


Potential Income Sources for Military Servicemembers and Veterans

|  VETERANS <small>LEGAL SERVICES</small> | Active Duty Military Base Pay | Active Duty Military Allowments/Allowances | Military Pension aka Military Retirement Pay | Military Disability Pension aka Disability Retirement Pay | Military Survivor Benefit Plan (SBP) | Combat Related Special Compensation (CRSC) | Concurrent Retirement and Disability Pay (CRDP) |
|--|---|---|--|--|--|---|---|
| Basic requirements | Active duty, federal military service. | Active duty, federal military service. | 20 years of qualifying military service, or disqualifying disability and at least 15 years of service. See, 10 USC 12731b. Ends upon death of servicemember. | Disability/rated 30% or greater at time of separation from service, resulting in inability to perform military duties. Determined by the military Physical Evaluation Board (PEB). | Premium payments (deducted automatically from pension) AND written election of former spouse coverage, or certified copy of decree ordering former spouse coverage, submitted to DFAS within one year of divorce or entry of order. See, 10 USC 1447-1455. | VA disability rated 10% or more related to award of Purple Heart, combat, hazardous duty, or training for combat, AND pension entitlement with less than 20 years of qualifying service (e.g., disability retirement). See, 10 USC 1413a. | VA disability/rated at 50% or more AND pension entitlement based on 20 years of qualifying service. See, 10 USC 1414. |
| Maximum income/asset limits | None. | None. | None. | None. | None. SBP amount is limited to 55% of selected base amount. | None. Veteran cannot receive CRDP and CRSC at same time. | None. Subject to phase-in period. Full entitlement to take effect in 2014, at which point CRDP will convert to regular pension/retirement pay. Veteran cannot receive CRDP and CRSC at same time. |
| Countable as income for child and spousal support calculations? | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. | Yes. |
| Protected from assignment/garnishment? | No. See, 5 USC 5520a. | Yes. See, 5 USC 5520a and 32 CFR 113. | Yes. See, 5 USC 5520a and 32 CFR 113. | Yes. See, 5 USC 5520a and 32 CFR 113. | Yes. See, 5 USC 5520a and 32 CFR 113. | Yes. See, 5 USC 5520a and 32 CFR 113. | Yes. See, 5 USC 5520a and 32 CFR 113. |
| Assignable for child/spousal support? | Yes. See, 42 USC 665 re: mandatory allotment of active duty pay and 42 USC 659. | Yes. See, 42 USC 665 and 42 USC 659. | Yes. See, 10 USC 1408 and 42 USC 659. | Yes. See, 10 USC 1408 and 42 USC 659. | Yes. See, 10 USC 1408 and 42 USC 659. | Yes. See, 10 USC 1408 and 42 USC 659. Paid in lieu of retirement pay to disabled veterans = remuneration from employment. | Yes. See, 10 USC 1408 and 42 USC 659. Paid in lieu of retirement pay = remuneration from employment. |
| Subject to division as marital asset? | No. | No. | Yes. See, 10 USC 1408. | No. See, 10 USC 61 and <i>Mansell v. Mansell</i> , 490 U.S. 581 (1989). | Yes, as between servicemember and spouse. No, as between recipient spouse and spouse of subsequent marriage. | No. See, 10 USC 1413a. | Yes. See, 10 USC 1414. |
| Assignable to reimburse other payments (e.g., SSDI, MedLife, etc.)? | Yes. See, 5 USC 5520a. | No. 5 USC 5520a and 32 CFR 113. | No. 5 USC 5520a and 32 CFR 113. | No. 5 USC 5520a and 32 CFR 113. | No. 5 USC 5520a and 32 CFR 113. | No. 5 USC 5520a and 32 CFR 113. | No. 5 USC 5520a and 32 CFR 113. |
| Separate benefit for dependents? | No. | No, but rates for various allowances (housing, etc.) are higher for servicemembers with dependents. | No. | No. | No. | No, but rates increase if veteran has qualifying dependents. | No. |

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|  VETERANS <small>ASSOCIATION</small> | VA Veterans' Benefits (M.G.L. c. 115) | SSI | VA Non Service-Connected "Pension" | SSDI | VA Compensated Work Therapy (CWT) | VA Service-Connected Disability Compensation |
|---|---|---|--|---|--|--|
| Basic requirements | Veteran status and financial need. | Over age 65, or totally and permanently disabled, and financial need. See, 20 CFR 416.202. | Wartime service, over age 65, or totally and permanently disabled, and financial need. 38 CFR 3.3 | Insured status, and disability as defined by 42 USC 4156(i)(1) expected to last 12 months or more. | Veteran status and eligibility for VA healthcare pursuant to 18 USC 1710. Preference given to service-connected disabled veterans. | Currently existing disability caused or aggravated by military service. Rated 0% - 100% by VA. 38 CFR 4.00, et. Seq. |
| Maximum income/asset limits | Income up to 200% of FPL. See, 108 CMR 5.02. Subject to dollar for dollar offset with all other income. Asset limit based on budget amounts (usually less than \$2,000). See, 108 CMR 6.03. | Depends on living situation. Usually income up to \$826/month and \$2,000 in assets. See, 20 CFR 416.1100. Subject to dollar for dollar offset with all other income. | Income up to \$1,021/month. No set asset limit, but assets cannot be "excessive." See, 38 CFR 3.23. Subject to dollar for dollar offset with all other income. | None. | None. | None. |
| Protected from assignment/garnishment? | Yes. See, M.G.L. c. 115 § 5. | Yes. See, 42 USC 407. | Yes. See, 38 USC 5301. | Yes. See, 42 USC 407. | Yes. See, 38 USC 5301. | Yes. See, 38 USC 5301. |
| Countable as income for child and spousal support calculations? | No. | No. | No. | Yes. | Yes. | Yes. See, <i>Rose v. Rose</i> , 481 U.S. 619, 636 (1987). |
| Garnishable for child/spousal support? | No. But veterans who neglect to support dependents may lose eligibility pursuant to 108 CMR 3.06. | No. See, 42 USC 659. Entitlement to benefit is not based on remuneration from employment. | No. See 42 USC 659. Entitlement to benefit is not based on remuneration from employment. | Yes. See, 42 USC 659. Entitlement to benefit is based on remuneration from employment. NOTE: Veteran is entitled to credit for dependency benefits pursuant to <i>Rosenberg v. Merida</i> , 428 Mass. 182 (1998). | No. CWT is considered a medical/therapeutic benefit. See, 38 USC 1718. | Sometimes. See, 42 USC 659, and 42 USC 662(f)(2). Assignable only if paid in lieu of military retirement pay b/c = remuneration from employment. BUT VA may apportion benefits directly if the veteran is not fulfilling obligation of support. See, 38 USC 3107(a)(2) and 38 CFR 3.450(a)(1). |
| Subject to division as marital asset? | No. | No. See, 42 USC 659(i)(3)(B). | No. See, 42 USC 659(i)(3)(B) | No. See, 42 USC 659(i)(3)(B). | No. | No. See, 42 USC 659(i)(3)(B) and <i>Mansell v. Mansell</i> , 490 U.S. 581 (1989). |
| Assignable to reimburse other payments (e.g., SSDI, Medicare, etc.)? | Yes. See, 108 CMR 6.04. Recipients must reimburse if benefits are received from another source (e.g., SSDI retro payments) that cover the same time period. | No. | No. | Yes. Must reimburse private disability benefits that cover same time period. See, e.g., <i>Mattox v. Life Insurance Company of North America</i> , 536 F. Supp. 2d 1307 (N.D. Ga. 2008). | No. | No. |
| Separate benefit for dependents? | Yes. Dependents must apply with local Veterans Service Officer. | No. | No. | Yes. Dependents must file own application at local Social Security Office. | No. | No. BUT extra amounts are paid to veterans who are 30% disabled or who have qualifying dependents. |