2012 VA HEALTH, INCOME AND OTHER BENEFITS

By Thomas McCormack 3/10/12

Most Americans aren't aware of benefits which are available to *all* active military service veterans – and especially disabled veterans -- and they and the benefits due them are too often overlooked. 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 the periods that the VA defines as " wartime" (see page 31)--- *even if they never actually entered the war zone*---**can receive pensions for ***non***-service-connected disabilities (that is, even disabilities ***not*** arising from the time in service) if their incomes and assets are below certain levels. In 2012, the pension level for a single veteran without dependents is up to $1,021.33 [+] monthly and additional amounts are added and paid for invalids and those with dependents. But see the sidebars below for more details about pension income levels, for the officially-recognized (and therefore qualifying) "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 needs-based welfare program**: those with low enough assets, and *countable* income below the applicable pension amount, receive pension payments to bring them up to that pension level. Thus, all other countable income -- ***except*** needs-based welfare payments such as Supplemental

[+] 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.

Security Income (SSI), State Supplementary Payments (SSP) added by many states to SSI, Temporary Aid to Needy Families (TANF, formerly AFDC) welfare, state Temporary Disability Assistance (TDA) welfare, state General Assistance (GA) welfare and state Home Relief (HR) welfare, as well as the value of Medicaid, other needs-based medical benefits, and food, housing and energy assistance -- reduces the pension payment dollar-for-dollar, and if the other income is high enough, it prevents any pension eligibility at all. (SSI and SSPs are *welfare* programs for the needy aged & disabled; they're *distinct* from "regular" Social Security (SSDI & OASDI), which is an *earned insurance* payment based on wages on which one paid "FICA" work payroll taxes.)

Veterans' spouses' and even their minor children's own, separate assets and income—if they're sharing a common household with the veteran—are counted together with the veteran's own. But, in 2012, the first $9,750 a year of a minor *child's* earnings are disregarded.) Allowable assets—or "Net Worth" as the VA calls it—originally included one lived-in home and one vehicle of any value; and $80,000 in savings, investments, retirement funds and the value of other real estate, other vehicles and boats—but, beginning in 2010, the VA began much more flexibly applying its "Net Worth" asset test *for both pensions **and** medical care*., and no longer relies literally on the former hard-and-fast $80,000 level **(see the regulations at 38CFR3.275 and the VA's policy issuance M21-1MB, Part V, Subpart iii, 1. J68).** 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 the House Veterans' Committee, searchable at 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 the 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) currently by the VA under its disability regulations.—even if from a malady that started ***after*** dis*charge*. (But financially eligible veterans over age 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—with far less clinical detail explication— 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. Disability is determined by VA review of veterans' submitted military and even *non*-military medical records, physician statements, military records, written testimonials from military and civilian colleagues, co-workers and supervisors, 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 minors or as 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--got a VA pension until her own death in

2002. In May, 2003, former VA Secretary Principi stated on C-SPAN that about 10 long-grown-up, but then-quite-old, disabled "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 $682.58 monthly in 2012 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, standing, getting in or out of bed, housekeeping, dressing, grooming, bathing, toileting, eating, meal preparation, errand, communication, social interaction, mental acuity, chore capabilities and other basic Activities of Daily Living (ADLs). Those who receive extra "Aid and Attendance" payments---while they're intended for paying 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---$226.66 monthly in 2012--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 types of 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 and get excellent layperson-friendly advice and guidance on navigating the application process for both veterans' wartime disability pensions and survivor pensions---and "Aid and Attendance" (A & A) add-on payments for both—at www.veteranaid.org (which has a *very* comprehensive, extremely detailed and quite complex website).

If their other VA-countable income is low enough, wartime veteran and their widow(er)s can even use Pension and Aid and Attendance increments to help pay for---or, if necessary, to help Medicaid pay for---nursing home, home and community based service or home attendant care (see pages 37 and 38).

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, rent from roomers and boarders etc. (Again, though, in 2012 up to $9,750 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, formerly AFDC), General Assistance, state Temporary Disability Assistance, Home Relief, food stamps, the value of Medicaid-paid 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 other welfare programs 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, food stamps, housing, energy or welfare applicants. These other welfare programs shouldn't ever count the "Aid and Attendance" and "Housebound" add-ons to pensions as *anyone's* income**:** they're exempted from being counted because they're grants to cover medical care purchases rather than income *per se*. Where this comes up, it often requires one to painstakingly explain (even with verification documents or notes one may have

to ask for and get from the VA) the dependent portion of basic pension checks and the "A & A" and "Housebound" payments and their purpose to get SSI, SSPs, Medicaid, food stamp, housing and home energy assistance 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 other welfare programs *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 or her 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 $9,750 yearly in 2012. 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 now, or is to be, spent on such medical-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 & mileage); premiums for Medicare and any other health insurance; care, services or drugs not provided by or through—and to be paid for out-of-pocket in cash---other health coverages or Medicaid; and ***even in most cases medical costs of non-veteran family members.***

For a single veteran in 2012, this means that other, ordinarily countable, income over $49.29 monthly, which is 5% of the *prior* year's (i.e., 20***11***'s) 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 (except possibly those with income and/or assets well into the upper middle class or wealthy ranges) 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, regardless of income or assets, with *no* co-payments is guaranteed to those with service-connected disabilities above 50%, former prisoners of war, those with what the VA has defined as "catastrophic" conditions, and *any* veteran (whether or not he or she has a service-connected disability) for at least two years after he has served 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, outpatient prescription drugs, home health care, pensions with Aid and Attendance increments for invalids and even nursing home care (those with 100% service-connected disabilities have first priority for nursing home care; those with lesser service-connected disability ratings (of 60% to 70%) have second priority; and those with *no* service-connected disability have last priority; space and financial limits almost always limit the availability of VA-paid nursing home care to those with 100%---or at least 60% to 70%-- service-connected disabilities, although others are at least *theoretically* eligible as lesser priority cases; see pages 37 and 38 for details).

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 (see http://www.gao.gov/cgi-bin/getrpt?GAO-03-487). Besides hospitals, there are hundreds of freestanding VA outpatient clinics; www.VA.gov lists locations in 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 & 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 VA patient identification 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

[*] 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 . Provide one's full name (including maiden name for women who later married), birth date, 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 many of the only known copies of many records stored prior to that date.

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 private, 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*** be given free or low co-pay prescriptions--then and there at the VA's in-house pharmacy---that the VA physician orders.

Assume a veteran moves from one area of the nation to another---and, in particular, if he or she (perhaps only nominally or temporarily) moves from one area to another to avoid long waits in his or her own home area (e.g., to take advantage of shorter waits for the initial intake exam and primary care team assignment in a less-crowded area) for Priority 5, 7 or 8 non-service-connected veterans' health care. The move to the new area does not mean that he has to re-enroll all over again and ***again*** face a long wait for his initial intake exam and assignment to a "primary care team". When an already-enrolled, already-examination-intaked Priority 5, 7 or 8 non-service-connected veteran moves to a new area, he need only appear 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 system. 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 sometimes are, weeks or even possibly months even in the busiest VA hospitals and clinics.)

To cope with recent years' crowding, the VA issued regulations to give first priority in scheduling intake examinations to those veterans who have *service-connected*, VA-recognized disabilities; others, including those whose disabilities are *non*-service-connected (even if only recognized by Social Security), have a secondary priority. Yet until recent years Congress has appropriated ***huge*** increases for the VA health budget and may continue to do so. Higher VA health budgets were once popular with both parties: Conservatives almost always favored such "military"-type expenses; while liberals know well that the VA cares for the poor, the disabled and the elderly. But by 2011, GOP Members of Congress began to question the rising VA budget.

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; and those who served in war zones within the last two years, *even if* they're otherwise *in*eligible 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 that can be presumptively considered service-connected; in particular, Vietnam, First Gulf War (1990-91) and Iraq (1998-) and Afghanistan (2001-) War veterans with Gulf War Syndrome and other designated conditions that can be presumptively considered service-connected (see Pages 16, 17 and 18 below for the latest listings).
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 or $9 prescription co-payments, 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 3 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" by reason of income, for care of a *non*-service-connected condition, *if he's rated 30% or more service-connected disabled*.

So even service-connected and other Priority 1 through 3 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 co-payment schedules (but, if they're *very* poor, the *prescription co-payment exemptions* mentioned below might apply to them too) for treatment of *non* service-connected conditions. Any co-payments due (and in particular, any overdue, total co-payment debt) can be waived on grounds of "equity and good conscience" by hospital fiscal officers (see amendment to 38CFR17.05 in the 4/20/2004 *Federal Register*). Since May, 2010, all Priority Group 4 veterans have ***no*** co-payments at all (***even*** for prescription drugs), whether for treatment of service-connected *or even for* ***non***-service-connected conditions.

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

Bad conduct, dishonorable, less-than-honorable or undesirable military discharges, and "too-early" or other discharges that need to be rewritten to more clearly reflect that they were actually for hardship or disability reasons---which may now unfairly prevent eligibility for VA health care, pensions, compensation or other benefits--- can be changed by applying to each military

service's discharge review board. The website www.usmilitary.about.com offers clear, concise explanations and instructions for doing so, with relevant forms and addresses. For attorneys and other professional advocates who need more exhaustive information, the National Veterans Legal Services Program (www.nvlsp.org) sells a good 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 written on VA prescription forms which they then fill at the VA for $8 or $9!***

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 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.

But, for now, the VA still maintains its requirement that, in general, VA-issued prescriptions can only be written by VA physicians for those veterans whom 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.

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 then pay or are later billed by mail for their $8 (for Priority Groups 2, 3 and 5) or $9 (for Priority

Groups 7 and 8) co-pays. 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 faces in distinguishing, Solomon-like, between care for service-connected and other *non*-service-connected 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 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 at all. Patients pay their billed co-pays by mailing back checks or money orders. But those who become seriously delinquent may have to make on-site, up-front cash co-pays for future prescriptions.

The VA, as a 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.

And the VA can, and often does, allow prescriptions to be refilled more times than is allowed at "civilian" pharmacies. Patents 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 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 even fill those signed by a state-licensed *physician* at private, commercial pharmacies.

One nice advantage of the VA system is that it issues "prescriptions" (at the often-attractive "bargain price" of only an $8 or $9 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 MD prescriptions to buy them at civilian drug stores.

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 2012, the VA pays or reimburses---subject to a deductible of $3.00 per one way trip/ $6.00 per round trip, which is waived for the rest of a month after deductibles applied during that month total to $18.00---at a rate of 41.5 cents per mile. Rates can be somewhat more for those scheduled for *repeat* ratings exams--- and deductibles can even 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 $3.00 and $6.00 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), 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 living in *very* remote areas (e.g., the Alaska "bush", Hawaii's Neighbor Islands, parts of the Mountain States and many US overseas territories) and need to travel to distant VA or other medical facilities---if they're ambulatory and don't need medical care on route—may also be eligible for free air transport from Angel Flight America (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 classically 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 or even by simply writing a letter. But in 2012 appeals are backlogged by many hundreds of thousands and typically take at least a year or two to be resolved. Hence, the VA appeals system just isn't timely enough to offer minimally-prompt help with medical care quality and access 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 right in VA hospitals—although what skills they have are more often focused on Pensions and Compensation questions); Patient Advocates and Ombudsmen are on staff in VA hospitals just as they are in civilian hospitals and handle complaints about treatment and quality of care; and VA hospitals' own Social Work staff in each medical department offer treatment-related supportive counseling and services to *all* VA patients, including *even* those treated by *out*patient 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 parts of the Mountain States and 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 that may be 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 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 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 care, the veteran, his family, his legal representative or the non-VA facility's staff 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 authorized and covered 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)] authorized 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 & 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) – needing 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 and replacements is determined by the audiologist or eye care specialist.

*Yet in spite of this directive, the VA website www.VA.gov (accessed 12/14/09 and since then) **quite contradictorily** states that eyeglasses and hearing aids are provided* **only** *to **service-connected** veterans, to former prisoners of war and to some other very 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, Wal-Mart, CVS, Walgreen's, Dollar Stores, Rexall, Rite-Aid and Eckerd's actually sell off-the-rack, ready-to-wear eyeglasses, in a wide variety of differing strengths (e.g.,"+1.00" to "+3.50"), for reading and driving at far better prices ($15 or so--or even much less-- a pair vs. what could be as much as $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 them---but then they'll likely also try to sell one their own more costly "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 ones may apply, but ***only within 90 days of discharge*** from active duty, to get dental care that wasn't completed during active duty. Often, the VA then authorizes and pays for care with private dentists it contracts with. However, Section 513 of the 2010 Caregivers and Veterans Omnibus Health Services Act authorizes a 3 year pilot program to assess the feasibility of offering all veterans---even non-service-connected ones--VA-sponsored dental insurance (to be *paid* for by veterans' premiums).

Those not eligible for VA eye care might contact the Seniors' Eyecare Program (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 , United Way affiliates www.unitedway.org , Salvation Army chapters www.salvationarmyusa.org and, ***above all***, the Lenscrafters' Gift of Sight Program (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 offers vouchers to purchase eyeglasses to those it finds eligible.

The American Academy of Otolaryngology (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.com) groups. For dues-paying "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; 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 for

data on states' Medicaid coverage of these services. In addition, the report "State of Decay" at 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; 303-573-0264) organizes dentist volunteers to give free dental care to poor disabled persons in at least 32 states. With long waiting lists, almost all dental schools offer heavily discounted, very low-fee dental care by student dentists whose work is closely supervised by dental professors. The American Dental Association (www.ADA.org; 312-440-2500) has a list of all American dental schools 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 routine care for adults over age 18, which most don't offer---about 70% of federally-supported low income health clinics do so for free or for heavily discounted fees (but they have *very* long waiting lists). There's a list of such local clinics at www.hrsa.gov . Other, *non*-federally-funded low income clinics might (but it's less likely) also offer dental care; see their state-by-state lists at www.freeclinics.us. Also, local health departments will know of any other local low income dental clinics. Check the website of the Association of State & Territorial Dental Directors (www.astdd.org) for data on dental assistance programs in each state and a list of state dental directors, who have even more details about resources in their states. Call individual clinics first about dental care availability.

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

In 2012, single non-service-connected veterans with annual incomes below $30,460 yearly, or $2,538.33 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. ($6,701.40 *more* yearly---$558.50 *more* monthly---is allowed for one dependent and $2,093 *more* yearly---$174.42 *more* monthly---is allowed for each additional one; here, too, in 2012 the first $9,750 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, savings, investments, other real estate, etc. (but in 2010 the VA began more flexibly applying the $80,000 "Net Worth" asset level for medical care; see page 28). 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 *(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, 3, 5 and 6 veterans' prescription co-payments can be suspended for the rest of the year once they incur $960 of such charges in 2012—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 conditions. In addition, ***all* veterans with incomes under the *prior* year's applicable basic pension level (so, for example, in 20*12*, that would be 20*11*'s $985.83 monthly pension level for a single veteran, plus $305..25 *more* for those with one dependent and $168.33 *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* for prescriptions; 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 reduced income to request that their records be corrected to now exempt them from drug co-payments.

Debts owed to the VA for co-pays can be waived on grounds of "equity and good conscience" by hospital fiscal officers (see amendment to 38CFR17.05 in the 4/20/04 *Federal Register*).

VA 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 ceiling 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 (but in early 2010 the VA began much more flexibly applying its originally-hard-and-fast $80,000 "Net Worth" asset eligibility level for medical care; see page 28). The special 2-years-of-service minimum for those who first enlisted after 9/7/80 applies 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 $231.20 for some or all of the first 90 days of inpatient hospital care in 2012 (and $115.60 plus $2 per night for many subsequent inpatient hospital stays within 2012) and, since 2010, $9 per monthly prescription supply---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, any payments collected from the insurance to the VA for the care are counted off the amount the veteran must pay in co-payments. See the chart below of VA medical care co-payments for Priority Group 7 veterans.

VA 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; but here, too, the VA in early 2010 began more flexibly applying the originally hard-and-fast $80,000 "Net Worth" asset eligibility level for medical care; see page 28) *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' ABOVE this income level are now in Priority Group 8 !
Priority 8 patients must make co-payments of $9 per prescription, $15 to $50 per outpatient physician encounter, $1,156 plus $10 per night for some or all of the first 90 days of inpatient

hospital care in 2012 and $578 plus $10 per night for many subsequent hospitalizations during 2012. Here, too, any private health insurance which a veteran has is billed, and then, any payments the VA receives from the insurance, are counted off what he owes it for co-payments.

But 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.** Yet newly-applying "richer" veterans who'd now be classified as Priority 8 who are determined by the VA to have "catastrophic disabilities" (even *non*-service-connected ones; see the sidebar below) can *still* become eligible in Priority Group 4. And even those *without* such catastrophic disabilities who *had already enrolled* and originally qualified for Priority Groups 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 Group 8.

But then, President Obama, in his 2008 election campaign, pledged to revoke the 2003 Bush Administration regulation banning enrollment of most Priority Group 8 non-service-connected veterans--and Congress, in the Fiscal Year 2009 VA appropriation bill, authorized funding for re-opening Priority Group 8 enrollment; so the VA issued regulations (pages 22832-22835 in the May 15, 2009 *Federal Register* amending 38 *Code Of Federal Regulations* 17.36) opening Priority Group 8 enrollment to those whose incomes are *up to 10% above* the applicable 20***11*** Priority Group 7-Priority Group 8 income level divide (formally known as the 20***10*** GMT [Geographic Means Test] Threshold levels appearing in the Health Enrollment and Eligibility pages at www.VA.gov). Moreover, the statutory and regulatory wording that liberalizes Priority Group 8 enrollment has the additional, further-liberalizing and surprisingly pleasing effect (whether intentional or not) of **totally dropping** the Net Worth (asset) test for those veterans in the liberalized Priority Group 8 category (also see page 28).

Also, Section 515 of the Caregivers and Veterans Omnibus Health Services Act, which became law in May, 2010, bars the VA from imposing *any* co-pays at all (even for prescription drugs) on any Priority 4 ***non***-service-connected veterans, *even if* they'd otherwise financially merit the co-pays of the Priority Group they'd ordinarily be assigned to based on their income or assets alone.

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---which is what generates the well-known, huge VA appeals backlog. But veterans who can demonstrate any percent of *service-connected* disability are entitled to lifetime tax-free monthly payments.

In 2012, single veterans can get monthly service-connected compensation awards for disabilities that cause *partial* incapacity in increments of 10% ($127), 20% ($251), 30%

($389), 40% ($560), 50% ($797), 60% ($1,009), 70% ($1,272), 80% ($1,478) or 90% ($1,861)---and, of course, at a *full 100%* ($2,769).

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 wounds, cut or abrasion healing deficiencies, peripheral neuropathy, poor circulation, cardiovascular and kidney problems, etc.; for details, enter "Agent Orange" in the "search" box at www.VA.gov and then read the diabetes discussion in the material that comes up).

Current tracheal, laryngeal, bronchial and lung cancers; Parkinson's Disease; ischemic heart disease; B-cell leukemias; Chronic Lymphocytic Leukemia; acute and sub-acute peripheral neuropathy; AL Amyloidosis; Chloracne (or similar acneform disease); Hodgkin's Disease; Multiple Myeloma; Non-Hodgkin's Lymphoma; Porphyria Cutanea Tarda; prostate cancer; and soft tissue sarcomas (other than osteosarcoma, Chondrosarcoma, Kaposi's Sarcoma or Mesothelioma) of in-country Vietnam War veterans can be presumed to be service-connected due to exposure to Agent Orange. The same presumption, for service-connected disability purposes, also applies even to veterans who served in Korea from April, 1968 to July, 1969.

Veterans of the 1990-91 First Gulf War--and now *any* conflict or war-zone-related assignment---who presently have ALS (Lou Gehrig's Disease) are *automatically presumed* to have a 100%, full service-connected disability (for details, enter "ALS" or "Lou Gehrig's Disease" in the "search" box at www.VA.gov).

In 2004, the VA also began automatically presuming multiple sclerosis in Vietnam and post-Vietnam war zone veterans as being service-connected (for details, enter 'multiple sclerosis" in the "search" box at www.VA.gov). The more elusive, hard-to-diagnose-and-document "Gulf War Syndrome" conditions of those who served in the First Gulf War, the Iraq or the Afghanistan Wars' combat zones in many cases can also merit compensation awards---as can some cirrhosis cases.

On September 28, 2010, the VA issued a regulation adding the following conditions as presumptively disabling for veterans who've served in Southwest Asia and Afghanistan: brucellosis, campylobacter jejuni, Coxiella Burneti (Q fever), malaria, Mycobacterium tuberculosis, Nontyphoid salmonella, Shigella, Visceral leishmaniasis and West Nile virus.

Nevertheless, presumptive eligibility for these conditions does not mean automatic eligibility: some medical proof or documentation---and, as always, a VA ratings examination—is generally required too.

Those veterans rated at **30% or more *service-connected*** disabled can have *dependent allowances*---which rise with the percentage of disability-- added to their compensation payments, and, if they medically qualify for it, the compensation program's *own* Aid and Attendance and Housebound enhancements (benefits with similar qualification rules, but distinct from, that for pensioners), which of course requires submission of medical documentation and a

VA ratings examination. In addition to basic dependent increments for spouses and up to $46 or more each child who is in school or helpless and under age 18 for veterans rated 30% or more, the compensation program for them also pays a monthly increment of up to $173 or more for each child *over* 18 if attending attending college or trade school--- again, with rates rising with the percentage of disability. Spouses of 100% service-connected disabled veterans who qualify for Aid and Attendance *themselves* can get up to $99.

See the Rate Tables under "Compensation and Benefits" at www.VA..gov for details. In addition to the above payments, in 2012 veterans rated fully or 100% service-connected disabled (and perhaps, in some cases, even those rated only 60% to 70%) may qualify for **monthly Aid and Attendance payments for themselves of up to $2,002, up to $2,893 (if they need and get such services daily from by someone licensed to provide such services, or others working under a licensed health care professional's supervision) and up to $2,993 (if permanently housebound).** See 38 USC 1114 (r); 38 CFR 3.350 and VA Claims Manual M21-1MR for more exhaustive legal details for A &A for such eligible compensationers. 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), Substance Abuse, HIV/AIDS & "Illegal" Activity

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** , **www.vva.org** , **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* (it doesn't for *pensions* either). But underlying psychological disabilities that might give rise to alcoholism or drug addiction as symptoms *are* compensable: 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. Yet, in practice, only those illegal activities which are facially quite obvious---or are (foolishly) voluntarily *admitted to* by a service person still on active duty (and so officially recorded) , or by an already-discharged 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 20 years 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 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. The VA once estimated 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, adjudicate-ed, 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 where and when"; " I used to see lots of (female) prostitutes"; "I should have known that 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 does *not* 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 insurance 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 or civilian federal employees, 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* (i.e., past medical expenses can't be covered). But, again, note that **CHAMPVA** is ***only*** for dependents and survivors of ***100%*** *service-connected* disabled compensationers: Even though living veterans with as low as ***30%*** service-connected disability ratings can get dependent income allowances added to their compensation checks, they ***cannot*** thereby qualify dependents for CHAMPVA. It's also important to note that disabled wartime **pensioners'** (as opposed to **compensationers'**) *dependents & 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) deduction 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.) For a single surviving spouse widowed after 1993, the monthly payment is $1,195 in 2012; $296 *more* is paid for each dependent child. An additional increment of $254 *more* is paid in 2012 to the surviving spouse if a married veteran lived with her or him at least 8 years before his or her death while, or as a result of being, 100% disabled; or at least 5 years before his or her death after he or she became so disabled; or at least one year before his or her death if he or she 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 $296 for their own Aid and Attendance-- or $139 if Housebound-- for themselves in 2012. In addition to the above amounts, the Veterans Benefits Improvement Act of 2004, HR 3936, pays *still another, extra $251 DIC increment* for the first two years after the DIC initial award date where a surviving spouse has one or more minor dependent children (and $505 each month for helpless child[ren]). The DIC program, like that for Pensions, makes a "helpless adult child" payment (and gives lifetime CHAMPVA coverage) to grown, 100% disabled children first incapacitated as minors (which, of course, also requires submission of medical records and VA ratings exams), *even after* the deaths of the veteran and that child's surviving parent. See the Compensation and DIC Rate Tables at 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

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

Veterans being discharged have the right to retain life insurance policies of up to $400,000 in 2012, 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 term Veterans Group Life Insurance (VGLI) policies 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. 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.

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 at all---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 or accelerated—but, of course, they can still provide well for beneficiaries after death.

The premiums for SDVLI are very, very low (for example, it was only about $45 monthly for a male aged 55 for the additional $20,000 in 2011), 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). 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 & child care, generous veteran's preferences for federal (and often state & local) civil service jobs, VA educational benefits for both surviving spouses & children, some military

"space-available" travel & premium-free **Tricare** health coverage (see 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 unlikely event that Tricare coverage ends), *plus* many other VA and even *state* veteran survivor benefits.

See the CHAMPVA pages at www.VA.gov, and also check www.osd.Tricare.mil for Tricare, the benefits pages at www.moaa.org , "Armed Forces Tax Benefits" at www.irs.gov and *state* veterans' offices listed at 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 enrolled full-time in post-secondary education or in non-farm work vocational or job training programs received benefits of up to $547.54 monthly in 2009 (with an additional $132 for one dependent, $121 *more* for a second dependent and $58 *still more* for each additional one), and the VA can sometimes 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.

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 and can be downloaded and printed off that site. (One can even fill out applications and apply on-line at www.VA.gov.) To apply for medical care, visit the "Eligibility Office" at any VA hospital (listed at 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).

Help with applications and appeals is available from ***state*** veterans' agencies for free (see 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), the Veterans of Foreign Wars (www.VFW.org), the Disabled American Veterans (www.DAV.org), and the Vietnam Veterans of America (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 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, paid lawyer* or *advocate* for yourself during the application and administrative appeals processes was until recently almost impossible because of **a post-Civil War federal law which forbids anyone from charging more than $10 to help with veterans' benefit cases.** This law was passed to prevent widespread, serious abuses in the late 19th 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 thus quite 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 has since authorized the hiring of privately-paid attorneys and other (qualified lay) 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 levels beyond it, in the case of attorneys), that is, once veterans *do* formally request such appeals (but still *not at or during the **initial** application filing 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, in the case of lawyers, 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 (from newly-won past due income benefit awards) 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 lay 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) 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], but nothing at all if he/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. Those wounded in combat can get free,

expert, special advocacy help in applying for benefits from the joint Army- and VA-sponsored Disabled Soldier Support System (DS3) at 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, 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 thus artificially raised to 100% in this way, bringing them over $4 billion more in added, "extra" compensation payments. As a result, the Bush White House, OMB and GOP-chaired Congressional veterans' committees had begun studying ways to limit such "extra", supposedly "undeserved", compensation amounts.) And, while on its face, such an unemployability claim isn't ordinarily to be used for wartime veterans' *non*-service-connected disability *pension* claims too, submitting it with a pension claim that's based only on what would otherwise be an insufficient, less-than-100% -ratable disability or one that's hard to prove or shaky certainly can't hurt—and may even actually help..

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 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 many months or even 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've been awarded 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! In fact, 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 & Burial Benefits *Besides* Income, Life Insurance, Education & 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, etc., and in much of California. But niches for cremated remains are available everywhere. Free VA markers and (if permitted in that particular location) full-size headstones for veterans *are* provided, and these can include not only name and life dates, but also certain military decorations. The VA pays to transport the remains to a gravesite *only if* the veteran is service-connected disabled, pension-eligible or died in a VA hospital.

In 2012. the VA pays $137 toward non-government headstones and up to $300 for burial expenses and up to a $700 for plots/internments in private cemeteries, *but only for* service-connected disability compensation recipients, "wartime" veterans, any veteran dying in a VA hospital, veterans with VA claims pending at death or any other veteran otherwise entitled to a burial allowance. But it only *directly provides, but doesn't make payments to survivors or their vendors for* headstones or markers in any cemetery---the limit is the same $700 for burial expenses and up to the same second $700 allowance for plot/interment costs in non-VA cemeteries-- for *any* veteran (even if non-service-connected) who meets VA medical care eligibility criteria (except for the income and Net Worth tests). It pays up to $2,000 for burial of 100% disabled service-connected veterans (but possibly only for burial and internment in *non*-VA cemeteries, since VA cemeteries, of course, provide the burial and related services at no charge in such cases). Apply for burial benefits with VA Form 21-530 (download it from www.VA.gov), attaching the veteran's DD 214 and burial bills.

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 (apply for this with VA Form 21-208) 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 regular, active 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 may well return if military commitments reduce available manpower---as was shown when the Army had to send even some 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). For an update on current, improving services, see *"Small Agency, Big Task: National Cemetery Administration Works To Ensure Dignity of Military Burials"* in the 11/11/10 issue of the Washington *Post* (p. A4).

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 (apply for this with VA Form 40-0247). For benefits for those dying on active duty, also see http://www.moaa.org/benefitdsinfo/default.asp , www.VA.gov and "Armed Forces Tax Benefits" at www.irs.gov.

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

* 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

Surprisingly, almost all ***states*** offer free advocacy help for VA benefits to their residents; most *also* provide *their own, separate* ***state*** *veterans' and veterans' survivor benefits as well!* These greatly vary from state to state---and often depend on 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, auto titling and registration and license plate fees; other license 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 Family Health 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 served on active duty in Iraq, Afghanistan and/or other war zones (Massachusetts also even gives a $500 payment to *non*-conflict-zone veterans). Minnesota, Nebraska, North Dakota, Pennsylvania and perhaps other states offer grants (or loans on very easy terms, with low or no interest) for rent, mortgage, utilities and other living costs to low income disabled veterans facing financial crises.

To find out which states offer which of this wide range of benefits (of course, most states offer far less than the full potential range of them) contact staff at *state* (not federal) veterans' agencies; they're listed with their phone numbers and (if available) websites at www.NASDVA.org or www.NACVSO.org. Non-VA *state education* benefits (i.e., free or discounted tuition at state colleges, etc.) are summarized at www.military.com/veterans-report/state-veteran-benefits .

Other Benefits for Veterans, War Zone Servicepersons & Activated Guardsmen/ Reservists

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Kentucky, Michigan and perhaps other states also do so for spouses, children and survivors of disabled veterans. In addition, under the "Yellow Ribbon" program over 1,000 public and private colleges offered tuition discounts for the 2010-11 academic year (and may well do so in later years too) to veterans (and their spouses) who have served at least 3 years.

The Disabled American Veterans (www.DAV.org), the Paralyzed Veterans of America (www.PVA.org), the American Legion (www.legion.org), the Veterans of Foreign Wars (www.VFW.org) and the Vietnam Veterans of America (www.vva.org) offer a wide range of benefits and various discounts to their members, dependents and survivors.

Activated Reservists & Guardsmen, by federal law, have mandated return-to-work, fringe benefit, seniority & durational retirement accrual rights with their civilian & public employers; see http://www.abanet.org/legalservices/reservists/home.html about legal rights---and many employers, including the US Post Office, at least 29 states, many local governments & more than 500 private firms, supplement military pay up to civilian pay levels (if higher) & even continue to provide employer health coverage (see www.esgr.org & 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 military and VA benefits; are eligible for *all other* non-VA domestic benefit programs, *including* even 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), the Air Force Aid Society (www.afas.org), the Navy-Marine Corps Relief Society (www.nmcrs.org), and the Coast Guard Mutual Association (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) 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) 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 . The USO (www.USO.org) ; yes, the same organization that sponsored all those Bob Hope shows for the troops over many years and was fictionalized in the 1991 Bette Midler film *For the Boys*) promotes free telephone calling cards for overseas troops; another group, Cell Phones For Soldiers (www.cellphonesforsoldiers.com), does so too--and also distributes cell phones themselves—for those serving in Iraq.

VA's Unique and Different Income- and "Net Worth"- or Asset-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 un-reimbursed 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.

The VA's regulations and policy issuances addressing the new, more flexible consideration of "Net Worth" or asset values, in determining financial eligibility for both pensions and Priority Groups' 5, 7 and 8 medical care are at 38CFR3.275 and policy issuance M21-1MB, Part V, Subpart iii, 1.J68.

Thomas McCormack is a Vietnam Era veteran who has handled welfare, SSI and Medicaid eligibility with the U.S. Department of Health and Human Services; the District of Columbia, Maryland, Virginia; and several Washington-area hospitals/ He has done public benefits advocacy for several disability organizations. He wrote the award-winning AIDS Benefits Handbook *(Yale University Press). Email him at* tomxix@ix.netcom.com

Sidebar: VA and Related Information Numbers

VA Benefits……..800-827-1000
VA Health Care Line……..877-222-8367
VA Life Insurance……...800-669-8477
VA Educational Benefits & Loans…800-326-8276
CHAMPVA……..800-733-8387
Tricare……..800-538-9552; website: www.osd.Tricare.mil
Headstones & markers……800-697-6947

Persian Gulf Helpline……..800-PGW-VETS
Summaries of *State* Benefits for Veterans…. 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
Summaries of most military service, VA and other benefits for those leaving active military service or the Reserves or National Guard … www.transionalassistanceprogram.com
Wartime veterans & survivor pensions and aid & attendance add-ons www.veteranaid.org

Sidebar: 2012 Amounts: Wartime Needy Disabled Veterans' & Survivors' Pension

(The VA rounds benefits *down* to the next lower dollar in making payments.)

Single Veteran:	**$1,021.63**	**monthly**
Veteran + 1 dependent:	**316.25**	**more monthly**
Each additional dependent:	**174.42**	**more monthly**
Aid and Attendance:	**682.58**	**more monthly**
Housebound:	**226.66**	**more monthly**

Surviving spouse or helpless adult child:	**$666.08**	**monthly**
Spouse + 1 dependent:	**204.33**	**more monthly**
Each additional dependent:	**174.42**	**more monthly**
Aid and Attendance:	**395.66**	**more monthly**
Housebound:	**146.91**	**more monthly**

"Net worth" (assets) can't exceed one lived-in home & one vehicle of any value, and $80,000 in other property, savings & investments (in 2010 the VA began more flexibly applying the prior hard-and-fast $80,000 "Net Worth" asset level for medical care; see page 28). In 2012, the first $9,750 of a child's yearly earnings aren't counted.

Sidebar: 2012 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 , under "Health Care Eligibility & Enrollment", and then under "GMT Thresholds". For 20*12*, the GMT income levels to be used are those listed for the *prior* year, 20*11 (and therefore, for 2011, the income levels to be used are those listed for 2010)*. These web pages offer a "Priority 8 Income Calculator" which, by incorporating the 2009 regulatory liberalization of the Priority 8 GMT Income Levels---and will likewise figure in any further income liberalizations that may be made in the Obama Administration's later budget proposals---allows veterans to determine whether their income qualifies them for Priority Group 8 care based on their county and family size. There is also a "VA National Relax-

ation Geographic Income Thresholds" chart which has state-by-state, county-by-county, family-sized income levels tabulated for the whole nation. Also see page 28.

Sidebar: VA Medical Care Income Levels & Co-Pays [2012] 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* $2,538.33 monthly ($30,460 per year)

Veteran + 1 dependent:

$558.50 *more* monthly ($6,701.40 *more* per year)

Each additional dependent
$174.42 *more* monthly ($2,093 *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 $9,750 of a child's yearly earnings are not counted in 2012.
"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 (but in 2010 the VA began more flexibly applying the $80,000 "Net Worth" asset eligibility level for medical care; see page 28).

Sidebar: VA Co-Payments for Priority 7 Veterans (2012]

First 90 days/year of inpatient hospital care:	**$226.40 + $2.00 / day**
Additional 90 days/year of inpatient hospital care	**$113.26 + $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:	**$9.00**

Priority 7 uses the same child earnings exemption and "net worth" asset rules as Priority 5 (see above entry). But in 2010 the VA began more flexibly applying the $80,000 "Net Worth" asset eligibility level for medical care, see page 28).

Sidebar: VA Co-Payments for Priority 8 Veterans [2012]

First 90 days/year of inpatient hospital care:	**$1,156 + $10.00 / day**
Additional 90 days/year of inpatient hospital care:	**$578.00 + $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:	**$9.00**

Veterans with income or "net worth" (assets) over the Priority 7 levels are placed in Priority Group 8 (but in 2010 the VA began more flexibly applying the $80,000 "Net Worth" asset eligibility level for medical care; see page 28; and the 2009 regulation liberalizing Priority Group 8 income levels has had the coincidental effect of totally dropping the Net Worth asset test for this Group anyway).

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)

Note that the Lebanon occupations (1950s or 1980s) , the Cuban Missile Crisis, the Bay of Pigs, Grenada, Panamá, Central America and the first 1980s Libya action do not qualify as "wartime"; conversely, Iraq, Afghanistan, Kossovo, Bosnia, Somalia, Haiti, Rwanda and the 2nd 2011-12 Libya action do qualify (because Congress hasn't yet ended the Gulf„ Bosnia, Kossovo, Afghanistan, Terrorist or Iraq Wartime periods during which those actions occurred).

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.

*****While no World War I (1917-21), Mexican Border Action (1916-1918),Russian Expedition (1918-21), Spanish-American War (1898) and Philippine Insurrection (1898-1904) veterans survive in 2012, thousands of their widows and children do, as do scores of the children of veterans of the last Indian Wars (which ended just before 1900). But history buffs can 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, making 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 (but not including post-1865 white immigrants') families--and almost as high a percentage of all U.S. black families--received veterans' payments for Union Civil War service during the late 19th and very early 20th centuries! This now-forgotten, but truly enormous, "welfare" program—financed by heavy tariff taxes, with much looser, imprecise (even slipshod) eligibility rules than today's VA programs and strongly championed, expanded and defended by an otherwise conservative Republican Party—and its powerful Union veterans' organization affiliate, the Grand Army of the Republic-- 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 then-very-elderly "helpless adult children" of Union veterans were still receiving pensions in 2003).

Sidebar: 2 Year Active Duty Minimum for Service after 9/7/80 & Exceptions

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 at any rate).**
2. **They got early honorable or general discharges *before* completing 24 months' service because of hardship or disability, *but only if* <u>*expressly*</u> 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 at any rate).**

Sidebar: Pensions & Unreimbursed Medical Expenses (UME) Example [2012]

In 2012 Martin, a 100% *non*-service-connected, wartime, now-disabled veteran with severe, medically documented mobility problems, receives $1,300 monthly in SSDI; $99.90 is deducted from that check for Medicare Part B. 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 for 2012 would be $2,194.88 ($1.021.63 for Martin, plus $316.25 for Audrey and $174.42 for Herbie), plus a $682.58 "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 any of Herbie's $3600 yearly earnings [$300 monthly X 12 months] because it's less than the $9,750 of a child's earnings that's exempted yearly for 2012). So at first they look to be "too rich" for any pension payment at all.

But under the UME rule, in 2012 all income over $77.50 (which is 5% of <u>*last year's 20**11***</u> ***basic*** family-of-3 pension level of $1,459.41, <u>*not*</u> including the extra Aid and Attendance allowance) that gets spent on medical care isn't counted in figuring the family's pension payment. Since in 2012 the family is spending $799.90 monthly on medical care--- including Martin's $99.90 Medicare Part B premium, $200 for transportation to medical care and <u>*even*</u> the medical costs of Audrey ($300) and Herbie ($200) ---they are allowed to deduct $722.40 (the $799.90 in medical costs minus 2012's $77.50 UME threshold level for a veteran with two dependents) from their income of $2,300 before it is compared to the current 2012 <u>*total*</u> pension level.

This leaves a total <u>*countable*</u> income of $1,566.10. This is less than the <u>*current*</u> 2012 <u>*grand*</u> total pension level (now <u>*including*</u> the $682.58 that's payable in 2012 for Martin's Aid and Attend-

ance) of $2,118.24 which is potentially payable to this family by $552.14. **This *$552.14* (rounded *down* to $552.00*)* therefore becomes the net total monthly 2012 VA pension payment in this case**---a pension amount that the family couldn't otherwise get at all without disregarding that portion of family income to be spent on "unreimbursed medical expenses", or "UME".

2012 UME Threshold Deduction Amounts, Yearly and Monthly
(5% of *prior* year's –20*11*'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 *more* yearly	+14.43 *more* monthly
Each additional dependent	+95.45 *more* yearly	+7.95 *more* 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 **, (***the National Association of State Directors of Veterans Affairs) or* 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 & qualify for treatment in Priority Group 4.* Formerly, their copayments for treatment of *non*-service-connected conditions---unless they were rated 30% or more service-connected, in which case only the $8 or $9 Rx copays applied---were those of Priority Group 5, 7 or 8, depending on which Priority Group their income & assets would otherwise ordinarily have placed them in. Even veterans with income over the now-enhanced Priority 8 threshold---from whom *ordinary* applications weren't accepted for several recent years---can apply, and if medically qualified, get Priority Group 4 status as "catastrophically disabled". **And recent legislation bars *any* VA co-pays for Priority Group 4 "catastrophically disabled" non-service-connected veterans**.)

Veterans are considered to be catastrophically disabled when they 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 their home or constant supervision to avoid physical harm to self or others as defined by Title 38 Code of Federal Regulations (CFR) Section 17.36 (e) (See Attachment A).

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December 29, 2009

NOTE: To request a Catastrophically Disabled Veteran Evaluation, Veterans may call 1-877-222-VETS (8387), or the enrollment coordinator at their local VA medical facility.

Questions may be directed to (202) 461-1589. NOTE: For questions regarding the clinical evaluation, instruments criteria, or threshold information, contact the Office of Patient Care Services (11) at (202) 461-7590.

ATTACHMENT A
DEFINITION OF CATASTROPHICALLY DISABLED

1. Catastrophic disability (CD) is 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 health records that documents that the patient previously met the criteria set forth in 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 found on Web site:
http://vaww.va.gov/vhaopp/cdvet_eval.htm (see "View CD Diagnoses"). NOTE: This is an internal VA Web site not available to the public.

OR

b. A condition resulting from two of the International Classification of Diseases, 9th 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 Web site:
http://vaww.va.gov/vhaopp/cdvet_eval.htm (see "View CD Diagnoses"). NOTE: This is an internal VA Web site not available to the public.

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 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. 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 poorly 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 contains18 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 GAF is taken directly from 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 limitation is 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.

References
a. Katz S, Downs TD, Cash HR, et al. “Progress in the Development of the Index of ADL,” The Gerontologist. Part I:20; 1970.
b. Juva K., Sulkava R., Erkinjuntti T., et al. “Staging the Severity of Dementia: Comparison of Clinical (CDR, DSM III-R), Functional (ADL, IADL) and Cognitive (MMSE) Scales,” Acta Neurologica Scandinavica. 90:293; 1994.
c. Folstein MF, Folstein S, McHugh PR. “Mini-mental State: A Practical Method for Grading the Cognitive State of Patients for the Clinician,” Journal of Psychiatric Research. 12:189; 1975.

Sidebar: VA-paid Nursing Home, HCB Services and Home Attendant Care

a. VA Pensions and Their Aid & Attendance Increments Can Defray All or Large Portions of Nursing Home, Home and Community-Based Waiver Services and Home Attendant Costs Under VA income-counting rules, almost all income that is being spent, or is to be spent, on medical care such as nursing home, Home and Community-Based services or home attendant care is "disregarded" in calculating the basic pension and also the A & A increment. This means that---even if a nursing home, HCB services or attendant care patient has significant Social Security and private pension income that's being used to help pay the care bill---he or she will still likely qualify for, and be paid, the full amount of the basic VA veteran's or survivor's pension ***and*** the A & A increment as well. But, unlike the VA, Medicaid ***does count*** VA basic pensions and A & A increments as income available to help the state pay the nursing home, Home and Community-Based waiver or home attendant care bill. Therefore, state Medicaid nursing home, HCB waiver & home attendant costs can be significantly reduced by ensuring that all "wartime" veterans and their survivors apply for, and then receive, VA pensions and A & A increments, and then ensuring that these---just like Social Security and private pensions--are applied to the cost of care to reduce Medicaid's payment for the balance of care costs.

b. Large numbers of veterans are potentially eligible for VA long term care assistance Census and VA figures estimate that, because the male universal military draft wasn't abolished until 1973, and because the United States has been in an almost-continual state of "war" since December 7, 1941 (except for 1946 to 1950; 1955 to 1964; and 1975 to 1990), about 40% of the millions of men who are now over age 62 or so (and their widows), as well as hundreds of thousands of women veterans,, are potentially eligible for the VA wartime pension and the A & A increment. Nursing home, HCB services and home attendant care costs they face that do, or will, consume almost all their other income and therefore will—because of the VA Pension system's UME deduction—not be counted by the VA and thus will reduce their VA-countable income below the applicable total pension and A & A income eligibility levels. But since VA pensions and their A & A increments *are* considered available income (albeit somewhat contradictorily to the VA rules) under *Medicaid's* rules, states (as well as patients themselves) can realize huge savings by fully developing and utilizing this little-known income source to help pay nursing home, HCB services and home attendant care costs.

c. The VA At Least Theoretically Even Pays for Nursing Home Care for All 60% to 70% or More Service-Connected Disabled Veterans---And, Only If and When Space and Funds Are Available, Which They Usually Are *Not*—For Other Veterans With Lesser Service-Connected Disability Ratings or Even Those with *No* Service-Connected Disability Ratings

This is true in VA-run or contracted private nursing homes. But funding and space shortages in almost all areas effectively limit eligibility for this benefit to those who are service-connected disabled with service-connected disability ratings of at least 60% to 70% or more, although others with lesser or even no disability ratings can at least theoretically be accommodated if and when funds and space are available (which is quite unlikely). It's important to note that the VA permits its nursing home patients to keep *much more* of their income (the daily copayment

maximum is only $97 for the very "richest" veterans, on a sliding income scale---so, it's far, far less for most of them); and, after fully exempting the family home & one vehicle, no matter how valuable, a *very* large portion of their own and their spouses' remaining assets are disregarded too! If the non-institutionalized spouses or minor or disabled adult children have little or no income of their own, the VA diverts much more of the veteran's income to them for their support than Medicaid does.

d. For VA Nursing Home Patients & Their Families, There's One Big Downside to This: Where the veteran is placed in a private contract nursing home as opposed to a directly VA-run or –owned one (because the VA lacks enough beds of its own, which unfortunately is the case almost everywhere), VA coverage only lasts 6 months for those whose service-connected disabilities are rated *under* 60% to 70%. Then the veteran is given over to the mercies of the private nursing home, where he himself must pay for the care. If he can't afford that---and almost all can't---then he or she *must apply to Medicaid to pay the bill, and it has its own far more onerous income, asset and homestead protection rules for the patient and any spouse.*

For more detail on VA nursing home eligibility---including its prioritization of percentages of service-connected disabilities see "Nursing Home Care" and summaries of other special services at http://www.va.gov/healtheligibility/coveredservices/SpecialBenefits.asp .