

Supporting Statement for VA Form 21-8049
Request for Details of Expenses
(2900-0138)

A. Justification

1. The Department of Veterans Affairs (VA), through its Veterans Benefits Administration (VBA), administers an integrated program of benefits and services established by law for veterans, service personnel, and their dependents and/or beneficiaries. 38 U.S.C. 1503 provides the statutory basis for the income aspect of the disability pension program. The regulatory basis is found at 38 C.F.R. 3.272.
2. VA Form 21-8049 is used to gather the necessary information to determine the amounts of any deductible expenses paid by the claimant and/or commercial life insurance received in order to adjust the annual income. Pension is an income-based program, and the payable rate depends on annual income. It would be impossible to administer the pension program without the collection of this information.
3. VA Form 21-8049 is available on the One-VA web site in a fillable electronic format. VBA is currently hosting this form on a secure server and does not currently have the technology in place to allow for the complete submission of the form. Validation edits are performed to assure data integrity. efforts within VA are underway to provide a mechanism to allow the information to be submitted electronically with a recognized signature technology. there currently is no utility process in place that will allow the data submitted on the form to be incorporated with an existing centralized legacy database.
4. Program reviews were conducted to identify potential areas of duplication; however, none were found to exist. There is no known Department or Agency which maintains the necessary information, nor is it available from other sources within our Department.
5. The collection of information does not involve small businesses or entities.
6. This form solicits the necessary information to determine the amount of any deductible expenses paid by the claimant and/or commercial life insurance received to calculate the current rate of pension. Without this information, VA would be unable to authorize pension benefits.
7. There is no special circumstance requiring collection in a manner inconsistent with 5 CFR 1320.6 guidelines.
8. The Department notice was published in the Federal Register on April 25, 2007, Volume 72, Number 79 page 20580. No outside consultations were solicited as no major changes are being made to the form. Field stations have not reported any difficulty on the part of respondents in using the VA Form 21-8049. No comments were received.

9. No payments or gifts to respondents have been made under this collection of information.

10. The records are maintained in the appropriate Privacy Act System of Records identified as 58VA21/22, "Compensation, Pension, Education and Rehabilitation Records - VA" as set forth in Privacy Act Issuances, 1993 compilation found in 42 Fed. Reg. 49726 (9/27//1977).

11. There are no questions of a sensitive nature.

12. Estimate of Information Collection Burden.

a. Number of Respondents is estimated at 22,800 per year.

b. Frequency of Response is one time for most beneficiaries.

c. Annual burden is 5,700 hours.

d. The estimated completion time of 15 minutes is based on review by staff personnel and previous usage of this form.

e. The total estimated cost to respondents is \$85,500 (5,700 hours x \$15 per hour).

13. This submission does not involve any recordkeeping costs.

14. Estimated Costs to the Federal Government:

a. Processing/Analyzing costs \$516,647

(GS-9/5 @ \$25.00 x 22,800 x 30 minutes = \$285,000)
(GS-5/5 @ \$16.50 x 22,800 x 25 minutes = \$156,749)
(GS-3/5 @ \$13.14 x 22,800 x 15 minutes = \$ 74,898)

b. Printing and production cost \$570

c. Total cost to government \$517,217

15. There is no change in the reporting burden.

16. The information collection is not for publication or tabulation use.

17. The collection instrument, VA Form 21-8049, may be reproduced and/or stocked by the respondents and veterans service organizations. This VA form does not display an expiration date, and if required to do so would result in unnecessary waste of existing stocks of this form. This form is submitted to OMB every 3 years. As such, this date requirement would also result in an unnecessary burden on the respondents and would delay Department action on the benefit being sought. VA also seeks to minimize its cost to itself of collecting, processing and using the information by not displaying the expiration date. For the reasons stated, VA continues to seek an exemption that waives the displaying of the expiration date on VA Form 21-8049.

18. This submission does not contain any exceptions to the certification statement.

B. Collection of Information Employing Statistical Methods

1. The Veterans Benefits Administration does not collect information employing statistical methods.

Sec. 1503. Determinations with respect to annual income

- (a) In determining annual income under this chapter, all payments of any kind or from any source (including salary, retirement or annuity payments, or similar income, which has been waived, irrespective of whether the waiver was made pursuant to statute, contract, or otherwise) shall be included except -
 - (1) donations from public or private relief or welfare organizations;
 - (2) payments under this chapter;
 - (3) amounts equal to amounts paid by a spouse of a veteran for the expenses of such veteran's last illness, and by a surviving spouse or child of a deceased veteran for -
 - (A) such veteran's just debts,
 - (B) the expenses of such veteran's last illness, and
 - (C) the expenses of such veteran's burial to the extent such expenses are not reimbursed under chapter 23 of this title;
 - (4) amounts equal to amounts paid -
 - (A) by a veteran for the last illness and burial of such veteran's deceased spouse or child, or
 - (B) by the spouse of a living veteran or the surviving spouse of a deceased veteran for the last illness and burial of a child of such veteran;
 - (5) reimbursements of any kind for any casualty loss (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the loss;
 - (6) profit realized from the disposition of real or personal property other than in the course of a business;
 - (7) amounts in joint accounts in banks and similar institutions acquired by reason of death of other joint owner;
 - (8) amounts equal to amounts paid by a veteran, veterans' spouse, or surviving spouse or by or on behalf of a veteran's child for unreimbursed medical expenses, to the extent that such amounts exceed 5 percent of the maximum annual rate of pension (including any amount of increased pension payable on account of family members but not including any amount of pension payable because a person is in need of regular aid and attendance or because a person is permanently housebound) payable to such veteran, surviving spouse, or child;
 - (9) in the case of a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, amounts equal to amounts paid by such veteran or surviving spouse for such course of education or vocational rehabilitation or training, including (A) amounts paid for tuition, fees, books,

and materials, and (B) in the case of such a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course of education or vocational rehabilitation or training, to the extent that such amounts exceed the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available); and (10) in the case of a child, any current-work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of -

- (A) the lowest amount of gross income for which an income tax return is required under section 6012(a) of the Internal Revenue Code of 1986, to be filed by an individual who is not married (as determined under section 7703 of such Code), is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and (B) if the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by such child for such course of education or vocational rehabilitation or training, including the amount paid for tuition, fees, books, and materials.
- (b) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

TITLE 38 > CHAPTER I > PART 3 > Subpart A > Sec. 3.272

Sec. 3.272 Exclusions from income.

The following shall be excluded from countable income for the purpose of determining entitlement to improved pension. Unless otherwise provided, expenses deductible under this section are deductible only during the 12-month annualization period in which they were paid. (Authority: 38 U.S.C. 501)

(a) Welfare. Donations from public or private relief, welfare, or charitable organizations. (Authority: 38 U.S.C. 1503(a)(1))

(b) Maintenance. The value of maintenance furnished by a relative, friend, or a charitable organization (civic or governmental) will not be considered income. Where the individual is maintained in a rest home or other community institution or facility, public or private, because of impaired health or advanced age, money paid to the home or the individual to cover the cost of maintenance will not be considered income, regardless of whether it is furnished by a relative, friend, or charitable organization. The expense of maintenance is not deductible if it is paid from the individual's income. (Authority: 38 U.S.C. 501, 1503(a)(1))

(c) Department of Veterans Affairs pension benefits. Payments under chapter 15 of title 38, United States Code, including accrued pension benefits payable under 38 U.S.C. 5121. (Authority: 38 U.S.C. 1503(a)(2))

(d) Reimbursement for casualty loss. Reimbursement of any kind for any casualty loss. The amount to be excluded is not to exceed the greater of the fair market value or the reasonable replacement cost of the property involved at the time immediately preceding the loss. For purposes of this paragraph, the term "casualty loss" means the complete or partial destruction of property resulting from an identifiable event of a sudden, unexpected or unusual nature. (Authority: 38 U.S.C. 1503(a)(5))

(e) Profit from sale of property. Profit realized from the disposition of real or personal property other than in the course of business, except amounts received in excess of the sales price, for example, interest on deferred sales is included as income. In installment sales, any payments received until the sales price is recovered are not included as income, but any amounts received which exceed the sales price are included, regardless of whether they represent principal or interest. (Authority: 38 U.S.C. 1503(a)(6))

(f) Joint accounts. Amounts in joint accounts in banks and similar institutions acquired by reason of death of the other joint owner. (Authority: 38 U.S.C. 1503(a)(7))

(g) Medical expenses. Within the provisions of the following paragraphs, there will be excluded from the amount of an individual's annual income any unreimbursed amounts which have been paid within the 12-month annualization period for medical expenses regardless of when the indebtedness was incurred. An estimate based on a clear and reasonable expectation that unusual medical expenditure will be realized may be accepted for the purpose of authorizing

prospective payments of benefits subject to necessary adjustment in the award upon receipt of an amended estimate, or after the end of the 12-month annualization period upon receipt of an eligibility verification report. (Authority: 38 U.S.C. 501)

(1) Veteran's income. Unreimbursed medical expenses will be excluded when all of the following requirements are met:

(i) They were or will be paid by a veteran or spouse for medical expenses of the veteran, spouse, children, parents and other relatives for whom there is a moral or legal obligation of support;

(ii) They were or will be incurred on behalf of a person who is a member or a constructive member of the veteran's or spouse's household; and

(iii) They were or will be in excess of 5 percent of the applicable maximum annual pension rate or rates for the veteran (including increased pension for family members but excluding increased pension because of need for aid and attendance or being housebound) as in effect during the 12-month annualization period in which the medical expenses were paid.

(2) Surviving spouse's income. Unreimbursed medical expenses will be excluded when all of the following requirements are met:

(i) They were or will be paid by a surviving spouse for medical expenses of the spouse, veteran's children, parents and other relatives for whom there is a moral or legal obligation of support;

(ii) They were or will be incurred on behalf of a person who is a member or a constructive member of the spouse's household; and

(iii) They were or will be in excess of 5 percent of the applicable maximum annual pension rate or rates for the spouse (including increased pension for family members but excluding increased pension because of need for aid and attendance or being housebound) as in effect during the 12-month annualization period in which the medical expenses were paid.

(Authority: 38 U.S.C. 501)

(3) Children's income. Unreimbursed amounts paid by a child for medical expenses of self, parent, brothers and sisters, to the extent that such amounts exceed 5 percent of the maximum annual pension rate or rates payable to the child during the 12-month annualization period in which the medical expenses were paid. (Authority: 38 U.S.C. 501)

(h) Expenses of last illnesses, burials, and just debts. Expenses specified in paragraphs (h)(1) and (h)(2) of this section which are paid during the calendar year following that in which death occurred may be deducted from annual income for the 12-month annualization period in which they were paid or from annual income for any 12-month annualization period which begins during the calendar year of death, whichever is to the claimant's advantage. Otherwise, such expenses are deductible only for the 12-month annualization period in which they were paid. Any such expenses paid subsequent to death but prior to date of entitlement are not deductible. (Authority: 38 U.S.C. 501)

(1) Veteran's final expenses. (i) Amounts paid by a spouse before a veteran's death for expenses of the veteran's last illness will be deducted from the income of the surviving spouse. (Authority: 38 U.S.C. 1503(a)(3))

(ii) Amounts paid by a surviving spouse or child of a veteran for the veteran's just debts, expenses of last illness and burial (to the extent such burial expenses are not reimbursed under chapter 23 of title 38 U.S.C.) will be deducted from the income of the surviving spouse or child. The term "just debts" does not include any debt that is secured by real or personal property. (Authority: 38 U.S.C. 1503(a)(3))

(2) Spouse or child's final expenses.

(i) Amounts paid by a veteran for the expenses of the last illness and burial of the veteran's deceased spouse or child will be deducted from the veteran's income.

(ii) Amounts paid by a veteran's spouse or surviving spouse for expenses of the last illness and burial of the veteran's child will be deducted from the spouse's or surviving spouse's income. (Authority: 38 U.S.C. 1503(a)(4))

(i) Educational expenses. Amounts equal to expenses paid by a veteran or surviving spouse pursuing a course of education or vocational rehabilitation or training, to include amounts paid for tuition, fees, books, and materials, and in the case of a veteran or surviving spouse in need of regular aid and attendance, unreimbursed amounts paid for unusual transportation expenses in connection with the pursuit of such course. Unusual transportation expenses are those exceeding the reasonable expenses which would have been incurred by a nondisabled person using an appropriate means of transportation (public transportation, if reasonably available). (Authority: 38 U.S.C. 1503(a)(9))

(j) Child's income. In the case of a child, any current work income received during the year, to the extent that the total amount of such income does not exceed an amount equal to the sum of the following:

(1) The lowest amount of gross income for which a Federal income tax return must be filed, as specified in section 6012(a) of the Internal Revenue Code of 1954, by an individual who is not married (as determined under section 143 of such Code), and is not a surviving spouse (as defined in section 2(a) of such Code), and is not a head of household (as defined in section 2(b) of such Code); and

(2) If the child is pursuing a course of postsecondary education or vocational rehabilitation or training, the amount paid by the child for those educational expenses including the amount paid for tuition, fees, books, and materials. (Authority: 38 U.S.C. 1503(a)(10))

(k) Domestic Volunteer Service Act Programs. Payments received under a Domestic Volunteer Service Act (DVSA) Program (including Volunteers in Service to America (VISTA), University Year for ACTION (UYA), Foster Grandparent Program (FGP), Retired Senior Volunteer Program (RSVP), Senior Companion Program) shall be excluded as provided in paragraphs

(k)(1) and (2) of this section:

(1) All DVSA payments received before December 13, 1979, shall be excluded from determining entitlement to improved pension. (Authority: 42 U.S.C. 5044(g) (1973))

(2) DVSA payments received after December 12, 1979, shall be excluded from determining entitlement to improved pension unless the Director of the ACTION Agency has determined that the value of all DVSA payments, adjusted to reflect the number of hours served by the

volunteer, equals or exceeds the minimum wage then in effect under the Fair Labor Standards Act of 1938 or the minimum wage of the State where the volunteer served, whichever is the greater.

(Authority: 42 U.S.C. 5044(g) (1979))

(l) Distributions of funds under 38 U.S.C. 1718. Distributions from the Department of Veterans Affairs Special Therapeutic and Rehabilitation Activities Fund as a result of participation in a therapeutic or rehabilitation activity under 38 U.S.C. 1718 and payments from participation in a program of rehabilitative services provided as part of the care furnished by a State home and which is approved by VA as conforming to standards for activities under 38 U.S.C. 1718 shall be considered donations from a public or private relief or welfare organization and shall not be countable as income for pension purposes. (Authority: 38 U.S.C. 1718(f))

(m) Hardship exclusion of child's available income. When hardship is established under the provisions of Sec. 3.23(d)(6) of this part, there shall be excluded from the available income of any child or children an amount equal to the amount by which annual expenses necessary for reasonable family maintenance exceed the sum of countable annual income plus VA pension entitlement computed without consideration of this exclusion. The amount of this exclusion shall not exceed the available income of any child or children, and annual expenses necessary for reasonable family maintenance shall not include any expenses which were considered in determining the available income of the child or children or the countable annual income of the veteran or surviving spouse. (Authority: 38 U.S.C. 1521(h), 1541(g))

(n) Survivor benefit annuity. Annuity paid by the Department of Defense under the authority of section 653, Public Law 100-456 to qualified surviving spouses of veterans who died prior to November 1, 1953. (September 29, 1988) (Authority: Sec. 653, Pub. L. 100-456; 102 Stat. 1991)

(o) Agent Orange settlement payments. Payments received by any person in settlement of the case of In re Agent Orange product liability litigation in the United States District Court for the Eastern District of New York (M.D.L. No. 381). (January 1, 1989) (Authority: Pub. L. 101-201, 103 Stat. 1795)

(p) Restitution to individuals of Japanese ancestry. Any payment made as restitution under Public Law 100-383 to individuals of Japanese ancestry who were interned, evacuated, or relocated during the period December 7, 1941, through June 30, 1946, pursuant to any law, Executive order, Presidential proclamation, directive, or other official action respecting these individuals. (August 10, 1988) (Authority: Sec. 105, Pub. L. 100-383; 102 Stat. 905)

(q) Cash surrender value of life insurance. That portion of proceeds from the cash surrender of a life insurance policy which represents a return of insurance premiums. (Authority: 38 U.S.C. 501(a))

(r) Income received by American Indian beneficiaries from trust or restricted lands. Income of up to \$2,000 per calendar year to an individual Indian from trust lands or restricted lands as

defined in 25 CFR 151.2. (January 1, 1994) (Authority: Sec. 13736, Pub. L. 103-66; 107 Stat. 633)

(s) Radiation Exposure Compensation Act. Any payment made under Section 6 of the Radiation Exposure Compensation Act of 1990. (Authority: 42 U.S.C. 2210 note)

(t) Alaska Native Claims Settlement Act. Any receipt by an individual of cash (including cash dividends on stock received from a Native Corporation) to the extent that it does not, in the aggregate, exceed \$2,000 per individual per annum; stock (including stock issued or distributed by a Native Corporation as a dividend or distribution on stock); a partnership interest; land or an interest in land (including land or an interest in land received from a Native Corporation as a dividend or distribution on stock); and an interest in a settlement trust. (November 2, 1994) (Authority: Sec. 506, Pub. L. 103-446)

(u) Monetary allowance under 38 U.S.C. 1805 for a child suffering from spina bifida who is a child of a Vietnam veteran. Any allowance paid under the provisions of 38 U.S.C. 1805 to a child suffering from spina bifida who is the child of a Vietnam veteran. (Authority: 38 U.S.C. 1805(d))