

# Veterans' Benefits: Pension Benefit Programs

**Umar Moulta-Ali**

Analyst in Disability Policy

**Carol D. Davis**

Information Research Specialist

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## Summary

The Department of Veterans Affairs (VA) administers several pension benefit programs for veterans as well as their surviving spouses and dependent children. The most current pension programs available (for those meeting the eligibility criteria on or after January 1, 1979) are the Improved Disability Pension for certain low-income veterans and the Improved Death Pension for certain low-income surviving spouses or children of veterans. There is also a special pension for Medal of Honor recipients. This report describes these programs, including the eligibility criteria and current benefit levels, and provides data on the number of pension beneficiaries and average annual benefit amounts for FY1999 through FY2013.

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## Overview

The Department of Veterans Affairs (VA) administers several pension programs for veterans and their surviving spouses and dependent children. The VA administers two types of pension programs: (1) pension programs for veterans of specific periods of war and (2) pension programs for certain low-income veterans. The pension programs for specific periods of war are for periods before World War I. They include pension programs for veterans, as well as their surviving spouses and dependent children, of certain periods of war such as the Civil War, the Indian Wars, and the Spanish-American War. The pension programs for certain low-income veterans include the Old Law Disability Pension, the Section 306 Disability Pension, and the Improved Disability Pension. The VA pension programs for certain low-income surviving spouses and dependent children of veterans include the Old Law Death Pension, the Section 306 Death Pension, and the Improved Death Pension.

In addition to the pension programs for certain periods of service, certain low-income veterans, and surviving spouses and dependent children, the VA administers a special pension program for Medal of Honor recipients.

This report will provide information on the most current pension programs—those programs for which a veteran, a surviving spouse, or a dependent child becomes eligible on or after January 1, 1979—and on the special pension program for Medal of Honor recipients. The current pension program for veterans is the Improved Disability Pension, which is for certain low-income veterans. The current pension program for certain low-income surviving spouses and dependent children of veterans is the Improved Death Pension. Both pension programs were created by P.L. 95-588, the Veterans and Survivors Pension Improvement Act of 1978.

## The Improved Disability Pension Benefit

The Improved Disability Pension provides a monthly benefit to certain low-income veterans. The monthly benefit is based on a maximum annual benefit, and the actual benefit received by the veteran is reduced by the veteran's "countable" income. A veteran with countable income above the maximum annual benefit amount is not eligible for the pension.

### Maximum Annual Benefit Amount

The maximum annual benefit amounts for the veterans' pension benefit are set in statute<sup>1</sup> and are based on the presence of a spouse or dependent child (or children) and the need for aid and attendance.<sup>2</sup> The annual benefit amounts are adjusted automatically by law each year to reflect a cost-of-living adjustment (COLA) equal to the COLA for Social Security benefits.<sup>3</sup> For example, effective December 1, 2014, the maximum annual amount for the pension benefit for 2015 is

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<sup>1</sup> 38 U.S.C. §1521(b)-§1521(g).

<sup>2</sup> Aid and attendance is provided when a veteran needs another person's help to perform activities of daily living, such as eating, dressing, or taking a shower.

<sup>3</sup> 38 U.S.C. §5312. For more information on the Social Security COLA, see CRS Report 94-803, *Social Security: Cost-of-Living Adjustments*, by Gary Sidor.

\$12,868 for a veteran and \$16,851 for a veteran with one dependent. If two veterans are married to each other, the maximum annual amount is \$16,851, the same as for a veteran with one dependent. The maximum annual benefit amount will be higher if the veteran is housebound or requires aid and attendance.<sup>4</sup>

## **Aid and Attendance**

Claimants eligible for the pension may be eligible for a higher maximum benefit amount when additional care and services (aid and attendance) are needed, such as assisted living or in-home care. The necessity for aid and attendance is presumed when either (1) the claimant is a patient in a nursing home or (2) the claimant is blind or has a severe visual impairment.<sup>5</sup> The necessity for aid and attendance will also be considered to exist when either

- the veteran requires the aid and assistance of another person in order to perform personal functions required in everyday living, such as bathing, feeding, dressing, attending to the wants of nature, adjusting prosthetic devices, or protecting himself or herself from the hazards of his or her daily environment; or
- the veteran is bedridden, in that his or her disability or disabilities require that he or she remain in bed, apart from any prescribed course of convalescence or treatment.

All the factors listed above do not have to be present to receive a higher maximum pension benefit due to the need for aid and attendance. The totality of the circumstances will guide the determination of need. The pension claimant does not need to demonstrate the need for round-the-clock care, but only that there is a regular and ongoing need for the aid and attendance of another person.

Under current law, a veteran without a spouse or dependents who is in a nursing home where care is being provided or paid for by the VA or Medicaid may have his or her pension reduced to \$90 a month.<sup>6</sup>

## **Housebound**

A pension claimant must meet either of the following requirements to have a higher maximum pension amount due to being housebound:

- The claimant must have a single permanent disability evaluated as 100% disabling and, due to such disability, the claimant is permanently and substantially confined to his or her immediate premises.
- The claimant must have a single permanent disability evaluated as 100% disabling and must also have another disability, or combination of disabilities, evaluated as 60% or more disabling.

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<sup>4</sup> Ibid. Department of Veterans Affairs, *Veterans Pension Rate Table – Effective 12/1/14*, [http://www.benefits.va.gov/PENSION/current\\_rates\\_veteran\\_pen.asp](http://www.benefits.va.gov/PENSION/current_rates_veteran_pen.asp).

<sup>5</sup> Definitions of aid and attendance and housebound can be found in 38 C.F.R. §3.351.

<sup>6</sup> 38 U.S.C. §5503. This provision expires on September 30, 2016. Veterans who reside in state veterans nursing homes where the VA pays a per diem for their care may not have their pension reduced.

Essentially, a person will be considered “housebound” when he or she is substantially confined to a dwelling and the immediate premises due to a disability and it is reasonably certain that this confinement will continue throughout that person’s lifetime. A “dwelling” includes not only the claimant’s home, but also any other place he or she is living, such as a care facility. Additionally, if the claimant is unable to leave the dwelling without the assistance of another, such as when a disability prevents the claimant from being able to drive, the claimant will be considered housebound.

## Eligibility Criteria

To be eligible for the pension benefit, a veteran must meet eligibility criteria related to combat/period of service; income/net worth; and age or disability.

### Combat/Period of Service Criteria for Pension Eligibility

A veteran must meet military service requirements related to combat, or service during a period of war to be eligible for the pension benefit.<sup>7</sup> Specifically, a veteran must have been discharged from military service under conditions *other than dishonorable* and must have served in the active military either

- for at least 90 days during a period of war;<sup>8</sup>
- during a period of war and was released from service for a service-connected disability;
- for 90 or more consecutive days which began or ended during a period of war; or
- for a total of 90 days or more in two or more separate periods of service during one or more periods of war.

### Income/Net Worth Limits for Pension Eligibility

As noted previously, the pension benefit for a veteran who meets the other eligibility requirements (combat/period of service and disability) is calculated by subtracting the veteran’s annual countable income from the statutory annual maximum benefit. A veteran with annual countable income above the annual maximum benefit amount will receive no pension benefit. A veteran with annual countable income below the annual maximum benefit amount will have his or her benefit reduced dollar-for-dollar by the amount of annual countable income. In addition, a veteran may not have a net worth, or estate, large enough that it would be reasonable for part of the estate to be used for the veteran’s maintenance.<sup>9</sup>

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<sup>7</sup> 38 U.S.C. §1521(j).

<sup>8</sup> For information on periods of war, see CRS Report RS21405, *U.S. Periods of War and Dates of Current Conflicts*, by Barbara Salazar Torreon.

<sup>9</sup> 38 U.S.C. §1522.

Annual countable income includes income from nearly all sources. However, there are several specific sources of income that are excluded from annual countable income determinations, including<sup>10</sup>

- donations from public welfare or private relief organizations;
- pension benefits administered by the VA;
- expenses paid by a veteran's spouse (or the veteran's surviving spouse or child) for the veteran's last illness, burial, or debts;
- amounts paid by the veteran for the last illness and burial of the veteran's spouse or child;
- amounts paid by a veteran's spouse for the last illness and burial of the veteran's child;
- insurance reimbursement for property casualty loss (up to the greater of fair market value or replacement value);
- profit from disposing of personal or real property (other than in the course of business);
- amounts in joint accounts the veteran acquires by the death of the other owner(s);
- amounts paid by the veteran, spouse, or child for unreimbursed medical expenses (limited to the excess above 5% of the pension benefit);
- up to \$5,000 paid as a veteran's benefit due to injury or disease by a state or municipality (for determinations of income for calendar years beginning after October 1, 2011);<sup>11</sup> and
- amounts paid by a veteran or surviving spouse to pursue education, vocational rehabilitation, or training, including tuition, fees, books, and (if the veteran or surviving spouse requires aid and attendance), travel expenses above reasonable expenses for a nondisabled person.

Section 509 of the Honoring America's Veterans and Caring for Camp Lejeune Families Act of 2012, P.L. 112-154, expanded and clarified the exclusions from income to specifically exclude from income reimbursements for expenses for replacement or repair of equipment, vehicles, items, money, or property as a result of any accident, theft or loss, or casualty loss, up to the greater of fair market value or replacement value.

### **Disability/Age Requirements for Pension Eligibility**

To be eligible for the pension benefit, a veteran must be totally disabled due to a non-service connected injury, illness (or combination thereof) that is not a result of the veteran's willful misconduct.<sup>12</sup> However, to determine if a veteran is totally disabled, the Secretary of Veterans

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<sup>10</sup> 38 U.S.C. §1503.

<sup>11</sup> This provision was part of the Veterans' Benefits Act of 2010 (P.L. 111-275).

<sup>12</sup> 38 U.S.C. §1513 and 38 U.S.C. §1521. The VA rates disability on a scale of 0% to 100% in 10% increments, with 100% being totally disabled and 0% indicating the presence of a service-connected disability, but one that is not severe enough to warrant compensation. The rating is used for pension and for disability compensation determinations.

Affairs may combine the disability ratings for service-connected disabilities with the disability ratings for non-service connected disabilities. However, if the veteran's service-connected disabilities have contributed to making the veteran eligible for the pension benefit, the veteran will receive the greater of the pension benefit or the disability compensation benefit (for the service-connected disabilities). A veteran cannot receive both disability compensation and the pension benefit.

P.L. 107-103, the Veterans Education and Benefits Expansion Act of 2001, extended the pension benefit to veterans aged 65 or older, regardless of disability status (or disability rating), who meet the other pension requirements (combat/period and income/net worth).

## **Other Pension-Related Provisions**

The pension benefit for a veteran convicted of a felony or misdemeanor will be stopped beginning 61 days after the veteran is imprisoned, and it will resume when the imprisonment ends. The veteran's pension benefit may be paid to the veteran's spouse or dependent children during the veteran's imprisonment.

To apply for the pension benefit, a veteran must complete and submit VA Form 21-526, which is the application form for both disability compensation and the pension benefit. As part of the claims process, the veteran will receive a disability rating, which may require a physical examination.

## **Interaction with Social Security and Supplemental Security Income**

Countable income for the veterans' pension benefit includes any Social Security benefits received. Therefore, the receipt of Social Security benefits can reduce or eliminate a veteran's pension benefit. Countable income does not include any Supplemental Security Income (SSI) payments received. However, because the SSI program includes veterans' benefits as unearned income in calculating the income limitations for SSI, a veteran's pension benefit could reduce the veteran's SSI benefit.<sup>13</sup>

## **The Improved Death Pension Benefit**

The surviving spouse or dependent child of a veteran may be eligible for the Improved Death Pension Benefit if eligibility requirements with respect to the deceased veteran and surviving spouse or dependent child are met, along with an income requirement.

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<sup>13</sup> For more information on the SSI program, see CRS Report 94-486, *Supplemental Security Income (SSI)*, and CRS Report RS20294, *Supplemental Security Income (SSI): Income/Resource Limits and Accounts Exempt from Benefit Determinations*, both by William R. Morton.



## Deceased Veteran

The deceased veteran must have met the military service requirements for the Improved Disability Pension with respect to the veteran's discharge and period of service.<sup>14</sup> However, for the Improved Death Pension, an individual who has at least two years of honorable military service and who dies in military service but not in the line of duty is also considered a veteran.<sup>15</sup>

## Surviving Spouse Eligibility Criteria for Death Pension

The surviving spouse cannot be remarried and must have been married to the deceased veteran:

- for at least one year<sup>16</sup> (there is no minimum if the surviving spouse and veteran had a child), or
- before December 14, 1944, for deceased veterans of the Mexican border period and World War I; before January 1, 1957, for deceased veterans of World War II; before February 1, 1965, for deceased veterans of the Korean conflict; before May 8, 1985, for deceased veterans of the Vietnam era; or before January 1, 2001, for deceased veterans of the Persian Gulf War.<sup>17</sup>

## Surviving Child Eligibility Criteria for Death Pension

A surviving child or children must be under the age of 18 (age 23 or under if in school) or must have become incapable of self-care before the age of 18.

## Income Criteria for Death Pension

The countable income for a surviving spouse or child is calculated like that of a veteran for the Improved Disability Pension. However, for a surviving spouse with custody of a deceased veteran's child, part of the child's income that is available to the surviving spouse may be included in countable income.<sup>18</sup> For a veteran's surviving child, his or her current work income is excluded from countable income, if the income is not more than the income level at which a federal income tax return must be filed<sup>19</sup> *plus* postsecondary education or vocational rehabilitation or training expenses paid by the child.<sup>20</sup> In addition, for a surviving spouse or child, any proceeds from a life insurance policy on the veteran are excluded from countable income.<sup>21</sup>

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<sup>14</sup> 38 U.S.C. §1541(a) and §1542(a).

<sup>15</sup> 38 U.S.C. §1541(h).

<sup>16</sup> Or previously married and the marriage was terminated prior to November 1, 1990. See the VA Survivors Pension Factsheet at <http://benefits.va.gov/benefits/factsheets/survivors/SurvivorsPension.pdf>.

<sup>17</sup> 38 U.S.C. §1541(f).

<sup>18</sup> 38 U.S.C. §1541(g).

<sup>19</sup> The income level at which a tax return must be filed (the filing requirement) is equal to the sum of the standard deduction and personal exemption amounts. For tax year 2014, the filing requirement for a single taxpayer is \$10,150 for a single taxpayer under the age of 65, see Table 1.2014 Filing Requirements Chart for Most Taxpayers in IRS Publication 501 available at [http://www.irs.gov/publications/p501/ar02.html#en\\_US\\_2014\\_publink1000220687](http://www.irs.gov/publications/p501/ar02.html#en_US_2014_publink1000220687).

<sup>20</sup> 38 U.S.C. §1503(a)(10).

<sup>21</sup> 38 U.S.C. §1503(a)(12).

## Maximum Benefit Amount

The maximum annual benefit amounts for surviving spouses and dependent children, like those for veterans, are set in statute and are automatically increased to reflect the COLA for Social Security benefits. For example, effective December 1, 2014, the maximum annual benefit amount in 2015 for a surviving spouse without a dependent child is \$8,630 and \$11,296 for a surviving spouse with a dependent child (there is an incremental benefit for each additional dependent child). Maximum annual benefit amounts are higher if the surviving spouse is housebound or requires aid and attendance. For a surviving child, the maximum annual benefit amount is \$2,198.<sup>22</sup>

## Medal of Honor Pension

A veteran who has been awarded a Medal of Honor is eligible for a monthly pension (\$1,299.61 as of December 1, 2014, which will be reflected in the January 2015 payment).<sup>23</sup> Eligibility for the pension is based solely on receipt of the Medal of Honor, and receipt of the special pension (the Medal of Honor recipient must elect to receive the special pension) does not reduce any other benefits under U.S. law. A veteran who has received more than one Medal of Honor is, however, limited to receiving only one Medal of Honor pension benefit.<sup>24</sup>

## Pension Beneficiaries

**Table 1** shows the number of pension beneficiaries, and the average annual benefit amount by beneficiary category for FY1999-FY2013. In FY2013, there were 308,116 veterans who received disability pension benefits. In addition, 210,450 survivors received death pension benefits.

**Table 1. Number of Pension Beneficiaries and Average Annual Benefit Amount (in dollars) by Category, FY1999-FY2013**

Fiscal Year	Number of Improved Disability Pension Beneficiaries (Veterans)	Average Annual Benefit Amount	Number of Improved Death Pension Beneficiaries (Survivors)	Average Annual Benefit Amount
1999	378,712	\$5,677	274,106	\$2,509
2000	364,220	\$5,917	257,106	\$2,571
2001	348,052	\$6,244	241,467	\$2,682
2002	346,579	\$6,564	230,267	\$2,821
2003	346,555	\$6,879	223,553	\$2,950

<sup>22</sup> The annual benefit is divided into monthly payments. See the VA *Survivors Pension Tables – Effective 12/1/14* here: [http://www.benefits.va.gov/pension/current\\_rates\\_survivor\\_pen.asp](http://www.benefits.va.gov/pension/current_rates_survivor_pen.asp).

<sup>23</sup> See the VA *Special Benefit Allowances rates for 2014* here: [http://www.benefits.va.gov/compensation/special\\_Benefit\\_Allowances\\_2014.asp](http://www.benefits.va.gov/compensation/special_Benefit_Allowances_2014.asp).

<sup>24</sup> 38 U.S.C. §1562.

<b>Fiscal Year</b>	<b>Number of Improved Disability Pension Beneficiaries (Veterans)</b>	<b>Average Annual Benefit Amount</b>	<b>Number of Improved Death Pension Beneficiaries (Survivors)</b>	<b>Average Annual Benefit Amount</b>
2004	342,903	\$7,135	215,253	\$3,107
2005	335,787	\$7,682	206,594	\$3,351
2006	329,856	\$8,173	200,636	\$3,644
2007	322,875	\$8,634	194,641	\$3,962
2008	315,763	\$9,006	195,612	\$4,341
2009	314,245	\$9,754	194,103	\$4,999
2010	313,563	\$10,080	198,832	\$5,478
2011	313,665	\$10,401	201,955	\$5,905
2012	314,790	\$11,038	207,453	\$6,521
2013	308,116	\$11,315	210,450	\$6,988

**Source:** Table prepared by the Congressional Research Service (CRS) using data from the Department of Veterans Affairs, *Annual Benefits Report*, various years.

## Author Contact Information

Umar Moulta-Ali  
Analyst in Disability Policy  
umoultaali@crs.loc.gov, 7-9557

Carol D. Davis  
Information Research Specialist  
cdavis@crs.loc.gov, 7-8994

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