

Be Wary of Market Annuities

Lately, our area has been the subject of a new marketing campaign aimed at seniors who are veterans. A variety of financial product firms (read annuity sales persons) have discovered that they can market annuities to senior veterans under the guise of helping them qualify for the non-service connected disability pension program. This program, more commonly known as "Aid and Attendance", is a program provides cash payments to use for medical and long term care needs of veterans or their surviving spouse.

To qualify, the following requirements must be met:

1. Obviously, the applicant must be a wartime veteran (38 USCS section 1521j) or a dependent of a wartime veteran. Basically, the veteran must have served at least one day during wartime and have been discharged under any condition other than dishonorable.
2. The applicant must be determined to be "permanently and totally disabled". Generally, a letter from the applicant's personal physician stating that the applicant has an incapacity that requires care or assistance regularly to protect the applicant from danger in their daily environment.
3. As a general rule of thumb, the net worth of the applicant cannot be in excess of \$80,000. The home and a car are not counted. VA has now adopted a sliding scale for the asset test based on the age of the applicant. The older the applicant, the less assets they may have. There is no "look back" period or transfer penalty as there is with Medicaid programs. However, if the applicant may need Medicaid in the future, remember that any previous transfer(s) to qualify for aid and attendance may have repercussions in the form of penalty periods of disqualification for Medicaid. Consult with an elder law attorney for information about Medicaid.
4. The applicant's income cannot exceed \$1,744 per month. Countable income is all income attributable to the veteran (38 CFR sections 3.262 and 3.27 1). Unreimbursed medical expenses can be deducted from the veteran's income (Manual M21-1, aprt IV, sec 16.3 1b[6][a]).

The maximum pension amount available to the veteran or their dependent is \$1,744 per month. The formula for calculating the pension amount would be the maximum pension rate minus current monthly income plus unreimbursed medical expenses. Aid and attendance payments do not count as income for Medicaid qualification purposes. However, if the applicant is in a nursing home and on Medicaid, by law, the pension amount is reduced to \$90 a month.

Unlike Medicaid, there is no "look back" period for prohibited transfers. Thus, a veteran could "transfer" all their assets and apply the next day without penalty. This is the fact upon which these financial firms rely to sell their products. They will try and convince the veteran that they will (1) help to assist the veteran to qualify for the "Aid and Attendance" pension; and (2) that in order to follow their plan; the veteran must purchase an annuity in the name of another family member.

Additionally, each county in Florida has a Veterans Service Coordinator. They provide free assistance to those wishing to apply for this program. The Veterans Coordinator for Brevard County can be contacted at (321) 637-5432 and is located in Building B at the Viera Government Center. Other organizations such as the VFW also provide assistance.

Lastly, because there is no "look back" period and thus assets can be transferred right before a veteran applies; there is no need to purchase any annuity. However, transferring assets will impact Medicaid eligibility. This is true whether the transfer is outright or for the purchase of an annuity in another's name. There are ways to transfer assets without affecting Medicaid eligibility.

In short, these financial firms have just seized upon a novel way of selling annuities. Please be careful before entering into any of these transactions.