

Elder law: Veterans benefits may help take care of Mom

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By Julian Gray and Frank Petrich

Mrs. Williams is an elderly widow living in the home in which she and her husband raised their children many years ago. After the death of her husband three years ago, Mrs. Williams continues to get by on her own, but now faces daily challenges with performing routine tasks around the house.

Her primary concern is to remain in the home and neighborhood that she knows and loves for as long as possible. However, on a recent visit, her daughter, Judy, realized that Mrs. Williams needs the ongoing assistance of another person to maintain a safe living environment.

Like many baby boomers, Mrs. Williams' daughter struggles with the decision whether to seek in-home care from a health care agency or placement in an assisted living facility for her mother.

Judy knows that her mother would never want "strangers" in her home to take care of her and that she dreads the thought of institutional living. So, Judy decides to move in with her mother so that Mrs. Williams can maintain her independence in her home and Judy can help her avoid accidents that could lead to more serious medical conditions.

While Mrs. Williams appreciates her daughter's sacrifice to assist her, she feels guilty about Judy's decision to put her life on hold. She would like to pay Judy for her services, but her Social Security check and small pension from her late husband's employer are just enough to pay her own bills. In addition, she has limited savings that she needs to preserve for emergencies.

She could use some financial assistance to pay for the care she needs to stay in her home

Mrs. Williams' husband served in the Army in World War II, was never injured in combat and was honorably discharged. Fortunately, there is a program through the Veterans Administration for widows of wartime veterans called Aid and Attendance.

Aid and Attendance is available to Mrs. Williams because she requires the daily assistance of another person to perform her "activities of daily living." In this situation, Mrs. Williams could be reimbursed by the VA up to \$1,056 per month to pay her daughter for taking care of her. This income is not taxable to Mrs. Williams. However, she is required to use it to pay her daughter from this benefit for these services, and Judy must report the payment as income to her.

As a result, Judy will receive some compensation for her services, which will help her to be able to care for her mother, and replace some of the income she has lost by either having to quit her job or reduce her hours at work.

The Aid and Attendance benefit is an often underutilized option for many wartime veterans and their widows because they are unaware of their eligibility or they believe that the veteran had to be injured in combat to receive any compensation.

There are several qualification factors to consider.

In order to qualify for this benefit, there are complicated income and asset calculations to consider. While a veteran or his spouse may inquire with a VA office or a veterans service organization such as the VFW or American Legion, such organizations will give only a summary opinion on whether a person is eligible for benefits by reviewing the situation on its face. Unfortunately, because these organizations are not permitted to give legal advice, many veterans and their spouses never proceed to apply for and receive their benefits when some appropriate planning could have made this possible.

Another reason to consider an application for VA benefits for in-home care is the time lag that occurs between application and the award of benefits. The VA application review process takes several months, and incorrect applications can be delayed for many more months. While a properly filed application will result in a retroactive lump sum award back to the application date, it is important to obtain the benefits as soon as possible because the widow may enter an assisted living facility as her needs increase.

It is much easier to pay for the cost of the facility if the payments are being made by the time the person is admitted to the facility. For example, if an assisted living facility costs \$3,000 a month and the resident's income is only \$2,000 a month, the resident would have to pay out-of-pocket for a third of the monthly costs for several months before the VA payments begin. By obtaining the VA payments in advance of needing assisted living care, the resident could cover the majority of her costs from the day she enters the facility.

While the widow of a wartime veteran may receive up to \$1,056 per month under the current payment rates, a single veteran may receive up to \$1,644 per month and a married veteran can receive up to \$1,949 per month. These benefits can provide a substantial income stream that makes the difference between barely making ends meet and a comfortable transition for the senior who needs increasing levels of care.

In addition, the VA requires attorneys representing the individual to be "accredited" by the VA. Thus, when planning for VA benefits eligibility, it is important to recognize the care needs of the senior now and in the future and to develop a properly constructed plan that will take into consideration the medical and financial needs of the senior as these needs change.

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