

Operation Maintenance Program

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With 2020 on the horizon, now is a wonderful time to roll out a Maintenance Program! A Maintenance Program helps you meet your revenue goals, foster lifelong clients, and focus on the proactive approach versus a reactive one.

A Maintenance Program can help kick-start the year by having the fee due annually in January. A number of member firms send out the invoices in December and see the funds start rolling in during the month of January and into February. Sometimes the winter months can be slower, especially in snowy regions. A Maintenance Program can supplement those times when things are a little slower until business picks back up. It's also a nice reminder for our clients to check in with us to make any changes to their plan that happened throughout the prior year.

Some member firms have also found dividing their Maintenance Program billing into 2 separate invoice periods is beneficial. If they see a slow down during the winter months and then again in the middle of the summer, sending out invoices to clients whose last name starts with A-M during December to be paid in January and then client's N-Z during May to be paid in June helps even out that cash flow crisis.

Finally, other member firms like having a "Planniversary" where their clients are billed annually on the anniversary of when they signed their plan. This means you can count on additional revenue monthly rather than once or twice a year.

Whatever billing option you choose, the ultimate goal is to ensure your client's plans stay as up-to-date and current as possible. You want to remind your clients you have welcomed them into your firm family as much as they have invited you into their personal family. Family takes care of family!

When you reach out to your clients with a maintenance program invoice, a letter should be included letting them know of any changes with

the law and the importance of visiting you to get their plan updated. This letter also serves as a nice reminder to your clients that unless they keep you informed of changes in their lives, you can't take care of them like you originally promised.

Some members worry about all the "benefits" the engagement agreement includes, such as client events, newsletters, special workshops, etc. If you don't think you can commit to all those things, don't! Remove from your engagement agreement the parts you aren't willing and able to fulfill and only include those you know you can. This way you aren't overpromising and underdelivering. As you grow your firm and your program, you can add in more benefits (while increasing the fee as necessary) to provide added value!

You also want to be more proactive rather than reactive when it comes to your clients. A reactive approach causes more fires and stress within the firm as well as with your clients. If they are feeling pressure to get updates done, you are also going to feel that pressure. By utilizing a Maintenance Program, your clients will feel confident their plan is always up-to-date and those fires happen less and less. They see the value in knowing this safety net is in place and can be acted upon as necessary.

Don't worry about how to announce your new program to your past clients right away. You and your team need to create the standards for your program such as when you conduct invoicing, the cost to the client, and with what plans to include it, as well as the benefits. You and your team can start offering the program to all new clients with whom you meet as soon as those details are ironed out! You can then plan a kick-off event where you invite all past clients to attend and sign up!

When reviewing your goals for 2020, make sure rolling out a maintenance program is at the top of the list!

*Happy
Holidays*

**We Wish You All a Wonderful Holiday Season and a
Happy, Healthy, and Prosperous New Year!**

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GIVE THE GIFT OF KNOWLEDGE THIS HOLIDAY SEASON, AND REFER A FRIEND TO LWP.



How to Represent a Claimant Before the VA: Rule Changes and Pit Falls

MATTHEW DONALD, ESQ., DIRECTOR OF VA SERVICES

The Sky is Falling! The Sky is Falling! The VA changed the rules!

No, the sky is not falling, and the VA has not changed any rules (as of December 21, 2017) despite several organizations stating otherwise. The VA's proposed rule change was initiated by the VA on January 23, 2015. The proposed rule change is RIN 2900-AO73 and can be found here:

https://www.va.gov/ORPM/docs/20150123_AO73P_NetWorthAssetTransfersandIncomeExclusionsforNeedsBasedBenefits.pdf

This action was taken by the VA on its own accord and without any Congressional input or oversight. Between January 23, 2015 and March 24, 2015 the VA solicited comments regarding the proposed rule change. More than 900 practitioners and advocates submitted comments with the overwhelming majority of those comments being against the proposed changes.

So what are the proposed changes?

The proposed changes have undergone many changes and as of this writing; no one has seen the changes to the proposed change but I have been told by the VA that those changes to the proposed change are drastic, and that the final rule is very different than the initial one that was posted above.

Some of the key changes (note –there are many) are:

1. The implementation of a three year look back period.
2. Limiting acreage of a homestead to two acres.
3. The implementation of a bright line (sort of) test for assets of \$119,220 (would include annual household income as part of the \$119,220).
4. A potential penalty period of up to 10 years based on transfers.

Again, there are numerous proposed changes about which you can read by visiting the above link, but the rule change has been changed, and no one has seen it yet.

So what do we do now?

The most recent update from the VA suggested the VA would release the rule in December 2017. As of this writing, no such publication has been released. It is worth noting that the VA originally suggested it would release the final rule in October 2015, then in February 2016, then in "Summer" 2016, then in April 2017, then in August 2017, and now in December 2017.

Also worth noting is that the proposed changes are changes to the CFR and the US Code. Remember, regulations like the CFR are designed to implement the US Code. Arguably the VA may have the authority to change the CFR, but it cannot change the underlying code which is a statute created by Congress.

As a matter of practice, we are advising our clients of the current law and working under the auspices of the current law. In other words, we haven't changed anything other than making our clients aware of the proposed rule change.

Any other pitfalls or traps to be concerned about besides the rule change?

As the old saying goes, a little knowledge can be dangerous. So you have a client that comes to see you and she has about \$30,000 in a checking account and \$120,000 in an IRA but is otherwise fully qualified for VA Aid and Attendance. The client says that she is willing to pay the tax on the IRA money and then either gift it away or put it in a completed gift trust (CGT). Being the superstar you are, you jump right in and help get the IRA money moved out of qualified status and into the CGT you designed for her. Everything else checks out; you create and submit an application on her behalf knowing that you have nailed this one. Two months later you get a response from the VA telling you that your client doesn't qualify because she is over the income amount.

Wait! What happened?

Beware of hidden income! Moving the IRA out of qualified status created a taxable event and as such all that IRA money is income, and the VA will find out because the VA does matching with the IRS. The VA will attribute that money over the next 12 months and tell you that your client has too much income. You can rebut this by telling the VA it was a one-time event, that it wasn't real income, and that the money was gifted away, and as such the client should be eligible. The point is, beware when working with qualified money and applying for the VA Improved Pension.

Any other "hidden" income issues out there?

Everyone loves annuities! Many annuities have deferred gains and when you move an annuity into a CGT, it is going to create a taxable event. That income is going to get reported to the IRS, and you are right back to the same situation as the IRA mentioned above. Additionally, the client likely had no idea that the changing ownership on the annuity was going to cause a tax issue. Oh, and by the way, you need to figure out from where to get the money to pay the tax on the gains you just claimed from the annuity.

Any other "pearls of wisdom"?

Be aware that if block number 27 of VBA Form 21-260 is checked "NO" (the one that asks if the claimant has the ability to manage his/her own financial affairs), the VA will most likely (99.99% likely) issue a recommended finding of incompetency. If this happens, you can rebut that recommended finding, but it is an uphill battle.

If the claimant can manage his/her own financial affairs but does not, then the answer is “YES”, he/she has the ability to do so. However, if the claimant truly is unable to manage his/her own financial affairs, then the finding of incompetency will follow. In that situation the claimant can agree to the recommended finding and waive the response period.

Once there is a finding of incompetency the VA will refer the claim to the VA Fiduciary Hub for a field interview by one of its agents. That process will delay the release of any back pay, but the current month and future months will be paid to the claimant until the fiduciary interview process is complete. Then the appointed fiduciary will take over managing the VA monies. The bottom line is that the Fiduciary Hub has quite a backlog, and it will add significant time in releasing the back pay funds.

Speaking of back pay and delays, as it happens sometimes, the Veteran will pass as his/her claim is being adjudicated. If that happens, remember, you can always file a claim on behalf of the widow(er) as a substitute claimant, and he/she will be awarded the back pay due to the Veteran. You can do this by filing the VA Form 21P-0847. You should also file an application for burial benefits using VA Form 21P-530.

Final Thoughts

Keep in mind that any time you are filing for VA Improved Pension, the amount to be awarded is ALWAYS based on the health of the Veteran if the Veteran is alive. If the Veteran is alive and well, the most the VA will award is the base amount of the VA Improved Pension. The rates as of December 1, 2017 are posted below for easy reference.

VA Improved Pension Rate for Veterans					
Base		Housebound		A&A	
Single	Married	Single	Married	Single	Married
\$1,097	\$1,437	\$1,341	\$1,681	\$1,830	\$2,170

VA Improved Pension For Surviving Spouse		
Base	Housebound	A&A
\$736	\$899	\$1,176

Understanding a Veteran with PTSD

Article courtesy of Maryville University

This time of year, we remember with gratitude the many joys that our families, friends, clients, and neighbors have brought us, and we especially remember the sacrifices of those who have served our country. The Outreach Team at Maryville University has asked us to share this article with you, so that as attorneys, we might have a heightened understanding regarding the challenges that so many veterans face.

Servicemen and women oftentimes face unique challenges when leaving active duty and readjusting to civilian life.

As explained by [U.S. Veterans Magazine](#), these challenges include

- discovering ways to re-establish their roles within the family,
- having to find and obtain a civilian job (sometimes for the first time ever, such as when enlisting after graduating from high school),
- and adjusting to a life that involves making their own choices versus being told what to do, how to do it, and when.

However, sometimes soldiers also return home with challenges related to their mental wellbeing as a result of what they’ve witnessed while on active duty. And one of the most common mental challenges is post-traumatic stress disorder (commonly known as PTSD).

PTSD and the Military

The [National Institute of Mental Health](#) (NIMH) explains that PTSD is “a disorder that develops in some people who have experienced a shocking, scary, or dangerous event.” In the case of military personnel specifically, these types of events typically occur during times of war when soldiers find themselves face-to-face with not only their own mortality, but that of their fellow comrades as well.

In fact, PTSD is more common for military personnel than for the general population. According to the [U.S. Department of Veterans Affairs](#), approximately 7 to 8 percent of the population will experience PTSD at some

time in their lives. Yet, this rate is much higher for military veterans, and the exact amount depends largely on which conflict they endured.

For instance, those serving in operations Iraqi Freedom and Enduring Freedom have somewhere between an 11 and 20 percent chance of developing PTSD. However, it is estimated that approximately 30 percent of Vietnam War veterans developed or will develop this particular mental health condition. So, what is it like for veterans who are living with PTSD?

Living with PTSD

The NIMH says that individuals suffering from PTSD often have flashbacks of the traumatic event, bad dreams, and other frightening thoughts. They may also develop avoidance symptoms whereby they purposely stay away from anything that reminds them of the experience. This can mean avoiding certain places and objects that serve as a reminder of what they’ve experienced.

With PTSD also often comes what the NIMH refers to as arousal and reactivity symptoms. These include being easily startled, feeling on edge, and displaying angry outbursts. Trouble sleeping is also common with PTSD. According to the [National Sleep Foundation](#), this is generally due to the individual feeling like they need to be alert, which is a result of the anxiety that sometimes comes with the nighttime and subsequent darkness, or the nightmares the person seeks to avoid.

Veterans with PTSD may notice cognitive and mood changes as well. For instance, they may find it difficult to remember the entire traumatic event or feel guilt associated with their part in it.

(CONT.)

Understanding a Veteran with PTSD

Article courtesy of Maryville University (CONT.)

Sometimes, they have negative feelings toward themselves or the world at large, or they lose interest in activities they used to enjoy.

These are all trademarks of PTSD and all of these types of responses must be present on some level for a professional to render a diagnosis. But why do some military personnel develop PTSD where others don't, even if they've witnessed the exact same event?

PTSD Risk Factors

Many studies have been conducted on this very topic. One meta-analysis published in PLOS One reports that after reviewing 32 different pieces of research (21 retrospective studies, 4 prospective studies, and 7 cross-sectional studies), there are many factors that stand out as strong predictors of whether or not combat-involved military personnel will develop PTSD.

They include:

- Previous exposure to adverse life events: Being exposed to troubling life experiences (such as sexual abuse or assault) prior to joining the military can increase the risk of PTSD, partially because the event's negative impact creates other psychological issues. Witnessing injury or death: If a servicemember witnesses an injury or death, or discharged his or her weapon during active duty, there is a higher risk of developing PTSD than a servicemember who has not experienced these circumstances.
- Various military characteristics: Military rank and occupation, branch of service, length and number of deployments have all been found to contribute to PTSD risk, because each factor determines how likely it is the soldier will be part of active combat.
- Deployment stressors: Being exposed to excessive temperatures, a lack of privacy in the unit, and worrying about family can all increase a vet's risk of PTSD.
- Gender: Female veterans develop PTSD more often than their male counterparts, possibly due to reasons associated with being more susceptible to depression, experiencing less cohesion in the military unit, and being more sensitive to threats.
- Race: Minorities have been found to be more susceptible to PTSD than non-minority military personnel. However, it's unclear if this is because this demographic tends to have more of the other risk factors, or if they are assigned to military roles that see combat more often.
- Level of education: The lower a serviceman or woman's educational level, the higher the risk of PTSD, potentially due to not having learned effective coping skills or limited access to helpful resources.

PTSD and Post-Deployment Risks

PLOS One's research also found that PTSD risk can rise after returning home and is often based on various post-deployment factors.

One factor is social support, and their study found that "a positive recovery environment after trauma exposure may serve as a protective factor" for PTSD. In other words, the more the servicemember's family and friends are there to offer support after duty is complete, the less likely it is that PTSD will develop. That's because this level of support gives the servicemember the self-reliance and self-security needed to fend off this condition.

Work status after employment is a potential risk factor as well. Specifically, if the veteran comes back and is unemployed, and therefore unable to provide financially for the family unit, this may instigate PTSD.

These types of situations can occur long after the combat ends, but they can still affect the soldier psychologically, making PTSD a threat even after returning home. Knowing all of this, how can you best help a veteran with PTSD?

Helping Veterans with PTSD

The first step involves educating yourself about how someone with PTSD typically reacts. According to the [National Center for PTSD](#), a person with this mental health condition may appear angry, tense, or worried. They may also come across as numb, distant, or detached. Veterans with PTSD may also be easily irritated, jumpy, or nervous, while being more demanding or protective at the same time. Intimacy issues are not uncommon with PTSD either.

All of these responses can affect family and friends, who may feel hurt, dejected, angry, or sad, especially if they don't recognize these patterns as being normal reactions to PTSD. So, creating a positive response first requires that you understand these responses enough to know they are a normal way of dealing with this condition.

The second step is to get the veteran the outside help he or she needs. This may involve counseling-type therapy sessions (either one-on-one, group, or both), or even family therapy so the everyone involved can work through the PTSD together. In this case, it helps to find a professional who specializes in the disorder.

If possible, ask local military veterans for their recommendations. Alternatively, you can do an internet search. For instance, [Psychology Today](#) offers the ability to do a quick search based on your geographic location. Just enter your city or zip code and all local therapists with this specialty are provided. This site even provides other necessary information to help make a more informed decision as to whether to hire them, such as:

- a brief bio, along with qualifications and credentials
- specialties, issues covered, and treatment approaches
- cost per session and insurance plans accepted
- contact information for setting up an introductory meeting

VA Specific Services

The National Center for PTSD also offers [The Guide to VA Mental Health Services for Veterans and Families](#), which shares the types of treatments that are available through Department of Veterans Affairs (VA) and what happens when you request help.

For instance, for PTSD specifically, there are various medications that can sometimes help when treating depression, anxiety, mood disorders, and sleep disorders related to PTSD. There are also various talk therapies and residential care if long-term, intensive treatment is needed.

Eligibility for these types of services is based on a number of factors, but it generally involves completing active military service in one of the U.S. branches of military, being honorably discharged, or being a National Guard member or Reservist who served in a combat zone. If they determine that you qualify, you will likely be referred to a local VA facility for treatment to begin.

There are nearly 2,000 facilities, and you can use the [online locator](#) if you want to find the closest ones to you. Simply enter your location (either your full address or zip code), what type of facility you're searching for, and how close the facility is (you can search based on a certain mile radius or request the 5, 10, or 25 closest centers to you). The results give you the facility name, its address and phone number, and how many miles it is from your home.

The [Vet Center Program](#) is one of the options available to any active or veteran military member who has served in a combat zone or area of hostility, has experienced military sexual trauma, or has provided emergent medical care or mortuary services. Services offered at these facilities include counseling, outreach and education, substance abuse assessment and referral, employment assessment and referral, explanation of VBA benefits, and screening and referral for other issues, such as traumatic brain injury (TBI) and depression.

The more you know about and understand PTSD, the easier it is to see the impact this condition can have on the military veteran individually and the family unit as a whole. Educating yourself about treatment options helps as well, and provides you with the tools you need to help yourself or a loved one overcome this sometimes debilitating condition.

READ THE ARTICLE ON

<https://online.maryville.edu/online-bachelors-degrees/psychology/understanding-a-veteran-with-ptsd/>