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United Spinal Webinar

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>> Moderator: Good afternoon, thank you for joining us for the VetsFirst webinar on non-service-connected pension benefits. My name is Heather Ansley, vice president of veterans policy of VetsFirst. Next slide, please.

So I want to take just a moment today to introduce our presenter. It is Christine Golden, national service director for VetsFirst. She is an army veteran of 13 years. And has been a part of our organization since 1999, has a wealth of experience in working with veterans benefits issues including assisting with the management of our online question portal, Ask VetsFirst, and also overseeing our benefits program which includes the daily working of the VA Philadelphia regional office is she is in our United Spinal office there and also supervising and evaluating the daily work performance of our veteran service coordinator who is also at the VA Philadelphia regional office.

Tina, in her work, assists veterans in the preparation of claims including getting the needed documentation or other evidence that may be needed to have a fully developed claim. She also does outreach at VA medical centers and works to insure that veterans with all types of claims from all eras receive the benefits and representation that they need.

Next slide please. A reminder before we get started. We will have a question and answer session at the end of the webinar. The box that you see on your screen just provides information with how you can input a question and then we will take some time at the end of the presentation to go over some of those questions and answers.

I also just want to take a moment to say that this webinar is -- has live transcriptioning and there is information available in the chat box if you would like to follow instructions to be able to follow along with that live transcriptioning.

So with that, I will turn it over to Christine and we will begin the presentation.
Christine.

>> Christine Golden: Thank you, Heather. I'm going to speak briefly about VetsFirst history. For over 65 years VetsFirst has represented veterans and their dependents with VA benefits and healthcare issues. We fight to insure that all veterans with disabilities have the ability to live and work within their communities.

As a VetsFirst -- I'm sorry, our mission as a veterans service organization is to educate and inform veterans and their dependents of their rights and benefits due from the VA. We advise and assist in the appeals process of any adverse VA decisions. We provide free claims representation. We provide clear explanations of VA laws and regs and lastly we provide answer to our questions at our web site where individuals can find up to date, extensive knowledge.

This afternoon I'll be speaking briefly about the non-service-connected pension.

The VA pension is a needs-based program. And it was established to help disabled

veterans who needed financial assistance to supplement their incomes and these individuals they served during the war time. The pension benefits, it helps to bring a veteran's total income, including income from other sources such as social security, if they have any retirement income, to a level set by Congress. And the entitlement to the pension program based on veterans disability, their accountable income and their net worth.

An overview of the topics that I'm going to discuss today, I will speak about the three different VA pension programs, the protective pension, the improved pension, and the criteria that's needed for the improved pension and if a veteran needs aid and attendance. And then the income and net worth that the VA looks at when they make a decision under -- if they should approve the pension program.

And then we're going to look at the VA management centers.

The VA offers three pension programs. Section 306 and the old law pension and the approved pension. The 306 and old law pension have been phased out. Those two programs were only in effect from July 1st, 1960 until December 31st, 1978. On January 1st, 1979, the approved pension came into effect.

The old law and the section 306 are call the protective pension. And these two programs, as I mentioned earlier, are no longer in existence as of January 1st, 1979. And any veterans who were receiving benefits under the protective pension, they had a choice to either switch to the improved pension or continue to receive their monthly rate they were allocated at in '79. If they continued to receive their benefits under the 306 or the old law, those rates were protected and the only down fall is that the benefits would never increase.

It's best for a veteran to switch to the improved penning because it pays a higher monthly payment. Once an individual switched to the improved pension, they could never go back to the protective pension.

It's to a veteran's advantage to switch from the protective to the improved because their financial situation may have changed over the years or their disability may have worsen today an extent where they will be able to get the aid.

If they stayed with the protective pension, they couldn't apply for aid in the house bound status unless they elected to switch to the improved pension.

The improved pension, it provides financial benefits to eligible veterans who have non-service-connected disability and to veterans age 65 and older.

The VA considers all the income of a veteran and his or her dependents. If a veteran satisfied all the requirements but their income exceeds the maximum annual pension rate, which is set by Congress, then the claims will be denied.

There's five basic criteria for eligibility that have to be satisfied and if a veteran has a disability that determined not to be permanent and total, the claim, again, will be denied.

If a pension claim is granted and if the income becomes excessive, say, years down the road if a veterans win the lottery or had any rental property that generated income, the pension would be terminated until their net worth is within the limits set by law.

Whenever a veteran applies for the improved pension, they have to supply the VA with their social security number and the reason is that the VA uses social security numbers to verify a claimant's income and net worth from sources such as the IRS or from social security.

The information that is needed for improved pension, veteran must have served during war time that resulted in a discharge other than dishonorable discharge.

They must have served at least 90 days of active service and at least one of those days has to have been during an active period of war.

If a veteran enters active duty after, say, September 8, 1980, they generally had to have served 24 months of continuing service or they have to have served a full period for which they were called to active duty.

Also, it's not required that a veteran had to actually have actually served in the war. They just have to have served at least one day during that period of war. I will just use myself as an example. I was in the military in 1990 during the first Gulf War. I didn't actually serve in the war but I was in during that time frame. So therefore, if my income was below a certain limit, then if I was age 65 and permanently and totally disabled, I would probably qualify for the improved pension.

Also, the criteria, they have to be permanently and totally disabled at the time that they apply for the pension. The permanent and total disability can't be due to a willful misconduct on the veteran's part. And they have to demonstrate a financial need, that their income limit and their net worth have to be at a limit where they would be entitled to the pension.

And I just want to mention that the income limits, they are set yearly by Congress.

Veteran who qualifies for a non-service-connected pension, they may qualify for additional benefits such as aid and attendants house bound. The VA calls these two benefits special monthly pension because a veteran disability level, it exceeds permanent total disability.

Also, to meet the criteria for aid and attendants, the veteran would have to require the aid of a person to perform their activities of daily living. They have to be blind or so nearly blind that they need corrective visual acuity. They have to be a patient in a nursing home or be bedridden, means they have to remain in the bed.

When I say that they need -- they require the aid of a person to help them perform their daily activities of living, they may need help in certain areas such as bathing. Help feeding themselves or dressing or adjusting prosthetic devices or they may need help protecting themselves from hazards of daily living. As far as bedridden, the veteran -- if a veteran who voluntarily just take to bed or if a doctor has prescribed some type of rest due to a convalescent, that doesn't meet the requirement for bedridden.

There must be a factual need for aid and attendants. They don't have to demonstrate they need the constant need. They have to show that they need someone -- it could be maybe two or three hours a day for about maybe three to four times a week.

House bound is another special monthly pension that's paid to a veteran who is confined to his or her home because of a permanent disability. And there's only two ways for a veteran to prove entitlement to the house bound benefit. They have to have a single disability and have to be permanently, that's evaluated at 100% disabling and confined to their immediate premises or they have to have a single permanent disability evaluated as 100% disabling and then they can have two or more disabilities evaluated at 60%. Are not that's the only two requirements that will get you the house bound benefit.

The veterans can only receive one of the specially monthly pensions. They can't receive both. They can either receive house bound or the aid and attendants. It requires that they are so helpless that they require the aid of another person.

To qualify for the aid and attendants or house bound, you need a form from a physician. 21-2680 called the examination for house bound status or permanent need for regular aid and attendants. This form can be downloaded from the VA web site or call your local VA regional office at 1-800-827-1000 or contact our VetsFirst organization. We will be more than happy to supply you that form. Also, I recommend that any individual who seeks the assistance in applying for a non-service-connected either house bound or aid and attendants. If you are in the Philadelphia jurisdiction, you can contact our organization and we will be more than happy to advise you. But if you are not within our jurisdiction, we can also, you know, recommend some organizations in your area that you can contact for assistance.

A veteran has met the eligibility criteria for the pension, that means that they have met the war time service, met the active duty service, permanent and total disability, age requirements, discharge status. Now the VA will look at income and net worth. But before they look at that, for any reason if a veteran fails to meet the eligibility criteria, the pension will be denied.

But if they meet the criteria for the eligibility, the VA, they would start to look at their income and net worth.

The veteran's income for VA purposes, it has to be below the improved pension limits set by Congress which toward the end of my presentation I'm going to show you the rate table as to how the VA determines how much they are going to -- a veteran can't make per year.

Congress, they established these maximum amounts benefits yearly and it's -- the VA, they count all sources of the household income for a veteran and their dependents. If they have any working children in the home, that income is also counted as household income minus any deductions as much as unreimbursed medical expenses or supplemental social security insurance or educational benefits.

Unreimbursed medical expenses, it plays a big factor in reducing a veteran's accountable income for VA purposes. And if a veteran -- if their countable income is less than the maximum annual pension rate, then they meet the income criteria.

A veteran's resources must be determined insufficient to meet their needs without a

VA support. Again, the pension program, based on need. They have to have -- their net worth is calculated by totaling the market value of all and real personal property owned minus any outstanding mortgages. The net worth consists of such things as stocks, bonds, investments, property other than a veteran's personal residence and any personal effects. The VA, they really don't define what exactly excessive net worth is. Therefore, if this question should arise, the VA, they do what is called an administrative review on a case-by-case basis. It's mostly done for net worth that's value over \$80,000.

If the income and the net worth of a veteran becomes excessive, then the VA will terminate the benefit until the income and net worth is no longer excessive. This is usually terminated the first of the following calendar year.

Accountable income is income received by a veteran and his or her dependents from sources such as earnings, disability payments, retirement, interest, and dividends and farming, businesses, enterprises that's considered accountable income. And proceeds from life insurance or inherited shares of marketable stock. If you are not really sure what accountable income is, I recommend that you consult with an accredited service organization such as VetsFirst or an elder law attorney or licensed attorney specializing in VA law. Again, you can also contact your local veterans affairs organization, the VA. There's a list of accountable income that the VA will take a look at.

Income that's excluded, such things as welfare, fire insurance proceeds, profit of a sale of property real or personal. I must mention, the sale of a business is considered income. And unreimbursed medical expenses, such things such as hospital expenses, doctor office fees, vision, prescription, medical insurance premiums. These are type expenses that you pay a co-pay for and that you are not reimbursed. You can use that to bring down your total accountable income.

Again, there's a list of what the VA considered excluded income. Again, I recommend you contact an accredited veterans service organization or the VA.

How the VA calculates the monthly benefit: They look at a veteran's income for VA purposes. They calculate it by totaling all the annual household income minus any deductions. Then the income for VA purposes is subtracted from the max number annual pension rate set by Congress and the difference is the total annual pension amount paid to a veteran, and then they take that amount and they divide it by 12 to calculate how much a veteran will receive monthly.

You probably didn't understand that so I will show a slide where I will break it down in a scenario.

Mary, who is a single Vietnam veteran. Mary didn't serve in Vietnam but served one day during the Vietnam War. She has no dependents. Her income is equal to \$10,000 annually. So Mary, 2013, maximum annual pension rate, the amount set by Congress, is \$12,465. Mary's monthly pension benefit would be calculated as follows. The 12,465, which is the maximum annual pension rate set by Congress minus the 10,000 that Mary receives annually. It could be from some type of retirement. It could be from social

security. We have a difference of \$2,465. This is the amount that the VA will pay Mary to make up the difference to the \$12,465. The amount set by Congress that the say Mary can make annually. Divide that by 12 and then we get \$205 that the VA will pay Mary monthly. If Mary had any deductions or if Mary had any dependents, then the amount for the maximum annual pension rate would possibly go up.

Here's a table for the pension rate that's effective December 12, 2012. Next month, we will receive a new pension rate and in 2012, the cost of living was 1.7%. Last week we just received word that the cost of living will be effective -- December 1, 2013, the new pension amount will be 1.5% cost of living.

In the scenario, you see how I got the \$12,465 for a veteran without any spouse or dependents. If you look down at aid and attendants with one dependents and how I explain that aid and attendants, it pays a higher amount. If Mary had needed the assistance of someone else and we were going to apply for aid and attendants, I would make sure that Mary's income would be no more than \$2,465.

There's three different pension management centers that receive claims from offices within their jurisdiction. We have Philadelphia, Pennsylvania. Again, our Bedford office is located. Milwaukee, Wisconsin and St. Paul, Minnesota.

And as you can see from this slide in the color in red is where the states that Pennsylvania work those type claims. In the green is what Milwaukee, they are responsible for those states. And St. Paul, Minnesota, they handle all the states in the blue. I'm assuming that they have the larger territory because it's probably not that many veterans population in those areas.

Once the pension has been granted, a veteran must report all changes. Such as marital status, if their income has changed, dependents have changed.

A veteran who originally filed a VA claim for pension and they were single veteran, so the VA was only counting that income of that veteran, and then down the road they got married and they failed to report that income to the VA, well, as I mentioned earlier, the VA does receive information from the IRS and social security. The VA will -- the IRS will let the VA know that there's more income that the veterans is receiving that they are not disclosing to the VA. The reason why the veteran has to disclose that information is because the VA will now look at the spouse's income if they were working, if they were receiving social security. And also they could also count that spouse's deduction as well.

Failure to report any changes in income, marital status or dependents may result in overpayment or possibly the pension benefit being terminated.

And also, the VA, again, they receive information from the IRS and social security. They do like the IRS, they do something similar to a lookback. Well, the VA will probably look back like three or four years. It could be a couple years before you get a notice that you may possibly have an overpayment. That's done under what the VA calls their income for verification. I'm not going to discuss that today. We could spend a whole presentation talking about the income verification match. It is income that wasn't

disclosed to the VA.

And social security benefits payments, they are considered income and they are likely to be an offset of dollar for dollar. That's the example that I use when I use Mary. She was possibly receiving social security and therefore the VA just had to pay her a difference of \$2,465 to make up the difference with her social security.

Also, the VA pension, it doesn't provide a great deal of income but it helps. Again, the pension program is based on need. And the veteran, they have to have limited income.

Veterans who are eligible for a VA pension, they should check to see if they qualify for any other state or federal benefits such as social security. Please feel free to contact VetsFirst at 800-404-2898. If you have any questions, again, about applying for a non-service-connected pension benefit or if you are already receiving the pension benefit but you are not sure if you are entitled to aid and attendants or house bound, contact our organization. If you are in the Philadelphia, Pennsylvania jurisdiction, if not, you can still contact us and we will be more than happy to get to you a veteran service aid organization in your area.

The last thing to speak about is the medal of honor. A lot of people have never heard of this program. Some veteran services offices haven't heard of this program. The VA, they administered a pension benefit to recipients of the medal of honor. Of course, we all know that the medal of honor is the highest military award for acts of valor. It's only awarded by the president of the United States and there's three versions of this medal. One for the army, one for the Navy, one for the Air Force and the Marines and Coast Guard, they share the same one that the Navy shares. And right now Congress sets this pension amount at \$1,259. That could possibly go up, because, again, we just got word that there's a 1.5% increase as upon last week.

The resources that I use for my presentation were the VetsFirst web site. Again, you can visit our web site where we have extensive up to date knowledge books. You can check out the web site and read about pension, about aid and attendants and house bound. When you go to the web site, look for the section titled guide to VA benefits. Also, you can visit the VA web site at www.benefits.VA.gov/pension. And that will give you information about the VA pension.

VetsFirst in Philadelphia regional office, we thank you for your service and again if you need any assistance in an applying for a pension, please contact our department.

At this time, if anyone has any questions, please just type your question in the box and thank you for participating in this webinar. So do we have any questions at this time?

>> Moderator: Thank you, Christine. Yes, we do have a few do have a few questions that have come in.

First, can you clarify veteran's eligibility for pension specifically disabled veterans below the age of 65 and their eligibility for pension.

>> Christine Golden: Veteran who is under the age of 65, they have to have a disability that's considered permanent and totally disabled.

>> Moderator: So, therefore, if you have a disability or you're over the age of 65 and you meet the income requirements, then you have the opportunity to be eligible for the pension program?

>> Christine Golden: Correct. You may meet the criteria for the eligibility. The next portion would be the income and the net worth.

>> Moderator: Very good.

Can you tell us, is it possible for someone to receive both a VA pension and also VA disability compensation?

>> Christine Golden: No, it is not. If a veteran who apply for a VA pension and they also apply for a VA comp because they are entitled to both, the VA will pay them the greater amount. The majority of times, depends on what their disabilities are as far as compensation, that may pay the greater amount. Again, they will be entitled to both but the VA will only pay the higher amount.

Also, what I want to mention is, if a VA who has dual pension and comp and for some reason if they were to go into, say, a hospital and they have to be reduced, then the VA will perhaps maybe reduce them back down to the pension amount.

>> Moderator: That's very helpful.

How do you -- I know within VA compensation we have percentages of disability. Can you tell us if there's anything similar to that in pension as far as somebody's disability rating and what that may or may not be?

>> Christine Golden: No, there's not a percentage rating. The VA will appoint their disabilities a percentage. But they won't see the same type percentage if they were to look on a compensation chart to say, well, my disability say I'm 50%, I should be getting this amount. No, the pension is totally different from the payment that they would receive if they were service connected.

>> Moderator: How does that relate to, for instance, the opportunity to receive the house bound benefit which includes having disabilities rated certain percentages, 100%, 60%? Do they just, you know, kind of look at it and say if this person did have a disability relating to their military service, it would be 60% or how do they make that determination within the house bound benefit?

>> Christine Golden: I don't seem to understand your question.

>> Moderator: Within the house bound benefit, it talks about having -- that you have to have certain percentages of disability.

>> Christine Golden: Correct.

>> Moderator: So if there aren't percentages in the pension program, does VA just say if you were service connected, you would be a 100% if we were looking at it that way? How do they know you're 100% for house bound purposes?

>> Christine Golden: Depends on what the disability is. If the disability was something that would be permanent and total, then they would get a 100% rating for that.

>> Moderator: Okay. Another question we have is, is it possible to appeal the

termination of a VA pension? What are your options if you -- so if your income has some type of overpayment.

>> Christine Golden: You can appeal any VA decision. You will have to have some type of evidence to support the reason why you are appealing their decision.

>> Moderator: And what type of evidence might that be?

>> Christine Golden: For instance, if you were -- if the VA determined that your income was above the limit and they denied your claim or if you were receiving pension and then they terminated your claim because they found out from other sources, like the IRS or social security, that you were receiving income but that that income was given to the VA in error and you have evidence to prove that, that's evidence that you would show to the VA.

>> Moderator: Okay. That's very helpful.

Another question we have is would the pension benefit count as income and could it be taxed? And if so, does it somehow interfere with a potential social security benefit?

>> Christine Golden: Yes, it does. If you are in receipt of social security and you are in receipt of a VA pension, every time your social security goes up, like for instance we just got the 1.5% which means social security will go up, it is possible that your VA pension may go down. Because, again, pension is only a needs-based program. So the VA, they are only supplementing you an additional amount to bring you up to the standard that's set by Congress, the maximum annual percentage rate table that I showed you.

>> Moderator: Is a pension, by itself, taxable and considered taxable income?

>> Christine Golden: I'm not really sure on that one, okay. But I can get an answer back to you on that one.

>> Moderator: Okay. Very good.

Another question we had was -- this is more of a general question. If an individual is still on active duty, how do they find out about -- what's the best way for them to find out about VA benefits and what they may be eligible for once they get veteran status at discharge.

>> Christine Golden: They can contact the VA directly but I would recommend they contact any veterans service organization in the state that they are going to be living in. It's best to meet with that organization and start talking to them about possibly putting in a claim with the VA.

>> Moderator: What is the best way to find a veterans service organization that might be in your area?

>> Christine Golden: You can go online or if you are in the area where there's a VA regional office, you can contact them. Their phone number is the same in every state, 800-827-1000. You can contact the VA and ask to speak to a veterans service organization or give you a list of different veterans service organizations located within their facility. A lot of veterans service organizations are located within the VA regional office.

They can also contact their county directors, they have individuals who help veterans file claims. They can just search the Internet and just put in veterans service organizations.

>> Moderator: Okay. Another question we have is someone is wondering if her father-in-law is receiving the correct pension amount. And is wondering if the person with his power of attorney can check to make sure that he is, in fact, receiving the correct amount for his pension.

>> Christine Golden: Yes. If they have someone who has power of attorney for her father, yes, I would contact that organization because they have access to the VA's files and computers so they can look up to determine if they are receiving the correct amount.

>> Moderator: Okay. Another question we have is -- and we may have addressed this. We had another question, is the VA -- so the VA pension, whether that is taxable by itself and it sounds like that we're not certain about because we had somebody who says they are a disabled veteran who does not pay taxes on their VA pension.

>> Christine Golden: Then it is probably -- I know the comp is not taxable. I don't think the pension is but don't quote me on that one.

>> Moderator: Okay. Also, another question, can you tell us what the definition or requirement is for totally disabled for pension purposes.

>> Christine Golden: The definition for totally disabled.

>> Moderator: To determine if you are permanently and totally disabled.

>> Christine Golden: It is any individual who can no longer work. Most individuals who are receiving social security disability, they have a disability permanent and total, that means they can no longer work. Also, any individual who was receiving social security disability and they think they may not be entitled to a pension, chances are you probably would be if you are getting social security disability. We know social security, they are very stringent. I would still apply for the non-service-connected with the VA. If you had a disability -- a good example to use is someone who has, say, an above-the-knee amputation and they want to put in for a pension. The VA denied them the disability because they determined the disability is not permanent and total. Chances are the disability is not permanent and total.

>> Moderator: And the other -- one of the things I wanted to make sure we mentioned was the Ask VetsFirst that's on our web site, can you tell us a little bit about that and how people can also get assistance through Ask VetsFirst.

>> Christine Golden: We have a program called Ask VetsFirst. If a veteran has any questions and they don't want to pick up the phone, they can go to our web site, click on ask a question, and it will write their question that they have and then within three to five days, one of our members in the VetsFirst department will get back to them and answer that question. We will probably recommend that you -- if you have any problems in appealing a decision, you don't know what the next step is, we would advise that you contact a veterans service organization because I feel that you shouldn't go this alone with

the VA. A lot of times when the VA may give a veteran a decision, they may take that decision and just say, well, the VA, they know what they are talking about and may not fight it any further. That's why I always recommend that you contact a veterans service organization. We do the same thing, we offer free, no charge representation. So again, you can visit our web site and just click on ask a question and then that question will come to one of our inboxes and we will respond to you within a reasonable amount of time.

>> Moderator: Very good. We have received another question regarding unemployability and whether -- is pension -- an individual unemployability, that's part of disability compensation, is there a similar concept in the pension world?

>> Christine Golden: No, there's not. It's pretty much, the majority of the veterans permanent and total over age 65, then it is pretty much determined that they can no longer work based on their disability and age.

>> Moderator: Okay.

Well, that is all of the questions that we have received this afternoon. Thank you, Tina, for your presentation and for your answers to those questions. I did want to remind everyone that this webinar has been recorded and archived on the VetsFirst web site at VetsFirst.org. That include having the presentation and also being able to listen to the audio of this webinar.

So we thank you for joining us this afternoon. And please don't hesitate to check out our web site and get in contact with us if we can assist you in the future. Thank you. This concludes today's webinar.

[Webinar concluded]