



VA Apportionment; What is it?

Apportionment is the act of assigning a portion of a veteran's disability compensation benefit to someone other than the veteran, such as a spouse, child or dependent parent. In the event of an apportionment, the VA will take a certain amount of your VA compensation and allocate it to the person it is being apportioned to. In essence, the VA will take a portion of your check and give it to the person who was granted apportionment. This will reduce the monthly amount a veteran receives from the VA. There are set circumstances in which someone can apply for apportionment of a veteran's benefit.

Who Is Eligible for Apportionment?

According to the VA, the following are eligible:

- A dependent parent
- A child or children who are not living with the veteran, and to whom the veteran is not reasonably contributing (e.g. child support)
- A child in an estranged spouse's custody
- An estranged spouse and child

The VA can apportion a veteran's benefit if the person requesting the apportionment demonstrates a need for it, or if the veteran is failing to support a family member for whom they are legally responsible, such as through alimony payments or child support. The VA will ask for information regarding the claimant's income and various expenses to determine that there is in fact a financial need.

The VA can also apportion the veteran's benefit if the veteran is incarcerated or if the veteran is deemed incompetent and is hospitalized without a fiduciary.

What Compensation Can Be Apportioned? And How Much?

According to 38 C.F.R. §3.450, "all or any part of the pension, compensation, or emergency officers' retirement pay payable on account of any veteran may be apportioned."

There are limitations in place to determine when a veteran's benefit cannot be apportioned. For instance, a veteran's benefit cannot be apportioned if:

Medina County Veterans Service Commission

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E-mail: veterans@medinacountyveterans.org | Website: www.co.medinacountyveterans.org

Office Hours: Monday Office Hours: Monday - Wednesday - Thursday - Friday 8:00 AM - 4:00 PM - Tuesday 10:00 - 4:00
(Closed Noon - 1:00 PM for Lunch) | Medina: 330-722-9368 | Toll Free: 844-722-3800 | Fax: 330-722-9378



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- The child to which the apportionment is claimed is under 18 and is in active military service.
- “[...] the total benefit payable to the disabled person does not permit payment of a reasonable amount to any apportionee.”
- “[...] it has been determined that [the spouse of the veteran] has lived with another person and held herself or himself out opening to the public to be the spouse of such other person, except where such relationship was entered in good faith with a reasonable basis (for example trickery on the part of the veteran) for the spouse believing that the marriage to the veteran was legally terminated.”
- The child of the veteran has been legally adopted by another person.
- The spouse of the veteran has been found guilty of conjugal infidelity.

What Happens in a Divorce?

VA benefits are not considered property that can be divided up in a divorce. Additionally, an apportionment is not automatically done in the event of a divorce. A spouse or child must file a claim for apportionment with the VA, and the VA decides whether or not they are entitled to it. If a claimant is denied an apportionment, they can appeal the decision within the VA system.

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