VETERANS ADMINISTRATION UPDATES FOR VA PENSION AND SURVIVOR PENSION

VA will soon implement the 36 month "Look Back" for VA Pension and Survivor Pension applications as well a penalty for asset transfers. The expected effective date for this new regulation is **October 18, 2018**. Claims submitted to Pension Management before that time will not be subject to the look back nor penalty.

The new net-worth limit "asset cap" for a claimant will be the Community Spousal Resource Allowance (CSRA), which is currently $**123,600**. Total net-worth, in VA's eyes, now includes all countable assets (investments, bank accounts, cash, second properties, etc…), *PLUS* annual gross income. So, a household with $90,000 in assets and $30,000 yearly income is eligible. Their "asset cap" would be $120k, which is less than the CSRA. This means <u>more individuals will qualify for Pension benefits than before</u>. VA is also doing away with their life expectancy tables. A 95 year would be eligible with a $123,599 “asset cap.”

<u>If the "asset cap" exceeds the $123,600 CSRA, the claimant can still qualify if unreimbursed medical expenses like home care or assisted living offset income</u>. For example,

> *A claimant with $110k assets and $40,000 yearly income would qualify if they earn a medical rating for aid and attendance and have $30,000/year or more in medical expenses. Their "asset cap" in this situation would also be $120,000. This means more individuals will qualify for Improved Pension (Pension w/ A&A or Special Monthly Pension) benefits than before*.

The **penalty divisor** for ALL claimants is based the monthly Maximum Pension Rate for a rated A&A Veteran with One Dependent. Which is currently $2,169.00. Penalties cannot exceed 5 years and will be calculated to the month. A penalty for gifting/transferring assets might look like this:

> *A claimant currently has $70,000 in assets and $40,000 yearly income but 2 years ago, gifted $40,000 in assets to a child. VA will calculate their "asset cap" to be $150,000. $26,400 of the gift ($150,000 - $123,600) is subject to a penalty. In this situation, the assessed penalty would be $26,400/$2,169 = 12 months.*

Primary residences will still not be included in net-worth calculations unless they are sold. A claimant may sell a primary residence and re-purchase without incurring a penalty so long as the net proceeds are used before the end of the calendar year to purchase the new home. Furthermore, the claimant can live in assisted living, for example, and still own a primary residence. VA allows them the right to "move home" if the assisted living stay doesn't work out.

Annuity purchases and **transferring assets to trusts** (even if the trusts and contracts are irrevocable) are subject to a penalty if done within the 36 month look back ONLY if the "asset cap" would have exceeded the $123,600 CSRA. For example,

> *If my "asset cap" today is $50,000 and 2 years ago I bought $70,000 worth of annuities, I am eligible today and will not be penalized because my “asset cap” according to VA is $120,000*.