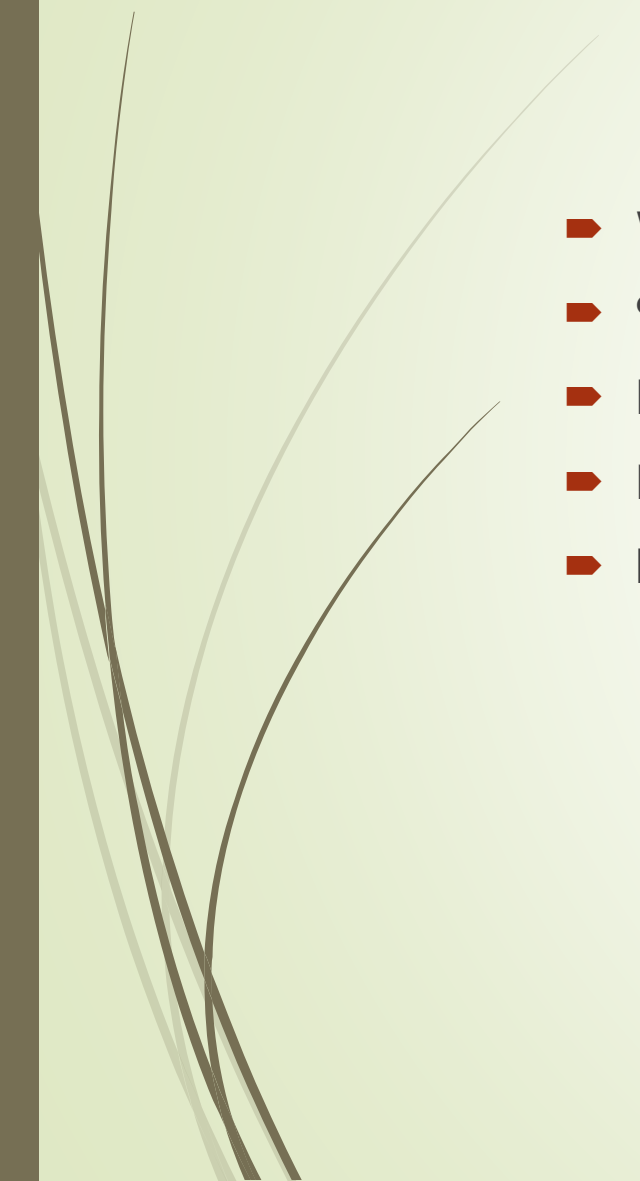


# NSC PENSION





# Eligibility Requirements

- War Time Service
  - 90 days/24 months minimum service
  - Disability/Over 65
  - Net Worth
  - Income (IVAP)
- 



# Required Documents/Information

- ▶ DD-214
- ▶ Veteran & Spouse SSN and Date of Birth
- ▶ Marital History - Marriage Certificate, Divorce Decrees, Death Certificates (highly recommended but not required)
- ▶ **ALL** income and net worth information (Social Security Award Letters, Bank Statements, etc.) **See 38 CFR 3.272 for Income Exclusions**
- ▶ **Reasonably Predictable** Unreimbursed Medical Expenses
  - ▶ Health Insurance Premiums, Long Term Care Premiums (In Home Health Care Expenses, Nursing Home, Assisted Living Costs)
- ▶ Direct Deposit Information (cancelled check)



# 38 CFR 3.272

## Income Exclusions

- ▶ Review: Quick Reference Guide – Income and Assets for Financial Assessment; Dated May 2019
  - ▶ First Page – Income: Count – Life Insurance Proceeds
  - ▶ Last Page – Reference: All income countable unless excluded by 38 CFR 3.272
- ▶ 38 CFR 3.272 (exclusions) - (q) Life insurance proceeds. Lump-sum proceeds of any life insurance policy on a veteran. (Authority: 38 U.S.C. 1503(a)(12))
- ▶ DO LIFE INSURANCE PROCEEDS COUNT AS INCOME OR NOT?

# 38 U.S. Code § 1503.

## Determinations with respect to annual income

- ▶ **(a) In determining annual income under this chapter, all payments of any kind or from any source** (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) **shall be included except—**
  - ▶ **(12)** lump-sum proceeds of any life insurance policy on a **veteran**, **for purposes of pension** under subchapter III of this chapter.

Look Closely at Quick Reference Guide (It's a VHA document)

- ▶ A **veteran's** life insurance proceeds are **NOT** excluded for VAMC financial assessments, But **ARE** excluded for pension purposes.



# Required Forms

(original claim)

- 21-22 and 21-0966
  - Almost always required
- 21P-527EZ (21P-534EZ)
  - Worksheet for an Assisted Living ... Facility OR
  - Worksheet for In-Home Attendant Expenses OR
  - 21-0779 for Nursing Home
- Probably 21P-0969
- 21-2680 (not required if in NH)
- 21-0845 and TDVS Authorization to Disclose Personal Info to a 3<sup>rd</sup> party

# VA Form 21P-527EZ

(Block 26)

- ▶ SECTION VII: QUESTIONS REGARDING INCOME AND ASSETS
  - ▶ 26. DO YOU OR YOUR DEPENDENTS RECEIVE SOCIAL SECURITY BENEFITS?
    - ▶ YES \_\_\_ NO \_\_\_ (If "No," skip to Item 27)
  
    - ▶ A. SOCIAL SECURITY RECIPIENT      B. GROSS MONTHLY BENEFIT
      - ▶ \$
      - ▶ \$
      - ▶ \$
  
- ▶ Social Security Income is the **ONLY** thing that goes in block 26.

# VA Form 21P-527EZ

(Blocks 27 & 28)

- 27. DO YOU OR YOUR DEPENDENTS OWN YOUR/YOUR FAMILY'S PRIMARY RESIDENCE?
- (If "Yes," complete Items 28A and 28B) (If "No," skip to Item 29A)
- 28A. WHAT IS THE SIZE OF THE LOT ON WHICH THE PRIMARY RESIDENCE SITS?  
\_\_\_\_\_ Square feet
- 28B. COULD ANY PART OF THE LOT BE SOLD WITHOUT SELLING THE RESIDENCE?
  - M21-1, Part V, Subpart iii, Chapter 1, Section J.6.e – Residential lot area means the lot does not exceed 2 acres, unless the additional acreage is not marketable.
  - Note: Accept a claimant's statement that additional acreage is not marketable as fact, unless there is contradictory evidence of record.
- **(If "Yes," also complete VA Form 21P-0969, Income and Asset Statement)**





# VA Form 21P-527EZ

(Block 29)

- ▶ 29A. OTHER THAN SOCIAL SECURITY, DO YOU OR YOUR DEPENDENTS RECEIVE ANY INCOME?
- ▶ 29B. OTHER THAN SOCIAL SECURITY, DID YOU OR YOUR DEPENDENTS RECEIVE ANY INCOME LAST YEAR?
- ▶ 29C. DO YOU OR YOUR DEPENDENTS HAVE MORE THAN \$10,000 IN ASSETS?
- ▶ 29D. IN THE THREE CALENDAR YEARS BEFORE THIS YEAR, DID YOU OR YOUR DEPENDENTS TRANSFER ANY ASSETS?
- ▶ 29E. DID YOU ANSWER "YES" TO ANY OF THE ITEMS IN 29A - 29D?
  - ▶ **If "Yes," you must also complete VA Form 21P-0969, Income and Asset Statement**



# Worksheet for an Assisted Living Facility (Refer to Form)

- ▶ VA recognized ADL's (5)
  - ▶ 1) Eating 2) Bathing/Showering 3) Dressing 4) Transferring 5) Using the toilet
    - \* 38 CFR 3.278(b)(2) also lists Ambulating within the home or living area.
- ▶ Definition of Custodial Care
  - ▶ Assistance with two or more ADL's, or
  - ▶ Supervision because a person is unsafe if left alone due to a mental condition
- ▶ Step 1 – Will almost always be NO. If Yes, you are done.
- ▶ Steps 2, 3, & 4 YES. (NO to Step 3 if claiming ALF expenses for other relatives for whom there is moral or legal obligation of support or is a member of the veteran's household) 38 CFR 3.272 (g)(1)(i) & (ii)



# Worksheet for an Assisted Living Facility

- ▶ STEP 5 SHOULD be YES. (Assuming they are there because they have to be.)
  - ▶ (If "YES," all payments to this facility may qualify as medical expenses if VA rates you as eligible for special monthly pension. **Please report separately in Items 30A - 30F applicable amounts you pay the facility for (1) lodging and meals, (2) health care services or assistance with ADLs provided by a health care provider, and (3) custodial care.** Skip to Step 8
- ▶ STEP 8. Facility Certification: **Please submit a current statement showing the fees the claimant pays to your facility and a breakdown of the care received.** (See Step 5 for breakdown)
- ▶ I CERTIFY that the information stated within this WORKSHEET FOR AN ASSISTED LIVING, ADULT DAY CARE, OR SIMILAR FACILITY is accurate and reflects the current environment pertaining to \_\_\_\_\_ and his or her care at this facility \_\_\_\_\_.
- ▶ Name, Signature and Title of Person Certifying for the Facility



# WORKSHEET FOR IN-HOME ATTENDANT EXPENSES

( Refer to Form)

- ▶ **IMPORTANT:** The following activities are examples of Instrumental Activities of Daily Living (**IADLs**) for VA purposes. VA generally does not recognize assistance with these activities as medical expenses:
  - ▶ (1) Shopping; (2) Food Preparation; (3) Housekeeping; (4) Laundering; (5) Handling medications; (6) Using the telephone; (7) Transportation (except for medical purposes such as transportation to a doctor's appointment).
- ▶ **INSTRUCTIONS:** Use this worksheet if you are claiming payments to a disabled person's in-home attendant as an unreimbursed medical expense. **Follow the steps below to determine whether or not:**
  - ▶ • the attendant must be a health care provider for VA purposes and
  - ▶ • VA may deduct payment for assistance with IADLs as well as assistance with ADLs and custodial care



# WORKSHEET FOR IN-HOME ATTENDANT EXPENSES

(Refer to Form)

- ▶ Steps 1 & 2, YES. (NO to Step 1 if claiming medical expenses for other relatives for whom there is moral or legal obligation of support or is a member of the veteran's household) 38 CFR 3.272 (g)(1)(i) & (ii)
- ▶ STEP 3. Is the primary responsibility of the in-home attendant to provide you with health care or custodial care?
  - ▶ If "YES," payments to this in-home attendant may qualify as medical expenses ... Please report separately in Item 30A - 30F amounts you pay an in-home attendant for (1) health-care services or assistance with ADLs provided by a health care provider, (2) **assistance with IADLs**, and (3) custodial care. Skip to Step 6.
  - ▶ If "NO," **payments to this in-home attendant for assistance with IADLs do not qualify as medical expenses.** Please report separately in Items 30A - 30F applicable amounts you pay an in-home attendant for : (1) health care services or assistance with ADLs provided by a health care provider and (2) custodial care. Skip to Step 6.



# WORKSHEET FOR IN-HOME ATTENDANT EXPENSES

( Refer to Form)

- STEP 7. In-Home Attendant Certification: **Please submit a current breakdown of the time the attendant spends assisting the veteran or disabled person with health care services, ADLs and IADLs**
- I CERTIFY that the information stated within this WORKSHEET FOR IN-HOME ATTENDANT EXPENSES is accurate and reflects the current environment pertaining to \_\_\_\_\_ and his or her care from\_\_\_\_\_.
- (Name, Signature and Title of Certifying Official) (Date Certified)



# Documentation of In-Home Attendant Fees

- ▶ M21-1, Part V, Subpart iii, Section G.3.n – If the fees for an in-home attendant are an allowable expense, receipts or other documentation of this expense are required. Documentation includes:
  - ▶ A receipt bill,                      Statement on the provider's letterhead
  - ▶ Computer Summary                An IRS Form W-2
  - ▶ Ledger            **OR**                      Bank statement
- ▶ The evidence submitted must include the:
  - ▶ Amount paid                      Date payment was made
  - ▶ Purpose of the payment        Name of the person for whom service was provided
  - ▶ **AND**    Identification of the provider to whom payment was made.



# Documentation of In-Home Attendant Fees

- ▶ M21-1, Part V, Subpart iii, Section G.3.o
  - ▶ Annual verification of in-home attendant fees is **not** required.
  - ▶ The claimant is required to submit documentation of expenses:
    - When in-home attendant fees are first claimed, or
    - When the person/company providing the service changes.



# VA Form 21P-0969

## Section I

- ▶ **1. ARE YOU OR YOUR DEPENDENTS RECEIVING OR EXPECTING TO RECEIVE ANY INCOME IN THE NEXT 12 MONTHS INCLUDING, BUT NOT LIMITED TO, DISTRIBUTIONS FROM A RETIREMENT PLAN, SUCH AS:**
- ▶ • Military Retirement • Civil Service Retirement • IRA • SEP • Qualified Plans • Pensions • Annuities • Black Lung (If "No," skip to Section II)
  - ▶ Requires that you provide "documentation of assets".
  - ▶ Only allows for "Current Monthly Gross Income". Some individuals receive annual distributions from annuities, etc.
    - ▶ Divide by 12 and enter that amount.



# VA Form 21P-0969

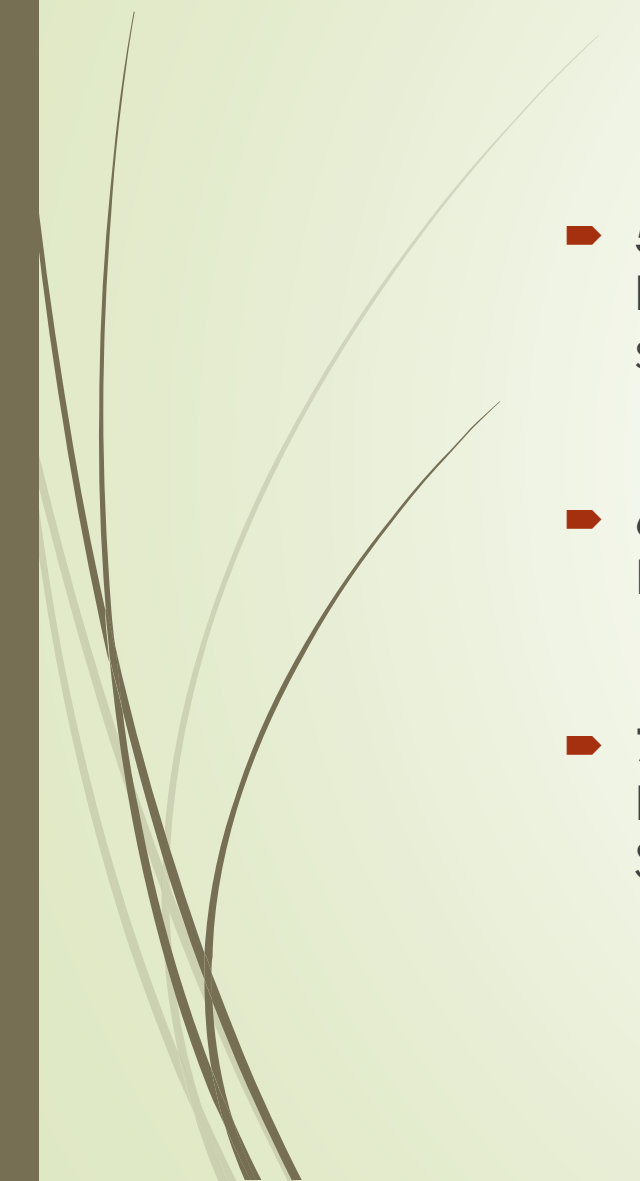
## Sections II - IV

- ▶ **2. ARE YOU OR YOUR DEPENDENTS RECEIVING OR EXPECTING TO RECEIVE UNEMPLOYMENT INCOME IN THE NEXT 12 MONTHS?** (If "No," skip to Section III)
- ▶ **3. DO YOU OR YOUR DEPENDENTS OWN A SAVINGS BOND OR RECEIVE OR EXPECT TO RECEIVE INTEREST FROM A SAVINGS BOND WITHIN THE NEXT 12 MONTHS?** (If "No," skip to Section IV)
- ▶ **4. ARE YOU OR YOUR DEPENDENTS RECEIVING OR EXPECTING TO RECEIVE, INCOME FROM RENTAL PROPERTY, FARM OR BUSINESS WITHIN THE NEXT 12 MONTHS?** (If "No," skip to Section V)
  - ▶ If yes, requires completion of VA Form 21P-4165 or 21P-4185



# VA Form 21P-0969

## Sections V - VII

- ▶ **5. ARE YOU OR YOUR DEPENDENTS RECEIVING OR EXPECTING TO RECEIVE, INTEREST, DIVIDENDS, OR ROYALTIES WITHIN THE NEXT 12 MONTHS?** (If "No," skip to Section VI)
    - ▶ Includes interest from checking accounts
  - ▶ **6. ARE YOU OR YOUR DEPENDENTS RECEIVING WAGES OR EXPECTING TO RECEIVE WAGES WITHIN THE NEXT 12 MONTHS?** (If "No," skip to Section VII)
    - ▶ Requires documentation of current & expected wages
  - ▶ **7. DID YOU OR YOUR DEPENDENTS RECEIVE INCOME LAST YEAR THAT IS NO LONGER BEING RECEIVED OR WAS A ONE-TIME PAYMENT?** (If "No," skip to Section VIII)
- 

# VA Form 21P-0969

## Sections VIII - IX

- ▶ **8. DO YOU OR YOUR DEPENDENTS HAVE ASSETS NOT ALREADY REPORTED, SUCH AS NON-INTEREST-BEARING ACCOUNTS, CASH, STOCKS, BONDS, OR REAL ESTATE?**  
**NOTE:** (If "No," skip to Section IX)
  - ▶ B. WHAT IS THE CURRENT CASH VALUE OF THE ASSET? (Provide a bank or other official statement showing the current value.)
  - ▶ C. AMOUNT OWED ON THE ASSET OR AMOUNT MORTGAGED OR OTHERWISE ENCUMBERED?
- ▶ **9. IN THE CURRENT YEAR AND/OR PRIOR 3 TAX YEARS, DID YOU OR YOUR DEPENDENTS SELL, CONVEY, TRADE, OR GIVE AWAY ASSETS?** (If "No," skip to Section X)
  - ▶ D. DETAILS OF THE ASSET TRANSFER (Provide documentation of the transfer...)
    - ▶ Was the asset transferred for less than fair market value?
    - ▶ Was an asset reported to the IRS sold?
    - ▶ What was the original purchase price? \_\_\_\_\_
    - ▶ What was the sale price? \_\_\_\_\_
    - ▶ **What date was the asset sold? (MM,DD,YYYY)** \_\_\_\_\_
    - ▶ What was the gain (capital gain, etc.)? \_\_\_\_\_

# VA Form 21P-0969

## Sections X - XI

- ▶ **10A. IN THE CURRENT YEAR OR THE PRIOR THREE TAX YEARS, DID YOU OR YOUR DEPENDENTS TRANSFER ANY ASSETS TO A TRUST OR PURCHASE AN ANNUITY?** (If "No," skip to Section XI)
    - ▶ 10C. WHAT WAS THE DATE THE ASSET WAS TRANSFERRED? (MM,DD,YYYY)
    - ▶ 10K. WAS THE TRUST ESTABLISHED FOR A CHILD OF THE VETERAN WHO WAS INCAPABLE OF SELF-SUPPORT PRIOR TO REACHING AGE 18?
  - ▶ **11. DID YOU OR YOUR DEPENDENTS WAIVE OR EXPECT TO WAIVE ANY RECEIPT OF INCOME IN THE NEXT 12 MONTHS?** (If "NO," skip this section.....)
- ▶ This attachment is complete.



# VA Form 21-2680

## Examination for Housebound or Aid and Attendance

- ▶ **Block 32:** IN YOUR JUDGMENT, DOES THE VETERAN/CLAIMANT HAVE THE MENTAL CAPACITY TO MANAGE HIS OR HER BENEFIT PAYMENTS, OR IS HE OR SHE ABLE TO DIRECT SOMEONE TO DO SO? (If "No," provide examples and rationale to support your conclusion.)
  - ▶ If the doctor marks this NO – VA WILL propose to rate incompetent.
    - ▶ Ramifications should be discussed with veteran & family PRIOR to sending 21-2680 to have doctor complete.
    - ▶ Fiduciary process takes place after VA makes decision regarding claim.

# Assessing Income and Net Worth

- ▶ **IVAP** Total Family **Income** From All Sources
- ▶ - Reasonably Predictable **Medical Expenses** (Less 5% MAPR)
- ▶ = Income for VA Purposes (**IVAP**)
- ▶ Reasonably Predictable Medical Expenses – Health Insurance Premiums, Out of Pocket cost for Assisted Living, Nursing Home, In-Home Health Care.
- ▶
- ▶ **NET WORTH** **Assets**, i.e., Bank Accts, Stocks, Bonds, IRA's, CD's, Value of Property, etc. (Excluding primary residence and 2 acres)
- ▶ + **IVAP**
- ▶ = **Net Worth** (As of 12/1/2018, cannot exceed \$127,061.00)
- ▶ VA Pays difference between IVAP and MAPR (Maximum Annual Pension Rate)

# Assessing Income and Net Worth (cont.)

- ▶ Example: Single Veteran – Age 72, has gross monthly income of \$1,405 from Social Security and \$675 from other retirement. (\$24,960 annual income) Medicare Part B – \$135.50 and Part D - \$48.50. (\$2,208 annual medical expenses)

▶	Income	24,960
▶	- UME's	<u>1,532</u> (2,208 – 5% MAPR of 676)
▶	=	23,428 (IVAP)

- ▶ Exceeds income limit - \$13,535
- ▶ If in need of A&A and in assisted living, entire cost of ALF is deductible medical expense. Assuming \$3,000 a month cost (\$36,000 annually), IVAP is reduced to zero because medical expenses exceed income. Veteran then eligible for \$1,881 a month. \$22,577 annually.





# Look Back Period (Assets)

- ▶ Effective October 18, 2018 VA started a 3 year look back for transfer of assets. (Does not include transfers prior to date of change in law)
- ▶ Transferred or sold assets for less than fair market value.
- ▶ Includes transfer of assets to an annuity or trust
- ▶ Transfer of assets for less than fair market value **could** result in a delayed eligibility for benefits. (Veteran/claimant not eligible for pension during penalty period)

# Penalty Period

- ▶ Calculating penalty period: (M21-1, Part V, Subpart iii, Chapter 1, Section J.5. f-n)
  - ▶ Determine Net Worth (assets + IVAP)
  - ▶ Add - value of transferred asset
  - ▶ Subtract - Net Worth Bright-Line Limit (= Covered Asset)
    - ▶ Covered Asset is the amount Net Worth would have exceeded the Bright-Line limit had it not been transferred.
  - ▶ Divide Covered Asset by Penalty Period Rate
    - ▶ Penalty period rate is Monthly A&A rate for a veteran with one dependent (\$2,230 as of 12/1/18)
  - ▶ Equals - Number of months for penalty period (not to exceed 5 years)
  - ▶ Penalty period begins first day of month following date of asset transfer

# Penalty Period (cont.)

- ▶ Example: Veteran has Net Worth determined to be \$84,000. In November 2018, he transferred \$100,000 from savings to his son.
- ▶ Net Worth (84,000) plus Transferred Asset (100,000) = \$184,000.
- ▶ \$184,000 minus Bright-Line Limit (\$127,061) = Covered Asset of \$56,939
- ▶ Covered Asset (\$56,939) divided by penalty period rate (\$2,230) = 25 (rounded down)
- ▶ Penalty period begins Dec. 1, 2018 and expires Jan. 30, 2021.
  
- ▶ If amount transferred to son was \$50,000, penalty period would be 3 months and Veteran would be eligible to apply for pension today.
  - ▶  $84,000 + 50,000 = 134,000 - 127,061 = 6,939 / 2,230 = 3$  Penalty period ended 2/28/19.

# What Comes Next???

- ▶ If it is anticipated he/she will receive less than MAPR:
  - ▶ AT TIME OF CLAIMS SUBMISSION
    - ▶ Explain the need to keep track of medical expenses such as:
      - ▶ Doctor's Co-payments
      - ▶ Prescription Medication
      - ▶ Mileage to doctor's visits/pharmacy (Each individual date)
      - ▶ Over the counter medication
        - ▶ If a health care professional directs a claimant to purchase....allow a medical expense deduction up to \$1,500 (per household member per calendar year)

M21-1MR, V.iii.G.2.u

Explain the 21-8416's (probably 3) that will come with their award letter and the need to file them at the appropriate time. They no longer get a reminder to submit UME's.

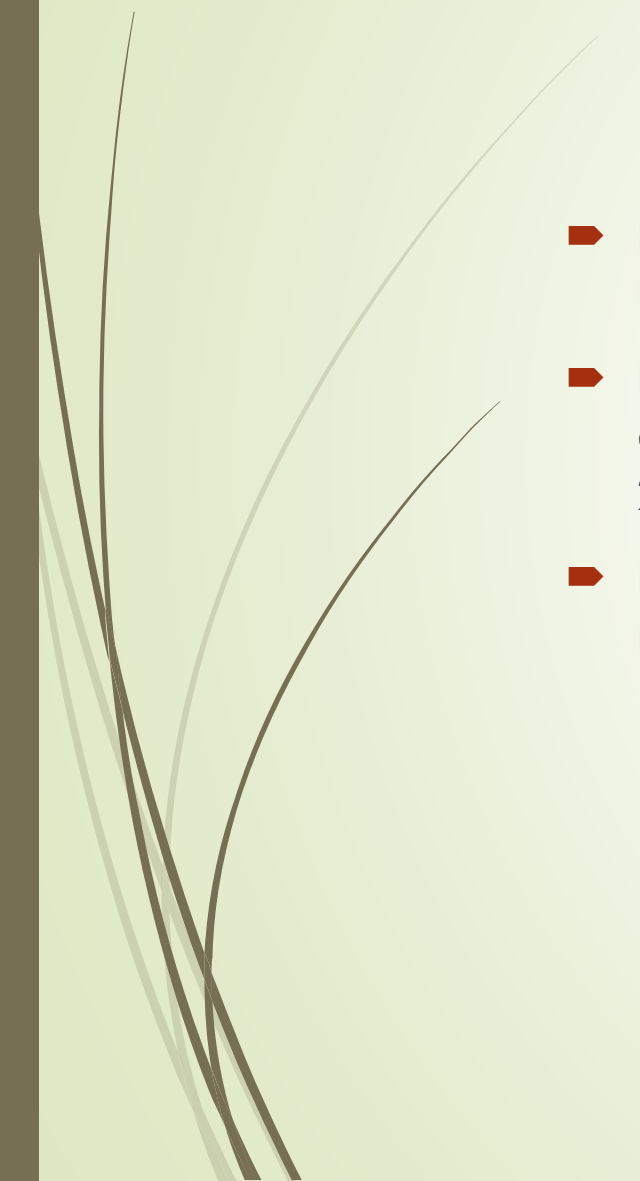
Must be submitted within same or next calendar year. 38 CFR 3.660(b)(1)

# LIBERALIZING LAW CLAIMS

- ▶ May allow Veteran to receive one year of retroactive benefits.
- ▶ 38 CFR 3.114 – Change of Law
- ▶ 38 USC 1513 – Established age 65 as meeting the permanent and total disability requirement for pension.
  - ▶ Added Dec. 27, 2001 Effective Sep. 17, 2001
  - ▶ Applies to Veterans born **9/17/1936** or earlier
- ▶ **Extremely** difficult to try to provide documentation with original claim.
  - ▶ Need exact date of claim & it will take time for Veteran to gather required information.
- ▶ File claim and let VA send 8416 for prior year.
  - ▶ Use dates preprinted on 21p-8416 and EVR. ( if using forms in VetraSpec, write Liberalizing Law on top of each form)
  - ▶ Submit mileage and ALL unreimbursed medical expenses.
- ▶ \* Also see 38 CFR 3.400(b)(1)(ii) for earlier effective date.



# CHANGES IN INCOME/EXPENSES

- ▶ If anything changes in regard to income or medical expenses, the VA must be notified AS SOON AS POSSIBLE.
  - ▶ If a claimant moves from home to assisted living or nursing home, or changes facilities, they must notify the VA of these changes. (21-4138 and 21p-8416)
  - ▶ If spouse starts receiving Social Security or passes away, VA must be notified AS SOON AS POSSIBLE. (**Common reason for overpayments.**)
- 

# 38 CFR 3.551

- ▶ (i) Certain beneficiaries receiving Medicaid-covered nursing home care. This paragraph
  - ▶ (i) applies to a veteran without a spouse or child, to a surviving spouse without a child, and to a surviving child. Effective November 5, 1990, and terminating on the date provided in 38 U.S.C. 5503(d)(7),
  - ▶ if such a beneficiary is receiving Medicaid-covered nursing home care, no pension or survivors pension in excess of \$90 per month will be paid to or for the beneficiary for any period after the month in which the Medicaid payments begin.

## V.iii.3.2 c. State Medicaid Home and Community-Based Waiver Program

Some beneficiaries receive Medicaid-paid services under a State Medicaid Home and Community-Based Service Waiver Program.

If Waiver Program Medicaid Services are being received in an assisted living facility, personal care home, the person's home, or any other facility that is not listed on Medicare.gov's Nursing Home Compare web site, then the beneficiary is not considered to be in a Medicaid-approved nursing facility, and is therefore not subject to the reduction to \$90 under 38 U.S.C. 5503(d).



# M21-1 REFERENCES

- ▶ M21-1 Part V Pension and Parents DIC
- ▶ M21-1 Part V Subpart i, Chapter 3 Section A-General Information on Income and Net Worth Development
- ▶ M21-1 Part V Subpart i Chapter 3 Section D-Reduction of Income Due to Unreimbursed Expenses
- ▶ M21-1 Part V Subpart iii Chapter 1 Section G-Pension Deductible Expenses
- ▶ M21-1 Part V Subpart iii Chapter 1 Section J-Net Worth, Assets Transfers and Penalty Periods