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## WARNING FOR VETERANS AND THEIR FAMILIES WHEN SEEKING IMPROVED PENSION - AID and ATTENDANCE CARE BENEFITS

### Purchasing Annuities, Gold and Financial Products is Not the Answer

For most veterans, the idea of collecting a pension benefit from the military does not seem like a real possibility, unless the veteran suffered a service connected disability. However, there is a veteran's pension benefit program available to all veterans, and their families, which is available to pay for un-reimbursed home health and medical expenses and the un-reimbursed cost of assisted living. This program is called the "Aid and Attendance Program" ("AA") and does not require a service connected disability. **The purpose of this bulletin is not to provide a comprehensive explanation of the program but to briefly explain the pension benefit and WARN Veterans and their families that there are companies that are taking advantages of Veterans and the surviving spouses of the veteran.** These companies claim to be providing "educational seminars" to the public, however their motive is to sell some type of financial product such as an annuity and sometime even gold to the family of the veteran. In fact there are some companies that use the word "Veterans" and "American" in their company name which in reality are sometimes an assumed name for a financial planning firm.

**WARNING:** Recently and over the last several years individuals have formed various companies stating their main goal is to "help" our veterans, but their true agenda is anything but. Many of these individuals regardless of their affiliations or backgrounds repeatedly contact Assisted Living and Independent Living facilities offering to put on "free informational seminars" educating the general public as to what they may be missing out on. The fact of the matter is these individuals have surfaced as "Financial Advisors" and are using their "free informational" presentation and a confusingly similar name appeared to be linked to a legitimate Veterans organization to market and sell annuities and gold which are unsuitable to the Veteran and their families. Not only are these investments not suitable but they are not necessary and in most cases extremely detrimental to the Veteran and their families. *These organizations also suggest the Veteran give away most of their assets without considering any of the tax consequences or devastating Medicaid qualification penalty if their health should worsen and the Veteran would need a nursing home.*

***Veterans and their families should understand that it is never necessary to purchase a financial product to qualify for Aid and Attendance benefits. Veterans and their families are encouraged to seek the advice of an Accredited Veterans and qualified elder law attorney.***

Eligibility for the AA Program. In order to be eligible for the AA Program, a veteran must have served 90 days on active duty with at least one day during wartime, and must have been discharged under conditions other than dishonorable. Additionally, the veteran must be “permanently and totally disabled” though the disability need not be service connected. The specific periods of Wartime Service are:

**WWI:** April 6, 1917 to November 11, 1918

**WWII:** December 7, 1941 to December 31, 1946

**Korean Conflict:** June 27, 1950 to January 31, 1955

**Vietnam Era:** August 5, 1964 (February 28, 1961, for veterans who served “in country” before August 4, 1964) to May 7, 1975

**Gulf War:** August 2, 1990 - TBA

The term Permanently and Totally Disabled means that a veteran must require “care or assistance on a regular basis,” which protects him or her from dangers of a daily living environment. The term can be established by showing the veteran: is blind, has a visual impairment; is a patient in a nursing home or hospice facility because of mental or physical incapacity; is unable to dress or undress or keep himself or herself clean and presentable; needs adjustments to any special prosthetic, orthopedic appliance, or is not able to attend to the prosthetic, or appliance; or has a physical or mental incapacity (dementia) that requires assistance on a regular basis to protect the veteran from the hazards of his or her environment. Furthermore, it is generally presumed that a veteran who is residing in an assisted living facility does meet one, or more, of the aforementioned conditions. The current AA monthly pension benefits are: Veteran & Spouse: \$1,950; Veteran: \$1,645.00 and the Surviving Spouse of a Veteran: \$1,057.00.

Un-reimbursed Medical Expenses. Un-reimbursed medical expenses are generally defined to include the costs associated to health and Medicare insurance premiums, prescriptions drugs, dental and vision care, and expenses related to an assisted living facility, and in-home care aid, and/or adult day care. Net Worth Valuation. Finally, assuming a veteran, and/or his or her spouse, has tentatively qualified for the AA monthly pension benefit, the final test is to fulfill the qualification process related to the net worth of the applicant. With the exception of the applicant’s home, an automobile, traditional household furnishings and personal property, which are treated as non-countable, veterans assets cannot exceed the amount necessary to pay for their medical costs. In other words the asset limit is a formula that calculates the expenses both medical and household and multiplies the shortfall by the veterans life expectancy. There is an unwritten asset limit that is commonly referenced and maintains that a single veteran could have \$40,000 in assets and married couple could have \$80,000.00 . However, if the veteran is aged and therefore has a shortened life expectancy then these numbers may be significantly reduced. Unfortunately, some of the groups in the community advertising that they are helping veterans with eligibility for the program are not considering all the factors when evaluating a veteran's income and assets.

AA Pre-Planning. The Veterans Administration only looks at the applicant’s net worth at the time of the actual AA application. At this time, since there is no penalty period for the transfer of assets prior to the time of the application, it is fair to conclude that with

proper planning, just about any veteran, and/or his or her spouse, can qualify for a monthly AA pension benefit. Even though there is no penalty, transferring assets to qualify for this benefit may have other negative effects when planning for Long Term Care. Many of these organizations will suggest and encourage gifting assets to the children. Once again this should only be done if there is a complete understanding of all the risks. Medicaid Benefits. With the Medicaid program having stricter rules and regulations regarding asset transfers than the Veterans AA Program, it is very important that Veterans and their families engage a Veteran accredited and qualified elder law attorney when developing a Long-Term Care Plan. **For instance, transferring assets to qualify for AA Benefits could result in a 5 year ineligibility for Medicaid benefits.**

Attorney Accreditation. The United States Department of Veterans now requires attorneys to be accredited in order to represent or advise a Veteran on eligibility requirements relating to improved pension benefits. The purpose of the new rules of the VA's accreditation program is to ensure that claimants for VA benefits receive qualified assistance in preparing and presenting their claims.

**BEWARE: Some companies have exploited veterans by charging inflated costs for filing the application, sold inappropriate products as a means of achieving eligibility, and have provided inaccurate and incomplete advise which has resulted in some veterans having to pay back the Veterans Administration for inaccurate claims. Beware of these groups and seek a second opinion.**

This article/bulletin is authored by the Elder Law and Disability Rights Section of the State Bar of Michigan. For more information please contact Don L. Rosenberg chair of the section at [rosedr@brmmlaw.com](mailto:rosedr@brmmlaw.com) or 248-641-7070.

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