

NOREEN MURPHY

ELDER LAW *Update*

NEWS AND IMPORTANT INFORMATION FOR SENIORS AND THEIR FAMILIES



ARE YOU A WAR VETERAN? IF SO, YOU MAY QUALIFY FOR VA BENEFITS

If you are a wartime veteran (or know of a wartime veteran) who is struggling with medical bills or the cost of long-term care you will be relieved to know that financial assistance may be available through the Department of Veterans Affairs' Veterans Pension Program, more commonly known as VA Aid and Attendance.

It just doesn't occur to them that they may have benefits available to them through the VA.

If you are a war veteran over the age of 65 then it is very likely that you and/or your spouse qualify for Aid and Attendance Benefits. Eligibility requirements include:

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VA Aid and Attendance is a benefit paid to wartime veterans (or their spouses) who have limited or no income, and who are age 65 or older. (Veterans who are under 65 but permanently and totally disabled are also eligible.) Unfortunately, too many veterans and their spouses are unaware that they qualify for this benefit, or even worse, have never been informed that the program exists at all.

The sad fact is that only about one quarter of eligible veterans are getting the help they deserve. It is possible that part of the reason for this perceived lack of interest in VA Aid and Attendance benefits is that many veterans haven't been on active duty for 40 years or more.

- You served at least 90 days of active military service 1 day of which was during a war time period. (If you entered active duty after September 7, 1980, generally you must have served at least 24 months, or the full period for which called or ordered to active duty.)
- You were discharged from service under conditions other than dishonorable.
- Your countable family income is below a yearly limit set by law (The yearly limit on income is set by Congress.)
- You must need help with at least one activity of daily living: dressing, eating, walking, bathing, adjusting prosthetic devices or using the toilet. Those who are blind, living in nursing homes or require in-home care may also be eligible.



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For many veterans and their families the financial assistance received from VA Aid and Attendance benefits can be an incredible help. But you should be aware that the application process required to receive the benefits is often difficult and daunting. Aid and Attendance applicants must start by mailing the application forms along with copies of service records, marriage certificates, proof of insurance, and medical records to the regional VA office. If a third party is making the application for you then an additional form, 21-22-a or 21-0845, must be completed as well.

This is why many veterans ask a knowledgeable Elder Law or Estate Planning attorney to help with the application process. The right attorney can help you find and fill out the correct forms, gather the necessary records and materials, and keep track of progress throughout the entire process. If you think you may be eligible for VA Aid & Attendance Benefits please contact our office for help.

BESTOWING YOUR RETIREMENT ASSETS MAY LEAD TO UNPLEASANT SURPRISE FOR HEIRS

There is plenty of free advice out there about saving for retirement—when to start, how much to save, what savings or investment plan is best—but there’s an important retirement topic which often goes underreported: How these retirement accounts impact your heirs.

The new, higher threshold for the federal estate tax has many heirs happily thinking they won’t have to surrender a big piece of their inheritance. But the benefit of this tax boon will depend largely on the type of assets being inherited. Heirs may have cause to worry if they’re in line to receive a lot of money from tax-protected retirement accounts like 401(k)s and IRAs.

This is because many (if not most) retirement assets these days are IRD assets, this is “income in respect of a decedent,” and it means that the assets are income earned by a person, but not taxed or received before that person passed away. These IRD assets can be wonderfully beneficial to the original owner/investor... but they can be an unpleasant surprise for heirs, who will end up paying the taxes on these assets.

The right estate and tax planning can help alleviate the tax burden, but may not be able to do away with it completely.

Heirs who receive retirement accounts often end up paying far more tax on IRD than they have to, collecting payments from the plan but failing to take an annual deduction that is available to beneficiaries. Sometimes that’s because the tax attorney who planned the estate knew about the deduction, but the accountant who prepares the heir’s taxes doesn’t.

One tax-saving strategy is to take advantage of a recent rule change which allows many IRD savings accounts to be converted to Roth 401(k)s. Taking advantage of this and converting the money to a Roth allows the owner to pay any applicable taxes now, so that heirs won’t be liable. Another option is to move money from the IRD retirement account into an irrevocable life insurance trust, thus removing it from the taxable estate.

When planning your estate, it helps to focus on what your heirs are truly inheriting. Our office can help you do just that. A little bit of thought and action now can save your heirs a lot of taxes and confusion down the line. This is especially true if you are lucky enough to have a significant amount of savings that you anticipate passing on to your children or grandchildren.

“SILVER ALERT” PROGRAMS HELP STATES PROTECT VULNERABLE SENIORS



Last month saw some good news for seniors and their families in the state of New York. State Governor Andrew Cuomo announced that he had signed a law to create a statewide alert system for missing vulnerable adults. This new program (similar to the nationwide “Amber Alert” program designed to locate missing children) would help authorities locate cognitively impaired persons who go missing. By signing this law Governor Cuomo added New York to the growing list of states with similar programs in place to help find and protect seniors with dementia or Alzheimer’s who may wander away from their homes in confusion.

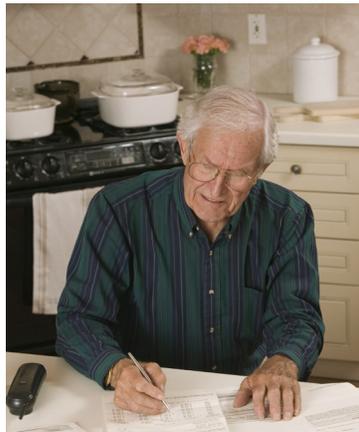
The first state-wide public notification system for vulnerable adults, sometimes called “Silver Alert” programs, was passed in Oklahoma in 2006. Since then 28 states have joined Oklahoma in passing Silver Alert legislation (or something similar) and five states have some kind of vulnerable adult alert legislation pending.

These state-wide alert programs for vulnerable seniors are a huge comfort to the families of individuals afflicted with Alzheimer’s or dementia. The purpose of these programs is to help provide for the rapid public

dissemination of information regarding adults with dementia, Alzheimer’s, or other cognitive impairments who go missing. These “Silver Alert” programs utilize many of the same “Amber Alert” mechanisms used to find missing children; including the printing and distribution of photographs and posters, a toll-free twenty-four hour hotline, a curriculum for training law enforcement personnel, and assistance for returning missing vulnerable adults who are located out of state.

Too often we read news stories about seniors who have wandered away from their homes and are not found until it’s too late. If you worry that your elderly relative may be at risk for wandering, please contact our office and we can help you find out which programs are available and how to enroll (if necessary). You may also want to consider enrolling your elderly loved one in the MedicAlert® + Alzheimer’s Association Safe Return® program. You can learn more about this nation-wide emergency response service on their website:

http://www.alz.org/safetycenter/we_can_help_safety_medicalert_safereturn.asp





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PERSONAL LETTER

This Newsletter is my way of staying in touch with you and highlighting issues that may affect you personally and financially, now or in the future. As always, feel free to give me a call anytime at the office. I never charge for these calls, and enjoy hearing from you.

Thank you for the many referrals to family and friends. I appreciate the confidence and trust placed in me. If you feel someone would like to receive this newsletter, just give me a call and I will add them to the mailing. If you would prefer not to receive my Newsletter, let me know, and I will remove you immediately from my mailing list.

Member: Massachusetts Bar Association; National and Massachusetts Chapters of National Academy of Elder Law Attorneys; Charter Member: Elder Care Matters Alliance.

For even more resources, visit www.NoreenMurphyLaw.com.

Warmly,

Noreen Murphy
Attorney at Law