

Kathleen Martin is an attorney with O'Donnell, Weiss & Mattei, P.C., and a newspaper columnist for The Mercury, which gave permission for this article to be reprinted.

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“Pension poachers” blamed for backlog of VA applications

The Department of Veterans Affairs (VA) has an enormous backlog of disability claims, which includes compensation benefits and Aid and Attendance (Pension) benefits. The backlog is reported to be more than 600,000 claims in all. Anyone who has applied for Aid and Attendance or Pension benefits quickly learned that the waiting time is typically 8 to 18 months to have benefits approved. *The New York Times*, in the [New Old Age](#) blog on May 21, 2013 by Susan Seliger, reports that the VA indicates that there is a special reason why Aid and Attendance claims are being held up: “pension poachers.”

Aid and Attendance or Improved Pension is a benefit available to disabled or aging wartime veterans or surviving spouses of a veteran who now need some assistance paying for care. This benefit, for those who qualify, helps replace income being used to pay for medical expenses, including caregivers at home, or adult day care, or care in a facility personal care or skilled nursing. The application is relatively simple, especially compared to that needed for Medicaid eligibility. However, there is an asset limit which is where the so-called “pension poachers” come in.

The VA has a prohibition against paying for expert help, theoretically to prevent lawyers from making the application process adversarial. This prohibition dates back to Civil War times. However, in modern times, the inability to use expert help (or at least for experts to charge for services) has had the opposite effect. Many families learn about the Aid and Attendance benefit from experts who are also financial planners. These planners can be skilled in helping a family apply for benefits from the VA but often use financial products such as annuities and trusts to reduce the assets to within acceptable limits. Technically, this type of planning is not in violation of VA rules since the VA does not currently have a “look back” for transfers such as exists when applying for Medicaid. However, deferred annuities for an elderly person can be disastrous and expensive financial planning, and an irrevocable trust (also expensive to set up and manage) can result in the person being disqualified for Medicaid if he or she must enter a nursing home within the following five years.

Senator Ron Wyden, Democrat of Oregon, has stated that “The system is being clogged by pension poachers who are preying on veterans, who are submitting thousands of applications for people for whom this benefit was not intended.” Senator Wyden and Senator Richard Burr, Republican of North Carolina have introduced a bill in order to cap “bogus claims.” They are relying in part on the Federal Trade Commission reports and the findings of an undercover operation by the Government Accountability Office that determined that financial and estate planning professionals are “helping” veterans hide assets so that they can qualify for Aid and Attendance, usually by charging high fees to set up annuities and trusts (as much as \$10,000). Senator Wyden believes that reducing the abuses will reduce the backlog. They also say that the benefit was not intended to help veterans save money for their heirs.

The failure to understand the long term consequences of deferred annuities for seniors is big issue since many financial planners apparently do not account for the potential need for the funds, especially if nursing home care is needed. Similarly, an irrevocable trust will make an already ill senior ineligible for Medicaid if nursing home care is needed within the next five years. The mere fact that planning is being done to allow veterans who earned this benefit to access it is not the problem; it is the VA’s inability to effectively process claims even without adding the burden of a proposed three year look back.