from U.S. military reception airports (there are only 3) to their homes for family emergencies and any R & R (rest and recreation) leave they otherwise might have to pay for themselves; its donated miles are also available for needy family members' travel to visit hospitalized service persons; check the website for other, related uses being developed. Non-profit Fisher Houses ([www.Fisherhouse.org](http://www.Fisherhouse.org) ) offer free lodging to relatives visiting wounded and ill service persons and veterans at many military and VA hospitals across the nation. Regular military, National Guard and Reserve persons sent to war

zones or called for active duty can get free (except for veterinary care) foster care for their pet dogs, cats and birds through [www.NetPets.org](http://www.NetPets.org) . The USO ([www.USO.org](http://www.USO.org) ; yes, the same organization that sponsored all those Bob Hope shows for the troops over the years and was fictionalized in the Bette Midler film *For the Boys*) promotes free telephone calling cards for overseas troops; another group, Cell Phones For Soldiers ([www.cellphonesforsoldiers.com](http://www.cellphonesforsoldiers.com) ), does so too-- and also distributes cell phones themselves—for those serving in Iraq.

## **VA’s Unique and Different Income-Counting Principles and Methodology**

In counting income for VA medical care and pension eligibility, the VA---at least in theory---counts *the last year’s* income (either the last full calendar year or the last full year before the date of application---it’s not precisely clear which). This includes using 5% of the *last* calendar year’s *basic* family-sized pension level as the threshold deduction amount to calculate what the remaining portion of medical expenses is that can be deducted from income as unreimbursed medical expenses (UME) in order to calculate the *current* year’s wartime disability pension payment. But, conversely, the VA uses the *current* year’s child earnings disregard in counting income for *this* year’s medical care or pension eligibility.

VA pension and medical care income eligibility levels---and thus the current year’s pension payment levels---are expressed and calculated on the last year’s *annual* income , rather than the *current, monthly* basis that’s generally (with some exceptions) used by other needs-based programs like welfare, SSI, Medicaid and food stamps---and which are thus more familiar to benefit advocates and ordinary citizen applicants. Nevertheless, in practice VA enrollment and eligibility clerks quite often routinely accept and count documentation of *current, monthly* earnings or Social Security benefits when poor and working class veterans apply (after all, the poor and many others do well just to gather and submit written proof even of their *current, monthly* income; documenting their *last year’s* income on an annualized basis is often quite beyond them). Hence, the VA’s alien, curious and off-putting insistence on calculating and expressing pension benefits on a *yearly* basis is in practice made more comprehensible for ordinary citizens and advocates by its actual use of *monthly* benefits payment amounts.

Moreover, the VA has its own separate eligibility terminology---and not just in its unique, but still fairly-understandable, terms such as “service-connected”, concepts such as being disabled by only a partial *percentage* of full capacity or referring to asset eligibility levels as “net worth”. It also does *not* use such familiar terms as “income disregards”, “countable income”, “income eligibility level” or “resources” (an often-used synonym for assets in welfare programs), even though these have long helped make SSI, Medicaid and welfare eligibility comprehensible.

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### **Sidebar: VA and Related Information Numbers**

**VA Benefits.....800-827-1000**

VA Life Insurance.....800-669-8477  
 VA Educational Benefits & Loans...800-326-8276  
 CHAMPVA.....800-733-8387  
 Tricare.....800-538-9552 [www.osd.Tricare.mil](http://www.osd.Tricare.mil)  
 Headstones & markers.....800-697-6947  
 Persian Gulf Helpline.....800-PGW-VETS  
 Summaries of *State* Benefits for Veterans.... [www.NASDVA.org](http://www.NASDVA.org)  
 Support services for military families.....<http://www.mfrc-dodqol.org>  
 Military service personnel locators.....[http://www.mfrc-dodqol.org/wordfiles/Military\\_Personnel\\_Locator\\_Information.doc](http://www.mfrc-dodqol.org/wordfiles/Military_Personnel_Locator_Information.doc)  
 Summaries of most military service, VA and other benefits for those leaving active military service or the Reserves or National Guard ... [www.transionalassistanceprogram.com](http://www.transionalassistanceprogram.com)

Sidebar: **2009 Amounts: Wartime Needy Disabled Veterans' & Survivors' Pension**  
 (The VA rounds benefit payments *down* to the next lower dollar in making payments.)

Single Veteran:	\$985.83	monthly
Veteran + 1 dependent:	305.25	more monthly
Each additional dependent:	168.33	more monthly
Aid and Attendance:	658.83	more monthly
Housebound:	218.91	more monthly
Surviving spouse:	\$666.08	monthly
Spouse + 1 dependent:	204.33	more monthly
Each additional dependent:	168.33	more monthly
Aid and Attendance:	395.66	more monthly
Housebound:	146.91	more monthly

“Net worth” (assets) cannot exceed one lived-in home and one vehicle of any value, and \$80,000 in other property, savings and investments.

In 2009, the first \$9,350 of a child’s yearly earnings are not counted.

Sidebar:

#### Regional Priority Group 8 Income Levels

(Those with income and/or “net worth” (countable assets) *over* these levels are in Priority group 8; those with income under these levels but *above* the Priority Group 5 levels listed below are in Priority Group 7.)

Priority Group 8 minimum income levels---which serve as the income *ceiling* of eligibility for Priority Group 7 and which vary by family size, *by county, and by state*---are listed at [www.VA.gov](http://www.VA.gov) , under “Health”, then under “Eligibility” and finally under “GMT

Thresholds". For 2009, the GMT income levels to be used are those listed for the prior year, 2008.

Sidebar:

**VAMedical Care Income Levels and Co-Payments [2009] for Low Income Veterans—Priority Group 5**

(Those with income under these levels are in Priority Group 5; those with income over these levels are in Priority Group 7—or if high enough---even Priority Group 8.)

*One veteran:*

**Income under \$2,450.25 monthly (\$29,403 per year)**

*Veteran + 1 dependent:*

**\$490.16 more monthly (\$5,882 more per year)**

*Each additional dependent*

**\$168.33 more monthly (\$2,020 more per year)**

**\$8.00 co-payment applies to each 30-day prescription for Priority 5 (low income) veterans. *This is the only co-payment for Priority 5 veterans.***

**The first \$9,350 of a child's yearly earnings are not counted in 2009.**

**"Net worth" (assets other than household goods, a lived-in home of any value and one vehicle of any value) must be under \$80,000.**

Sidebar:

**VA Co-Payments for Priority 7 Veterans  
(2009)**

*First 90 days/year of inpatient hospital care:* \$204.80 + \$2.00 / day

*Additional 90 days/year of inpatient hospital care:* \$102.40 + \$2.00 / day

*Each "preventive care" medical encounter:* \$0

*Each "primary care" medical encounter:* \$15.00

*Each "specialist care" medical encounter:* \$50.00

*Each 30-day supply of prescription drugs:* \$8.00

**Priority 7 uses the same child earnings exemption and "net worth" assets rules as Priority 5 (see above entry).**

Sidebar:

**VA Co-Payments for Priority 8 Veterans  
[2009]**

*First 90 days/year of inpatient hospital care:* \$1,068 + \$10.00 / day

*Additional 90 days/year of inpatient hospital care:* \$534.00 + \$10.00 / day

*Each "preventive care" medical encounter:* \$0

*Each "primary care" medical encounter:* \$15.00

*Each "specialist care" medical encounter:* \$50.00

*Each 30-day supply of prescription drugs:* \$8.00

Veterans with income or “net worth” (assets) over the Priority 7 levels are placed in Priority Group 8.

Sidebar:

### **What Counts As “Wartime” and How Long Must One Have Served?\***

**World War II (12/7/41-11/01/46)**

**Korean War (6/27/50 - 1/31/55)**

**Vietnam War (8/5/64 - 5/7/75)**

**Other recent and current wars (9/2/90 - present)**

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- While only a tiny handful of World War I (1917-21), Russian Expedition (1918-21) or Mexican Border Action (1916-1918)—and *no* Spanish-American War (1898) and Philippine Insurrection (1898-1902)—veterans survive in 2008, thousands of their widows and children do, as do hundreds of the children of veterans of the last Indian Wars (which ended just before 1900). But history buffs will also recall not only almost continual Indian wars dating from the first settlements, but also a long series of colonial, frontier, border, naval, slavery-related, interventionist, foreign, World, Cold, anti-Communist and Anti-Terrorist wars since then. They all produced veterans, widows and children. Indeed, so many thousands of them claimed veterans benefits from the very earliest days that otherwise-obscure claims on forms, or in letters, diaries and narratives, buried in federal, colonial, state, Revolutionary and even European archives have become rich sources for early, poorly-documented American military history. (“I need a pension because I never really recovered from the frostbite I got paddling General Washington across the Delaware that night; the attached statements from my Continental Army comrades recall the details well...”; “My late husband’s disability began with his artillery wounds during Pickett’s Charge at Gettysburg, leaving him medically unemployable until he finally died of them and left me a now-destitute widow, as shown by the recollections of his Union Army comrades which I enclose....”). ***In fact, it’s been estimated that as many as half of all Northern white (not including post-1865 immigrants) families--and almost as high a percentage of all U.S. black families--received veterans’ payments for Civil War service during the late 19<sup>th</sup> and early 20<sup>th</sup> centuries! This now-forgotten, but truly enormous, “welfare” program—financed by heavy tariff taxes, with much looser (even slipshod) eligibility rules than today’s VA programs and strongly championed, expanded and defended by an otherwise conservative Republican Party—helped the GOP dominate US politics from 1865 until 1932.*** (In fact, the giant Gilded Age “Pension Building” in Washington, DC---so huge that it now amply hosts Inaugural Balls for thousands of guests—was where, in serried ranks, hundreds of green-eye-shaded government clerks processed and issued *many millions* of Union veteran payments until the 1930s. The last surviving Civil War pensioner widow—who wed a much older Union veteran as a very young bride in the 1920s—lived until 2002, while about 10 now-very-elderly “helpless adult children” of Union veterans still receive pensions today.).

*Note that the Lebanon occupations (1950s or 1980s), the Cuban Missile Crisis, the Bay of Pigs, Grenada, Panamá, Central America and Libya do not qualify as “wartime”; conversely, Iraq, Afghanistan, Kosovo, Bosnia, Somalia, Haiti and Rwanda do qualify (because Congress hasn’t yet ended the Gulf, Bosnia, Kosovo, Afghanistan, Terrorist or Iraq Wartime periods).*

**Remember, even one day of “wartime” active duty service (out of an active duty total of at least 90 days or two years), an honorable or general discharge, and a non-service-connected present total disability can qualify a veteran for a pension if he or she is poor enough—even if s/he never physically entered the war zone.**

## Sidebar:

To get any VA benefits, those first enlisting after September 7, 1980 must, in addition, serve at least 24 months’ total active service *unless*:

1. They were activated Reservists or National Guardsmen who honorably or generally served out their *full* activated tour, *even if it was less than 24 months* (for a pension, the 90 days’ active service time minimum and one-day-of-wartime rules still also apply; but medical care eligibility only requires meeting the 180 days’ active service time minimum *or* being found service-connected disabled).
2. They got early honorable or general discharges *before* completing 24 months’ service because of hardship or disability, if *expressly* mentioned in discharge papers (again, the 90 days’ minimum and one-day-of-wartime rules still also apply for pensions; but medical care eligibility only requires meeting the 180 days’ active service time minimum *or* being found service-connected disabled).

## Sidebar:

### The VA’s Disability Rule for HIV:

“...[For purposes of a pension and 100% compensation]...HIV-Related Illness ...[is]...AIDS...with recurrent opportunistic infection or with secondary diseases afflicting multiple body systems; HIV-related illness with...debility...and progressive weight loss, without remission, or few or brief remissions...”

---38 Code of Federal Regulations, Part 4, Subpart B, Section 4.88a, #6531

## Sidebar:

### VA Pensions and Unreimbursed Medical Expenses: An Example [2009]

Martin, a 100% *non-service-connected* wartime now-disabled veteran with severe, medically documented mobility problems, receives \$1,300 monthly in SSDI; \$96.40 is deducted from that check for Medicare Part B coverage. His wife Audrey, who has no health insurance, earns \$1,000 but needs \$300 worth of anti-depressants each month. Their minor son Herbie uses \$200 of insulin, syringes and diabetic supplies, and he earns \$300 monthly doing odd jobs. They spend \$200 monthly getting to medical care (subway, bus, taxi, gas, oil, tolls, parking).

Their regular, *basic* VA pension level would be \$1,459.41 (\$985.83 for Martin, plus \$305.25 for Audrey and \$168.33 for Herbie), plus a \$658.83 “Aid and Attendance” allowance because of Martin’s immobility---for a *grand* total pension level of \$2,118.24 *potentially* payable to this family. But the family’s income is \$2,300 (Martin’s \$1,300 in SSDI plus Audrey’s \$1,000 salary—but *not* counting Herbie’s \$3600 yearly earnings [\$300 monthly X 12 months ] because it’s less than the \$9,350 of a child’s earnings that’s exempted yearly for 2009). So at first they look to be “too rich” for any pension payment at all.

But under the UME rule, all income over \$68.96 (which is 5% of *last year’s 2008 basic* family-of-3 pension level, but *not* counting the extra allowance for Aid and Attendance) that gets spent on medical care isn’t counted in figuring the family’s pension payment. Since the family is spending \$796.40 monthly on medical care--- including Martin’s \$96.40 Medicare Part B premium, \$200 for transportation to medical care and *even* the medical costs of Audrey (\$300) and Herbie (\$200) ---they are allowed to deduct \$727.44 (the \$796.40 in medical costs minus the \$68.96 UME threshold level for a veteran with two dependents) from their income of \$2,300 before it is compared to the current 2009 *total* pension level.

This leaves a total *countable* income of \$1,572.56. This is less than the *current* 2009 *grand* total pension level (now *including* the \$658.83 that’s payable in 2009 for Martin’s Aid and Attendance) of \$2,118.24 which is potentially payable to this family by \$545.68. **This \$545.68 (rounded down to \$545.00) therefore becomes the net total monthly VA pension payment in this case---**a pension amount that the family could not otherwise get at all without disregarding that portion of family income to be spent on “unreimbursed medical expenses”, or “UME”.

**2009 UME Threshold Deduction Amounts, Yearly and Monthly**

(5% of *prior* year’s --2008’s--basic family-sized pension level *without* A & A or Housebound increments)

Single veteran	\$559.00 yearly	\$46.58 monthly
Veteran + one dependent	+173.10 <i>more</i> yearly	+14.43 <i>more</i> monthly
Each additional dependent	+95.45 <i>more</i> yearly	+7.95 <i>more</i> monthly

**STATE VETERANS BENEFITS ADVOCACY AGENCIES**

*These state—not federal-- agencies provide free, expert help to state residents in applying for--- or appealing denials of--- VA compensation, pensions, medical care and other benefits. In all but the smallest states, there are branch offices to assist veterans in local communities. Some larger states offer in-state 800-number service; ask your information operator to check under the state—not federal—government listings. For a complete, nationwide and updated listing of addresses, telephone numbers, websites and email addresses see [www.NASDVA.com](http://www.NASDVA.com) , (the National Association of State Directors of Veterans Affairs) or [www.NACVSO.org](http://www.NACVSO.org) ,(the National Association of County Veterans’ Service Officers).*

**Sidebar:**

## **What Conditions Qualify as “Catastrophically Disabled”?**

(Veterans with the conditions described in the following excerpts from VA policy issuances--- ***even if they’re non-service-connected and no matter how high their income or assets—can apply and qualify for treatment in Priority Group 4.*** But their copayments for treatment of *non-service-connected* conditions---unless they’re rated 30% or more service-connected, in which case only the \$8 drug copayment applies---would be those of Priority Group 5, 7 or 8, depending on which Priority Group their income and assets would otherwise ordinarily place them in. Again, this is true ***even if*** their income and/or assets place them in Priority Group 8---from whom *ordinary* applications currently aren’t being accepted. HR 6445, which passed the House in 2008, but still awaits Senate action, would prohibit the VA from imposing *any* co-pays on Priority 4 “catastrophically disabled” non-service-connected veterans.)

**Department of Veterans Affairs Veterans Health Administration Washington, DC 20420**

**VHA DIRECTIVE 2004-067 November 22, 2004**

### **CATASTROPHICALLY DISABLED VETERAN EVALUATION**

**1. PURPOSE:** This Veterans Health Administration (VHA) Directive issues policy for the clinical evaluation and, as appropriate, placement of eligible veterans determined to be catastrophically disabled into Priority Group 4.

#### **2. BACKGROUND**

a. The "Veterans' Health Care Eligibility Reform Act of 1996", Public Law 104-262 required the Department of Veterans Affairs (VA) to establish and operate a system of annual patient enrollment and created seven Priority Groups. The "Department of Veterans Affairs Health Care Programs Enhancement Act of 2001," Public Law 107-135 subsequently expanded the seven priority groups to eight with Priority Group 8 having the lowest priority.

b. Priority 4 status is given to veterans who are in receipt of increased pension based on a need of regular aid and attendance or by reason of being permanently housebound, and other veterans who are catastrophically disabled as determined by VHA. Benefits of Priority 4 inclusion include elevation of the veterans' existing enrollment priority status and the opportunity to enroll and receive VA healthcare services for those who may otherwise be ineligible due to a Priority Group enrollment restriction.

(1) Veterans are considered to be catastrophically disabled who have a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living to such a degree that the individual requires assistance to leave the home or requires constant supervision to avoid physical harm to self or others as defined by Title 38 Code of Federal Regulations (CFR) Section 17.36 (e).

.....

c. Effective January 17, 2003 VA restricted the enrollment of Priority 8 veterans applying for enrollment on or after that date. Veterans currently enrolled in Priority Groups 5 through 8, or those

potentially not eligible for enrollment based on the enrollment decision, may continue to apply for enrollment into Priority 4 based on being catastrophically disabled.

**3. POLICY:** It is VHA policy to provide a Catastrophically Disabled Veteran Evaluation within 35 days of request.

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*NOTE: To request a Catastrophically Disabled Veteran Evaluation, veterans may call the Health Benefits Service Center, a toll free number, 1-877-222-VETS (-8387), or the enrollment coordinator at their local VA medical center. Movement from a lower priority group to Priority Group 4 does not change the veteran's applicable co payment responsibility.*

.....

**ATTACHMENT A**

**DEFINITION OF CATASTROPHICALLY DISABLED**

1. Catastrophically disabled (CD) means to have a permanent severely disabling injury, disorder, or disease that compromises the ability to carry out the activities of daily living (ADL) to such a degree that the individual requires personal or mechanical assistance to leave home or bed or requires constant supervision to avoid physical harm to self or others.

2. A veteran may meet the initial CD requirement by a:

a. Clinical evaluation of the patient's medical records that documents that the patient previously met the criteria set forth in following paragraph 3 and continues to meet such criteria (permanently), or would continue to meet such criteria (permanently) without the continuation of on-going treatment; or

b. Current medical examination that documents that the patient meets the criteria set forth in following paragraph 3 and will continue to meet them, or would continue to meet such criteria (permanently) without the continuation of on-going treatment.

3. This definition is met if an individual has been found, by the Chief of Staff (or equivalent clinical official) at the Department of Veterans Affairs (VA) facility where the individual was examined, to have a permanent condition specified in following subparagraphs 3a, 3b, or 3c:

a. One of the permanent diagnoses taken from website:  
<http://vaww.va.gov/vhaopp/report01/reportO Lhtrn> (see "View CD Diagnoses"):

.....

One of the following **permanent diagnoses**:

(1) Quadriplegia and quadriparesis (International Classification of Diseases – 9<sup>th</sup> edition-Clinical Modification (ICD-9-CM) Code 344.0 xs: 344.00, 344.01, 344.02, 344.03, 344.04, and 344.09).

- (2) Paraplegia (ICD-9-CM Code 344.1).
- (3) Blindness (ICD-9-CM Code 369.4).
- (4) Persistent vegetative state (ICD-9-CM Code 780.03). . .

.....

### 3b. Procedure Codes or V Codes:

- (1) Amputation through hand. (ICD-9-CM Code 84.03, or V Code V49.63, or CPT Code 25927).
- (2) Disarticulation of wrist. (ICD-9-CM Code 84.04, or V Code V49.64, or CPT Code 25920).
- (3) Amputation through forearm. (ICD-9-CM Code 84.05, or V Code V49.65, or CPT Codes 25900 and 25905).
- (4) Disarticulation of forearm. (ICD-9-CM Code 84.05, or V Code V49.65, or CPT Codes 25900 and 25905).
- (5) Amputation or disarticulation through elbow. (ICD-9-CM Code 84.06, or V Code V49.66, or CPT Code 24999).
- (6) Amputation through humerus. (ICD-9-CM Code 84.07, or V Code V49.66, or CPT Codes 24900 and 24920).
- (7) Shoulder disarticulation. (ICD-9-CM Code 84.08, or V Code V49.67, or CPT Code 23920).
- (8) Forequarter amputation. (ICD-9-CM Code 84.09, or CPT Code 23900; there isn't a V Code).
- (9) Lower limb amputation not otherwise specified. (ICD-9-CM Code 84.10, or V Code V49.70, or CPT Codes 27880 and 27882).
- (10) Amputation of great toe. (ICD-9-CM Code 84.11, or V Code V49.71 or see CPT Codes 28810, 28820) **NOTE:** *The CPT codes do not delineate the "great" toe as does ICD-9-CM so a medical review of the record is needed to confirm the amputation was of the great toe.*
- (11) Amputation through foot. (ICD-9-CM Code 84.12, or V Code V49.73, or CPT Codes 28800 and 28805).
- (12) Disarticulation of ankle. (ICD-9-CM Code 84.13, or V Code V49.74, or CPT Code 27889).
- (13) Amputation through malleoli. (ICD-9-CM Code 84.14, or V Code V49.75, or CPT Code 27888).
- (14) Other amputation below knee. (ICD-9-CM Code 84.15, or V Code V49.75, or CPT Codes 27880 and 27882).
- (15) Disarticulation of knee. (ICD-9-CM Code 84.16, or V Code V49.76, or CPT Code 27598).
- (16) Above knee amputation. (ICD-9-CM Code 84.17, or V Code V49.76, or CPT Codes 27590 and 27592).
- (17) Disarticulation of hip. (ICD-9-CM Code 84.18, or V Code V49.77, or CPT Code 27295).
- (18) Hindquarter amputation. (ICD-9-CM Code 84.19, or CPT Code 27290; there isn't a V Code).

**OR**

b. A condition resulting from two of the International Classification of Diseases, 9<sup>th</sup> Edition, Clinical Modification (ICD-9-CM) procedure codes, or associated V codes when available, or Current Procedural Terminology (CPT) codes provided the two amputation procedures were not on the same limb. These codes can be found at the following website:  
<http://vaww.va.gov/vhaopp/report01/report01.htm> (see "View CD Diagnoses").

**OR**

c. One of the following permanent conditions:

(1) Dependent in three or more ADLs; i.e., eating, dressing, bathing, toileting, transferring, incontinence of bowel and/or bladder, with at least three of the dependencies being permanent with a score of 1, using the Katz scale. *NOTE: The Katz Index of ADL assigns a maximum of 18 points across all six ADLs. The most dependent rating on each ADL is a 1, and an intermediate\_functional limitation is a rating of 2, with independence rated as 3. To be catastrophically disabled, the veteran must have a rating of 1 on a minimum of three permanent ADLs. For example, a veteran dependent in all ADLs would have a total Katz score of 6.*

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*Similarly, a veteran dependent in three ADLs and needing less assistance in three other ADLs would score 9.*

(2) A score of 10 or lower using the Folstein Mini-Mental State Examination (**MMSE**). *NOTE: The MMSE has a maximum assignment of 30 points across eleven measures. A score of less than 10 is consistent with severe cognitive impairment. To qualify for CD status, there must be documentation in addition to the MMSE score of 10 or lower, showing that the patient has a permanent cognitive impairment. To show that the impairment is permanent, the reversible causes of cognitive impairment need to be ruled out. A common example is a delirious patient who may score very badly on the MMSE, but improve once the source of delirium is treated. It is also important for evaluators to remember that a low MMSE score by itself is not diagnostic (i.e., it is not specifically diagnostic of dementia), but it is an indication of cognitive impairment that warrants further evaluation.*

(3) A score of 2 or lower on at least four of the thirteen motor items using the Functional Independence Measure (FIM). *NOTE: The FIM contains eighteen measures in six domains. The thirteen motor items are in four domains: self-care; sphincter control; transfers; and locomotion. The scores across all these domains range from needing a helper because of complete dependence (score of 1 for total assistance and a score of 2 for maximal assistance), with intermediate scores 3 through 5 for modified independence, to scores 6 or 7 when no helper is needed. To be CD, the veteran must have a score of 2 or lower on at least four permanent conditions of the thirteen motor items using the FIM.*

(4) A score of 30 or lower using the Global Assessment of Functioning (GAF). *NOTE: The*

*Diagnostic and Statistical Manual of Mental Disorders, Fourth Edition (DSM-IV), p. 32, except that VHA only includes scores from 1 to 100, excluding 0 (insufficient information).*

(a) GAF is a 100-point scale divided into ten defined levels, with higher scores indicating a higher overall level of functioning. For example, the Description of the GAF level 21 to 30 is as follows: "Behavior is considerably influenced by delusions or hallucination or serious impairment in communication or judgment (e.g., sometimes incoherent, acts grossly inappropriately, suicidal preoccupation) or inability to function in almost all areas (e.g., stays in bed all day, no job, no home or no friends)."

**(b)** GAF is to be used only to reflect psychological, social, and occupational functioning. Impairment in functioning due to physical illness or environmental limitations are not to be taken into consideration in using this scale. The scale rates both functioning and, particularly in the higher ratings, the severity of symptoms due to a mental disorder. Using GAF for documenting the CD may be only done in the context of a mental disorder considered to be of a permanent nature. For example, a patient with a serious suicidal attempt might well rate a score under 30, but generally within a few days or weeks will return to a much higher level both symptomatically and functionally.