

Elder Law: Veterans - Never Give Up

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The Department of Veterans Affairs is a gigantic system with millions enrolled. While there are several “divisions” within the VA, as elder law attorneys, we spend our time assisting elderly veterans and their spouses in obtaining non-service connected disability benefits — otherwise known as “aid and attendance.”

These benefits were designed to provide a monthly cash reimbursement benefit to qualifying veterans and their spouses who pay out-of-pocket medical costs — whether at home or in a facility.

Pennsylvania is in the top five state populations of veterans in the country, with between 700,000 and 1 million people (when you count the veterans’ widows) who could qualify for benefits. Yet, only a very small percentage qualifies because of a complex application system and misinformation about the program.

Our experience over the years indicates that veterans often get their advice from an initial source, which may yield a negative result, and then never bother to inquire further. This would be like receiving a terminal medical diagnosis and not seeking a second opinion.

Here are a few of the top offenders we’ve seen that warrant further investigation before accepting the response:

1. “You can’t get aid and attendance when living at home.” — Nonsense. The benefit is meant to reimburse out-of-pocket medical expenses regardless of your location. This could be in your home, a personal care home or nursing home, just to name a few. Even if you are living at home and a family member is providing care, there are still ways to obtain the benefit.
2. “You have too much money or income to qualify.” — It’s a math problem actually. Did you know there is no set income or asset limit to qualify for VA benefits? The VA uses an age-weighted asset/income test to determine eligibility. Furthermore, there are legitimate estate planning techniques that can be employed to expedite financial eligibility.

3. “Why bother? If the veteran or his spouse dies before the VA application is approved, no money is paid.” — There are ways to file for a post death payment to the surviving spouse or heirs as long as the original claim was properly filed and is decided after the applicant’s death. Many people do not realize you can obtain the retroactive benefits even after the applicant dies — but there are time constraints and the next of kin must follow up promptly with the VA.

There are many more inaccuracies floating around that stop would-be applicants from pursuing their aid & attendance benefits. We caution people to find out the real story from a qualified source of information, such as a VA accredited attorney.

In the words of Winston Churchill: “Never, never, never give up.”

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