



HEALTH CARE NEWS

A Monthly Publication From the New York State Attorney General's Health Care Bureau

Eliot Spitzer
Attorney General
New York State



VETERANS IN NURSING HOMES CAN CLAIM \$90 MORE AS VA PENSION

Many veterans or their surviving spouses may not be aware of their right to get \$90-a-month pension upon admission to a nursing home. Federal law allows those who qualify to keep the pension for personal use in addition to a \$50-a-month personal needs allowance (PNA).

To qualify for this benefit, the veteran must be in a nursing home, on Medicaid, single or widowed, and without dependents. Additionally, the veteran must have served at least 90 days or more of active duty including one day or more during a period of war or hostilities. Surviving spouses are also entitled to the same benefit - \$90-a-month - provided they are in a nursing home, on Medicaid, and without dependents.

"We hope all nursing homes will consider it a privilege to process these pension applications, and ensure that veterans and their surviving spouses receive what they are entitled to," said George Pettengill, Assistant Director of the Long Term Care Ombudservice, Suffolk County. Pettengill is also a WW II veteran.

Veterans must submit VA Form 21-526, a surviving spouse must submit VA Form 21-534. All applicants must also submit VA Forms 21-8416 and 21-2680, and VSA-156. To obtain these forms and for further assistance, contact your nursing home administrator, county or local Veteran's Agency or the New York State Division of Veteran Affairs at www.vba.gov/benefits/address.htm or at 1-888-VETS-NYS.

Completed forms must be mailed to: Department of Veteran Affairs, New York Regional Office, 245 West Houston Street, New York, NY 10014.



HEALTH CARE HELPLINE AT 1-800-771-7755 option 3

Mr. M, an 80-year-old WW II veteran, contacted the Health Care Bureau because the Department of Veteran Affairs (VA) had denied him coverage for emergency care. Mr. M told a Helpline mediator that he had "passed out" a few months before and was taken by ambulance to the nearest emergency room instead of a VA hospital. He had bills, totaling about \$3,000, from the local hospital, the treating doctors, and the ambulance company. Mr. M said that he was unable to pay the bills because the amount he owed exceeded his only savings - his burial fund. The mediator contacted the VA's local *Network Authorization Office* and was told, among other things, that Mr. M's claims were denied because they "were not related to his service-connected conditions." The mediator reminded VA representatives that a new federal law, *The Veterans Millennium Health Care and Benefits Act*, qualifies veterans to receive emergency care at non-VA hospitals for nonservice-connected conditions. Mr. M qualified for the coverage because he met the requirements set forth by the law: he was enrolled in the VA Healthcare System, had obtained services from a VA provider within the previous 24 months, and did not have any other insurance that could cover the services (for example, Medicare, Medicaid, or private insurance). Additionally, the claims had been submitted within 90 days as required by law. VA representatives agreed to process all claims and notified Mr. M that payment for his emergency care had been approved.

YOUR RIGHT TO DECIDE YOUR HEALTH CARE WISHES

A few months after Ms. C suffered a paralyzing stroke, she slipped into a "persistent vegetative state," unable to comprehend anything and kept alive by artificial means. Ms. C's family remembered her wish. She had wanted to "die with dignity" and not be a burden on anyone. Ms. C's family asked her hospital to withdraw her feeding and water tube. They were surprised to discover that they did not have the authority to carry out Ms. C's wishes because she had neither a health care proxy nor a living will.

A situation like Ms. C's can be prevented. In New York State, you have the right to refuse or accept medical treatment. But, to ensure that your health care wishes are followed if

you are unable to decide or speak for yourself, you need to put in place one or more of the following documents, referred to as "Advance Directives."

A *Health Care Proxy* names a health care agent - someone you trust to decide about your care when you are unable to make decisions for yourself. A *Living Will* allows you to leave only written instructions explaining your health care wishes. A *Do Not Resuscitate (DNR) Order* expresses your wish to do without CPR if your heart stops or if you stop breathing. *Remember*, discuss the best option for you with your loved ones, doctor, or lawyer.

Visit www.oag.state.ny.us/health/health_care.html to download a Health Care Proxy form. For a Living Will go to www.ilrg.com/forms/states/ny-livingwill.html.

Attorney General Eliot Spitzer's Health Care Bureau protects - and advocates for - the rights of all health care consumers statewide. The Bureau operates a Health Care Helpline that assists thousands of New Yorkers with individual problems; investigates and takes law enforcement actions to address systemic problems in the operation of the health care system; and proposes legislation to enhance health care quality and availability in New York State. **To share your views contact the Editor: Rashmi.Vasisht@oag.state.ny.us**