

The Voice, *The Official Newsletter of SNA*

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Welcome!

You are reading *The Voice*, a newsletter published by The Special Needs Alliance. Our purpose is to provide information--and answers--about special needs planning for family members and professionals. We hope this newsletter helps you. We would love to hear your questions, suggestions and comments; please feel free to e-mail us. We also encourage you to forward our newsletter to others who might benefit from the information here, or who might have similar questions.

Veterans and Special Needs Trusts

Introduction: If you are a disabled veteran a special needs trust may be an important tool to protect your benefits. There are two veteran disability programs administered by the Veterans Administration, Veterans Disability Compensation (Compensation) and Veterans Disability Pension (Pension). If you receive Veterans Compensation a special needs trust is probably not needed. If you receive a Veterans Pension then a special needs trust may be important to preserve your benefits.

Veterans Disability Compensation is for disabled veterans in cases where their disease or injury was incurred or aggravated while on active duty in the military. Veterans receiving Compensation have a rating of disability in percentages and the monthly benefit is based upon the percentage rating. If you are receiving veterans Compensation you do not need to worry about a special needs trust because Compensation benefits are not based upon financial need. In other words, your assets and income will not affect your eligibility.

Veterans Disability Pension is for low income veterans who are permanently and totally disabled. Your disability does not have to be connected to the time you were on active duty in the military. The amount of the monthly pension will depend upon the number of dependents in the household. Other income, including income from other household members, will off-set the Pension benefit. Veterans receiving Pension benefits are entitled to free

care at a VA hospital and free medications prescribed by a VA doctor. There is also a very important Pension benefit called Aid and Attendance that helps with the cost of caregivers, assisted living or other supported living arrangements.

The Pension benefit is a needs-based benefit, however, similar to the Supplemental Security Income or Medicaid programs. You must establish financial need by showing that your assets and income are below the allowed amount. Your assets and income and the income and assets of your spouse and dependents will affect your eligibility for the Pension benefit.

In determining eligibility for Pension benefits your home and one vehicle are not counted. In most cases your remaining assets must be below \$80,000 to establish financial need. If you have monthly income from other sources it will reduce your Pension amount dollar for dollar.

Why Is a Special Needs Trust Important? If you receive an outright inheritance from a friend or family member the inheritance could put you over the \$80,000 asset limit. It is not necessary for your family to disinherit you, however, in order to protect your Pension benefits. If your family members provide for a special needs trust in their estate plan, your eligibility for Pension benefits will be protected. The trust would not be included with your other assets to determine if you are below the \$80,000 asset limit but the trust will be there to supplement your needs.

If you are a disabled veteran and you receive a lump sum from an auto accident or other personal injury lawsuit you could lose your Pension benefits. In that case you can transfer your assets to an irrevocable special needs trust for your benefit. The trust would be for your benefit but you would not be the legal owner of the trust so it would not be included in the Pension benefit asset limit.

Whether the special needs trust is funded with assets from friends and family members or funded with your own assets, the special needs trust will protect your Pension benefits and protect the funds in the trust to supplement the Pension benefits. There are very few restrictions on how

the trust can be used for your benefit. The trust cannot give you cash distributions because that will offset your Pension benefit dollar for dollar. The trust can, however, pay some of your bills, purchase goods and services you could not afford on your limited Pension income, or purchase exempt assets like a home or a vehicle.

If you are a disabled veteran or a family member of a disabled veteran you should consult with an attorney familiar with special needs trusts to be sure all veterans benefits are protected. With good planning and good legal advice benefits for low income disabled veterans can be enhanced with the invaluable tool of a special needs trust.

About the Author: [Barbara A. Isenhour](#) has practiced law for over 33 years, focusing on the legal issues facing the elderly and disabled persons of all ages. She is a member of the [Special Needs Alliance](#). Barbara was selected as one of the city's best attorneys in Seattle Magazine for three years and has been selected as a "Super Lawyer" in Law and Politics Magazine for the past five years. She and her husband have three sons. The younger twin boys attend college in California.

About this Newsletter: We hope you find this newsletter useful and informative, but it is not the same as legal counsel. A free newsletter is ultimately worth everything it costs you; you rely on it at your own risk. Good legal advice includes a review of all of the facts of your situation, including many that may at first blush seem to you not to matter. The plan it generates is sensitive to your goals and wishes while taking into account a whole panoply of laws, rules and practices, many not published. That is what The Special Needs Alliance is all about. Contact information for a member in your state may be obtained by calling toll-free (877) 572-8472, or by visiting www.specialneedsalliance.com.