## Section E. Pension – Basic Rate Determinations

#### Overview

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| In This Section | This section contains the following topics: |

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| Topic | Topic Name |
| 1 (old ) | Determining the Monthly Rate of Pension Payment |
| 2 (old ) | Determining the Maximum Annual Pension Rate (MAPR) |
| 3 (old ) | Veterans Who Are Married to Each Other |
| 4 (old ) | Surviving Child Entitled to Survivors Pension in His/Her Own Right |
| 5 (old ) | Income Classifications |
| 6 (old ) | Counting Income for Department of Veterans Affairs Purposes (IVAP) |
| 7 (old ) | Counting Income During the Initial Period |

#### 1. Determining the Monthly Rate of Pension Payment

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| Introduction | This topic contains information on determining the monthly rate of current-law Pension payments, including   * the changing rate of pension * the knowledge needed to determine the monthly rate of pension * determining the monthly rate of pension payment * pension rates paid less frequently than monthly * determining the pension payment schedule * suggested text for locally-generated award letters when monthly rate is less than $19. |

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| a. Changing Rate of Pension | A Pension beneficiary’s rate usually changes at least once a year and may change more often.  In theory, the pension rate could change every month, but as a practical matter this does not often happen. |

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| b. Knowledge Needed to Determine Monthly Rate of Pension | To determine a Pension beneficiary’s rate of pension for any given month, the following two elements must be known for the month in question:   * the beneficiary’s maximum annual pension rate (MAPR) in effect for that month, and * the beneficiary’s income for Department of Veterans Affairs purposes (IVAP) for that month. |

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| c. Determining the Monthly Rate of Pension Payment | Follow the steps in the table below to determine the monthly rate of payment. |

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| Step | Action |
| 1 | Calculate annual IVAP for the month. |
| 2 | Locate the applicable MAPR for that month in [M21-1, Part I, Appendix B](http://www.benefits.va.gov/warms/M21_1.asp). |
| 3 | Subtract the annual IVAP from the MAPR. |
| 4 | Divide the result in Step 3 by 12 to get the monthly rate. |
| 5 | Round down to the nearest dollar. |

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| ***Note***: If IVAP equals or exceeds the MAPR, the rate payable is $0. |

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| d. Pension Rates Paid Less Frequently Than Monthly | Current-law Pension benefits are normally paid once each month. However, they are paid less frequently than monthly if the annual rate payable is less than $228.  The net award amount for each payee (primary or apportionee) determines if payments are made less frequently than monthly, per [38 CFR 3.30](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_130&rgn=div8). |

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| e. Determining the Pension Payment Schedule | Use the table below to determine the payment schedule. |

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| If the annual rate payable is … | Then … |
| at least $144 but less than $228 | payments are made every three months on or about   * March 1 * June 1 * September 1, and * December 1. |
| at least $72 but less than $144 | payments are made every six months on or about   * June 1, and * December 1. |
| less than $72 | payments are made annually on or about June 1. |
| less than $1 | payments are not made. |

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| f. Suggested Text for Locally-Generated Award Letters When Monthly Rate Is Less Than $19 | When preparing a locally-generated letter is required, and the monthly rate is less than $19, use the following suggested language.  *Under the current-law Pension program, the maximum annual pension rate for a person in your circumstances is* **[insert applicable maximum annual pension rate]**. *This amount is reduced by your income for VA purposes. Because your income for VA purposes is* **[insert IVAP]**, *you are entitled to pension at the annual rate of* **[insert rate]** *effective* **[insert date]**. *If the annual amount of pension payable is less than $228, it is paid either quarterly, semiannually or annually. In your case, you will receive a check on or about* **[insert date]** *for the amount due for the period* **[insert date]** *through* **[insert date]**. *Thereafter, you will be paid* **[once/twice/four times]** *a year on or about* **[insert date]**. |

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#### 2. Determining the Maximum Annual Pension Rate (MAPR)

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| Introduction | This topic contains information on determining the MAPR, including   * general information on MAPR, and * information on * the cost-of-living increase in MAPR, and * MAPR for Veterans with World War I (WWI) service. |

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| a. General Information on MAPR | The MAPR for any given claimant is determined by   * the type of payee (Veteran, surviving spouse, or child) * the number of established dependents, and * whether the beneficiary is eligible for the Aid and Attendance (A&A) or Housebound MAPR.   A change in any of these factors, such as the loss of a dependent or grant of A&A, changes the MAPR and the amount of the pension payable, per [38 CFR 3.23](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_123&rgn=div8).  ***Note***: A higher MAPR applies to a beneficiary who is found in need of A&A or is Housebound. A&A and Housebound benefits are also referred to as Special Monthly Pension (SMP). |

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| b. Cost-of-Living Increase in MAPR | If Social Security (SS) benefits are increased as the result of an SS cost-of-living adjustment (COLA), Pension MAPRs are increased by a like percentage at the same time, per [38 CFR 3.24](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_124&rgn=div8).  ***References***: For   * current and historical MAPRs, see [M21-1, Part I, Appendix B](http://www.benefits.va.gov/warms/M21_1.asp), and * more information on adjustment of Pension based on a change in income due to an SS COLA, see[*VAOPGPREC 21-90*](http://www.va.gov/ogc/opinions/1990precedentopinions.asp)*.* |

#### 3. Veterans Who Are Married to Each Other

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| Introduction | This topic contains information on Veterans who are married to each other, including   * the combined rate payable to Veterans married to each other * the award procedures in Veteran-married-to-Veteran cases * determining the file number to use in combined awards * estranged married Veterans, and * mandatory election from protected pension in Veteran-married-to-Veteran cases. |

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| a. Combined Rate Payable to Veterans Married to Each Other | A special combined maximum annual pension rate applies to Veterans who are married to each other. This is the same rate as for a Veteran with a dependent, unless both of the Veterans are eligible for SMP.  ***Reference***: For more information on the special combined rate, see [M21-1, Part I, Appendix B](http://www.benefits.va.gov/warms/M21_1.asp). |

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| b. Award Procedures in Veteran-Married-to-Veteran Cases | Authorize payments in a Veteran-married-to-Veteran case on a single award unless one Veteran requests separate payments, or both Veterans are eligible for SMP.  If separate payments are requested, compute the rate payable by establishing the MAPR for each Veteran as one half of the special combined MAPR, including the additional amount payable by reason of   * the need for SMP * entitlement to WWI supplement, or * dependency status.   Reduce the MAPR for each spouse by one half of the combined income.  ***Reference***: For more information on making payments in Veteran-married-to-Veteran cases, see M21-1, Part V, Subpart iii, 4.2. |

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| c. Determining the File Number to Use in Combined Awards | Either file number may be used to establish a combined payment award.  ***Exception***: In original or reopened cases when one spouse has entitlement to the A&A, Housebound, or WWI allowance, establish the award under the file number of the Veteran with entitlement to the special benefit. |

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| d. Estranged Married Veterans | If two Veterans married to one another are estranged but one Veteran is making a reasonable contribution to the support of the other, the combined Pension rate applies.  ***Note***: When two Veterans married to one another are estranged and neither Veteran is reasonably contributing to the other’s support, the combined Pension rate does *not* apply. |

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| e. Mandatory Election From Protected Pension in Veteran-Married-to-Veteran Cases | If one of two Veterans married to each other is receiving Section 306 Pension or Old Law Pension (Spouse A) and the other married Veteran (Spouse B) files a pension claim, Spouse A must elect current-law Pension before Spouse B’s pension claim can be approved.  A current-law Pension election is effective from the date of election (subject to [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_131&rgn=div8)). However, use the effective date of Spouse B’s pension claim in determining the payment date of the combined payment award.  Pay only the available difference between Spouse A’s protected pension award and the combined payment current-law Pension award for any overlapping periods.  If the combined payment award is prepared under Spouse B’s file number, a withholding is required to pay only the available difference. |

#### 4. Surviving Child Entitled to Survivors Pension in His/Her Own Right

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| Introduction | This topic contains information on a surviving child entitled to Survivors Pension in his/her own right, including   * general information on a surviving child entitled to Survivors Pension in his/her own right * “legal custody” for Current-law Pension purposes * custody continuing after the age of majority * a child *not* “in custody” * the presumption of child custody * determining a surviving child’s rate based on custody, and * multiple surviving children in custody and two examples of this situation. |

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| a. General Information on a Surviving Child Entitled to Survivors Pension in His/Her Own Right | A surviving child is entitled to Survivors Pension in his/her own right only if   * he/she is not in the “custody” of the surviving spouse (as the term “custody” is defined in [38 CFR 3.57(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8)), or * there is no surviving spouse who is eligible for pension, for example, the surviving spouse is deceased or remarried.   ***Important***: A child is not eligible for Survivors Pension in his/her own right if he/she is in the custody of an unremarried surviving spouse whose income or net worth is excessive for Pension purposes.  ***References***: For more information on   * a child’s independent pension eligibility, see [38 CFR 3.24](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_124&rgn=div8), and * custody for current-law Pension purposes, see [38 CFR 3.57(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8). |

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| b. “Legal Custody” for Current-law Pension Purposes | To find the MAPR for a surviving child claiming Survivors Pension, first determine whether the child is in the legal custody of some person.  For purposes of Pension, a child is in the legal custody of the person who   * is legally responsible for the child’s support, and * has the right to exercise parental control over the child.   Physical custody of the child is not determinative.  ***Reference***: For more information on the definition of custody for Pension purposes, see [38 CFR 3.57(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8). |

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| c. Custody Continuing After the Age of Majority | The child “in custody” category includes the majority of child claimants. Child custody (for current-law Pension purposes) is considered to continue after the child attains the age of majority under State law, under [38 CFR 3.57(d)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8).  For current-law Pension, a child who is an adult for State law purposes, for example, a 22-year-old schoolchild or a 47-year-old helpless child, is considered to be “in custody” of the person who had   * legal responsibility for the child’s support, and * the right to exercise parental control over the child before the child attained the age of majority under State law.   However, if there has been some intervening court action specifically relieving the person of legal responsibility for the child’s support or removing the person’s right to exercise parental control over the child, the child is no longer considered to be “in custody” for current-law Pension purposes.  ***Note***: Even though a child may not actually live with a parent or legal guardian, the child is considered to be in that person’s custody unless custody has been legally divested (“taken away”) by court action. |

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| d. Child Not “In Custody” | Relatively few children are not in custody as defined in [38 CFR 3.57(d)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8). Normally, a child is in the custody of some person as the term “custody” is defined for current-law Pension.  A child is not in custody for current-law Pension purposes if   * both parents are deceased and no guardian is appointed * parental rights are terminated by legal action and the child is placed in the custody of an institution or governmental agency, or * the child is emancipated by a court action.   ***Note***: The fact that a child is institutionalized, even if pursuant to court order, does *not* necessarily mean that the child is not “in custody.” Unless some court action takes away the parent’s or guardian’s right to exercise parental control or legal responsibility for the child’s support, the child remains in the parent’s or guardian’s custody while institutionalized. |

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| e. Presumption of Child Custody | In the absence of evidence that a parent or guardian has been divested of either the legal right to exercise parental control over the child or legal responsibility for the child’s support, presume that the child is in the parent’s or guardian’s custody for current-law Pension purposes.  If a question arises as to whether or not some positive legal action has divested an individual of the legal right to exercise parental control over the child as well as legal responsibility for the child’s support, request a legal opinion from the Office of General Counsel.  ***Reference***: For more information on the legal right to exercise parental control, see [M21-1, Part III, Subpart iii, 5.J](imi-internal:M21-1MRIII.iii.5.J).  Under [38 CFR 3.57(d)(3)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8), the request for a legal opinion should specifically pose the question in terms of whether *positive legal action* has divested the parent or guardian of the   * legal right to exercise parental control over the child, or * legal responsibility for the child’s support.   This is because divestiture of legal custody by means other than a court order or agreement does not take the child out of custody for current-law Pension purposes. |

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| f. Determining Surviving Child’s Rate Based on Custody | If a child is ***not*** “in custody,” ***or*** if the child is in the custody of an institution, determine the child’s rate of Pension by subtracting the child’s IVAP from the child MAPR in the Pension rate charts in [M21-1, Part I, Appendix B](http://warms.vba.va.gov/M21_1.html), per [38 CFR 3.24](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_124&rgn=div8).  Under [38 CFR 3.57(d)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_157&rgn=div8), if the child is in custody, pay the *lesser* of the following two pension rates:   * child alone MAPR reduced by the child’s IVAP only, *or* * surviving spouse and child MAPR reduced by the combined IVAP of the * child * person having custody of the child, and * spouse of the person having custody of the child if the child is in the custody of a biological or adoptive parent.   ***Note***: The income of the spouse of a legal guardian who is not the child’s parent is not a factor in determining IVAP. |

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| g. Multiple Surviving Children in Custody | Any child with IVAP greater than the MAPR for a child alone is not entitled to pension. Disregard the income of any child whose IVAP exceeds the child alone MAPR when determining the eligibility of the other child claimants.  ***Reference***: For more information about   * processing a surviving child award in VETSNET Awards, see the [VETSNET Awards User Guide](http://vbaw.vba.va.gov/bl/21/Systems/awards.htm). * surviving child Survivors Pension payments, see * [38 U.S.C. 1542](http://www.law.cornell.edu/uscode/html/uscode38/usc_sec_38_00001542----000-.html), and * [38 CFR 3.24(c)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_124&rgn=div8). |

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| h. Example 1: Surviving Child in Custody | ***Example*:** The year is 2011. The surviving child of a deceased Veteran lives with a grandparent. The child is still in the legal custody of his/her parent (remarried surviving spouse of the Veteran) but the child has little contact with the surviving parent. The child has no income. The child’s parent has income of $2,000 per year. The child’s stepparent has income of $60,000 per year.  The child is not entitled to Pension because the combined income of the child, the person legally responsible for the child’s support (child’s parent), and the child’s stepparent is $62,000 per year which exceeds the MAPR for a surviving spouse and one child.  ***Reference***: For more information on counting the income of a surviving child’s custodian, see [38 CFR 3.57(d)(2)](hhttp://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_157). |

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| i. Example 2: Surviving Child in Custody | ***Example***: The year is 2011. The surviving child of a Veteran lives with the child’s parent (remarried surviving spouse) and stepparent. Neither the parent nor stepparent has any countable income. The child receives a pension of $650 per month from the deceased Veteran’s former employer.  The child is not entitled to Pension because the child’s income exceeds the MAPR for a child alone. |

#### 5. Income Classifications

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| Introduction | This topic contains information on income classifications, including   * the rationale for classifying income * the types of income, and * the definitions of the following types of income: * nonrecurring income * recurring income, and * short-term recurring income, andirregular income. |

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| a. Rationale for Classifying Income | Income is annualized for purposes of determining entitlement to current-law Pension. This means that all income must generally be counted for at least 12 months.  It is useful to classify income before attempting to count it. |

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| b. Types of Income | The following four income classifications are defined in this topic:   * nonrecurring * recurring, * short-term recurring, and * irregular. |

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| c. Definition: Nonrecurring Income | ***Nonrecurring income*** is essentially a one-time receipt of income. It is sometimes called “one-time income.” The income recipient may receive nonrecurring income more than once during the income year, but each receipt is a separate and distinct event.  ***Reference***: For an example of how to count nonrecurring income, see M21-1, Part V, Subpart iii, 1.E.6.. |

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| d. Definition: Recurring Income | ***Recurring income*** is income that   * comes to the income recipient on a regular basis, such as weekly or monthly, and * is received in regular amounts.   A monthly SS check is the most common example of recurring income.  For current-law Pension purposes, recurring type income, such as monthly SS payments, must be counted on the VA award for at least 12 months to be considered recurring income. Treat retroactive payments of recurring type benefits as nonrecurring income.  ***Reference***: For an example of how to count recurring income, see M21-1, Part V, Subpart iii, 1.E.6.e |

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| e. Definition: Short-Term Recurring Income | ***Short-term recurring income***is recurring income that has not been counted on the VA award for at least 12 months.  An example of short-term recurring income is regular wages that are counted on the award for six months when the beneficiary is laid off and the income stops.  ***Note***: VA treats short-term recurring income as nonrecurring income for income calculation purposes. See [38 CFR 3.271(a)(1)](http://www.warms.vba.va.gov/regs/38CFR/BOOKB/PART3/S3_271.DOC) and M21-1 V.iii.1.E.6 |

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| f. Definition: Irregular Income | ***Irregular income*** is an intermediate category of income that has characteristics of both recurring and nonrecurring income. In general, irregular income is income that is received several times during an income reporting period, but which comes at irregular intervals or in irregular amounts.  Examples of irregular income include   * earned income from odd jobs, and * interest income where the rate of return fluctuates.   Normally, irregular income is reported after the fact.  ***Reference***: For examples of how to count irregular income, see   * M21-1, Part V, Subpart iii, 1.E.6 |

#### 6. Counting Income for Department of Veterans Affairs Purposes (IVAP)

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| Introduction | This topic contains information on calculating IVAP, including   * counting * nonrecurring income and two examples * recurring income * irregular income and three examples * irregular income and original or new awards * irregular income and the end-of-the-month rule * reclassifying income as irregular income * counting short-term recurring income * counting hard-to-classify income * income received before the effective date of the award and one example * income received before date of death * date of the receipt of income is not known * determining when income is received, and * renouncement of benefits under 38 CFR 3.106(c). |

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| a. Counting Nonrecurring Income | Count nonrecurring income for 12 months from the first day of the month after the month during which the income is received. |

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| b. Example 1: Counting Nonrecurring Income | A Veteran receives a $500 SS retroactive check on March 14, 2015. Count this income starting April 1, 2015, and remove it April 1, 2016.  ***Note***: If the nonrecurring income causes the award to be discontinued, [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_131) applies to a reopened award and the beneficiary is ineligible for 13 months.  ***Reference***: For more information about the payment period, see [M21-1, Part V, Subpart iii, 1.A.7](imi-internal:M21-1MRV.iii.1.A.7). |

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| c. Example 2: Counting Nonrecurring Income | ***Example*:** A single Veteran has $9,000 per year in recurring income. The Veteran receives one-time income of $500 on March 14, 2014, and a second one-time income of $600 on July 20, 2014.  Adjust the award as shown in the table below: |

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| Date | Rate | IVAP | Reason |
| 04-01-2014 | $89.00 | 9500 | $500 nonrecurring income received March 14, 2014. |
| 08-01-2014 | $39.00 | 10100 | $600 nonrecurring income received July 20, 2014. |
| 12-01-2014 | $69.00 | 10100 | Cost-of-living adjustment (COLA). |
| 04-01-2015 | $110.00 | 9600 | $500 removed. |
| 08-01-2015 | $160.00 | 9000 | $600 removed. |

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| ***Note***: [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_131) does not apply to the rate changes on April 1, 2015, and August 1, 2015. |

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| **d. Example 2: Counting Multiple Non Recurring Income When One income terminates benefits** | [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_131) does not apply when there are multiple instances of non recurring income that is counted for 12 months and removal of one income brings claimants IVAP within the MAPR.  ***Example*:** A single Veteran has $9,000 in annual recurring income. The Veteran receives one-time income of $2,000 on March 5, 2015, and $2,200 on April 2, 2015.  ***Result:*** Adjust the award as shown in the table below: |

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| **Date** | **Rate** | **IVAP** | **Reason** |
| 04-01-2015 | $155.00 | 11,000 | $2,000 nonrecurring income received March 5, 2015. |
| 05-01-2015 | $0.00 | 13,200 | $2,200 nonrecurring income received April 2, 2015. |
| 04-01-2016 | $139.00 | 11,200 | $2,000 removed. (Do ***not*** apply 38 CFR 3.31.) |
| 05-01-2016 | $322.00 | 9,000 | $2,200 removed. |

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| e. Counting Recurring Income | Count recurring income on an open-ended basis from the first day of the month after the month during which the recurring income is first received. If there is a change in recurring income, adjust the award effective the first day of the month after the change occurs.  ***Example***: A Veteran receives a retirement check in the amount of $200 on March 14, 2014. The Veteran expects to receive a $200 check on or about the 14th of each month for the indefinite future. Increase IVAP by $2,400 ($200 x 12) effective April 1, 2014. |

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| f. Counting Irregular Income | When irregular income is initially received from a particular source, count it for 12 months from the first day of the month after the month during which it is first received. Thereafter, count irregular income for 12 months from the beginning of the calendar or initial year reporting period during which it is received.  Count the lower amount of irregular income during any overlapping periods. However, if the irregular income for the calendar year is zero, then count the irregular income for the full 12-month period.  ***Note***: A claimant could be in receipt of multiple types of irregular income. Do *not* lump together different types of irregular income, for example, interest income and odd-job income. However, it is permissible to lump together the same type of irregular income from multiple sources, for example, interest income from multiple banks or odd-job income from multiple employers. |

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| g. Example 1: Counting Irregular Income | ***Example***: A Veteran has been paid current-law pension based on interest income of $600 per year. The Veteran submits a claim on May 1, 2015, and reports receivingonly $500 interest during period of calendar year 2014. . The decreased interest is verified upon review of Federal Tax Information (FTI) provided by the Internal Revenue Service (IRS)  Adjust from January 1, 2014, subject to [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_131&rgn=div8) (that is, adjust from February 1, 2014, if the change in income causes the pension rate for January 1, 2014, to exceed the December 2013 rate.) |

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| h. Example 2: Counting Irregular Income | ***Example***: The Veteran turns 65 and applies for pension on March 14, 2014. On his application the Veteran reports that he expects to receive interest income of $50 per year. The $50 was counted on his award on an open-ended basis from April 1, 2014. The following year, the Veteran reports having received interest income of $80 between April 1, 2014, and December 31, 2014. He expects to receive interest income of $90 during 2015. Review of FTI provided by IRS shows that he received $70 in interest income the prior years.  Adjust to pay based on interest income of $80 from April 1, 2014, and interest income of $90 from April 1, 2015. If evidence submitted at the end of 2015 shows that the Veteran actually received interest income of $60 during calendar year 2015, adjust to pay based on IVAP of $60 from January 1, 2015, subject to [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_1271&rgn=div8). |

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| i. Example 3: Counting Irregular Income | ***Example***: The Veteran is rated permanently and totally disabled from August 7, 2013. The Veteran is paid based on $0 IVAP. On October 28, 2013, the Veteran reports that he started receiving interest income of $100 per year on September 29, 2013. Because this is new income, it is not verified by FTI provided by the IRS. The award is adjusted to count IVAP of $100 on an open-ended basis from October 1, 2013. On February 3, 2015, the Veteran reports having received interest income of $75 during the period January 1, 2014, through December 31, 2014. FTI is unable to verify information for the period of September 29, 2013, through September 30, 2014, because it is not a calendar year. In addition, FTI information is not yet available for CY 2014.  ***Result***: Adjust the award as shown in the table below: |

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| Date | IVAP | Reason |
| 09-01-2013 | 0 | No income from August 7, 2013 |
| 10-01-2013 | 100 | $100 interest from September 29, 2013 |
| 02-01-2014 | 75 | $75 interest from January 1, 2014  ***Note***: [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_131&rgn=div8) applies. |

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| j. Irregular Income and Original or New Awards | For an original or new award after a period of nonentitlement, count irregular income received between the effective date and the payment date over the duration of the initial period.  ***Example***: A Veteran turns 65 and claims pension on December 14, 2013. The initial year period is December 14, 2013, through December 31, 2014. The Veteran is paid the maximum rate based on $0 income. On June 18, 2014, the Veteran reports having received income from babysitting in the amount of $500 during the period January 1, 2014, through December 31, 2014. The Veteran does not anticipate receiving income from any source in 2015. Review of FTI provided by the IRS shows $0 in income.  Further development reveals that a total of $630 in babysitting income was received between December 14, 2013, and January 1, 2015. The income was received at various times and in various amounts during the period in question (irregular income).  ***Result***: Increase IVAP to $630 from January 1, 2014, and reduce IVAP to $0 from February 1, 2015 ([38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_131&rgn=div8)).  ***Reference***: For a definition of the term ***initial period***, see M21-1, Part V, Subpart iii, 1.E.7. |

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| k. Irregular Income and the End-of-the-Month Rule | Per [38 CFR 3.660(a)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_1660&rgn=div8), whenever reduction of a running current-law Pension award is required because of an increase in income, the reduction is effective the end of the month in which the increase occurred. However, this “end-of-the-month rule” does *not* apply to decreased rates attributable to increases in irregular income (that is, when VA is already counting irregular income) when there is no discretely identifiable date of receipt.  ***Example***: A Veteran is being paid on $80 IVAP from interest. On January 31, 2015, the Veteran reports $90 in interest for 2014. FTI provided by the IRS is not yet available for the year 2014.  Count interest income of $90 from January 1, 2014. |

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| l. Reclassifying Income as Irregular Income | In some instances, income that is initially characterized as recurring income is reclassified as irregular income after the fact.  ***Example***: A surviving spouse’s original award is payable from May 1, 2014. The surviving spouse reports anticipated earnings of $200 per month. Review of FTI provided by the IRS shows that she had wages from multiple payers in the prior years. It shows her combined wages for the prior year from all payers was $2,200. The award is made based on reported IVAP of $2,400 (recurring income). During May 2015, VA receives a statement from the surviving spouse indicating that she   * was laid off in August 2014 * got another job in September 2014 making $300 per month * quit in October 2014 * earned $250 in March 2015 from odd jobs, and * is presently unemployed.   Total earnings during the period May 1, 2014, through April 30, 2015, came to $1,650. FTI provided by the IRS is not yet available for 2014 or 2015.  Recharacterize the recurring income as irregular income and change the IVAP to $1,650 effective May 1, 2014. |

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| m. Counting Short-Term Recurring Income | Treat short-term recurring income like nonrecurring income and count the total amount received for 12 months from the first day of the month after it was initially received.  ***Example***:A Veteran started receiving earned income of $200 per month, effective March 14, 2015. The Veteran has no other income. The award was adjusted effective April 1, 2015, to count $2,400 on an open-ended basis. The Veteran later reports losing the job and states that the last check was received on July 14, 2015. The total earnings received were $1,000. When he makes the report, FTI provided by IRS is not available for the period of reported wages.  Count $1,000 for the period April 1, 2015, through March 31, 2016. Remove the income on April 1, 2016.  ***Reference***: For more information on treating short-term recurring income like nonrecurring income, see [38 CFR 3.271(a)(1)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_1271&rgn=div8). |

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| n. Counting Hard-to-ClassifyIncome | Not all income fits neatly into one of the four categories listed in M21-1, Part V, Subpart iii, 1.E.5. There are instances where it is not clear whether a claimant has received irregular income, or multiple occurrences of nonrecurring.  ***Question***: If a Veteran does occasional seasonal labor and receives three $500 checks during the 12-month calendar or initial year reporting period, should it be treated as   * three instances of nonrecurring income with three separate income adjustments, or * irregular income and counted for the duration of the calendar or intial reporting period during which it was received?   ***Answer***: Situations like this amount to a judgment call by the Veterans Service Representative (VSR) working the case. The important principle is that all income must be counted for 12 months, unless an overlapping period is involved in the case of irregular income. It often makes little difference to the claimant whether $500 is counted for three separate 12-month periods or $1,500 is counted for one 12-month period. However, if alternative computation methods would have significantly different results for the claimant, use the method that is to the claimant’s advantage.  ***Exception***: There is an exception to the general rule that all income must be counted for 12 months. When a dependent with income is removed from the award, the dependent’s income is removed with the dependent even if this means that the income is counted for fewer than 12 months.  ***Reference***: For more information about removing a dependent from an award, see M21-1 Part V, Subpart iii, 1.F.3. |

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| o. Income Received Before the Effective Date of the Award | Do *not* count income received before the effective date of an original or new award. (For Survivors Pension cases, do not count income received between the effective date and the date of the Veteran’s death.) The effective date is the date a claimant is entitled to benefits without regard to [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_1271&rgn=div8).  However, if the claimant would have been entitled to current-law Pension but current-lawPension is not paid solely because income exceeds the MAPR, apply the normal income-counting procedures to any income received or expenses paid after the date that would have been the effective date, had income not exceeded the MAPR. |

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| p. Example: Income Received Before Effective Date of Award | ***Example***: A Veteran files an original pension claim on June 10, 2014. The Veteran reports having received gambling winnings of $10,000 on June 3, 2014. VA determines that the Veteran is entitled to pension effective June 10, 2014.  Disregard the $10,000 in determining IVAP for the Veteran’s entitlement to pension, since it was received before the date of the Veteran’s award. |

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| q. Example: Income Received Before Date of Death | In Survivors Pension cases, do *not* count income received before the date of the Veteran’s death, even if it is received after the effective date of the award.  ***Example***: The Veteran died on March 20, 2014. The surviving spouse files an original pension claim on February 2, 2015. The surviving spouse reports receipt of a $10,000 inheritance on March 19, 2014.  The effective date of the award under [38 CFR 3.400(c)(3)(ii)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_1400&rgn=div8) is March 1, 2014. Disregard the $10,000 in determining IVAP for the surviving spouse’s entitlement to pension. Although it was received after the effective date, it was received before the date of the Veteran’s death. |

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| r. Date of Receipt of Income Not Known | Always determine the reporting period during which income is received. If this information is not of record, initiate development.  For original and new awards, count the income from the effective date of the award if the actual date of receipt is not shown on the application. If the beneficiary later reports the actual date of receipt of income, adjust the award. |

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| s. Determining When Income Is Received | Income is considered to have been received for VA purposes when cash or something that could be converted into cash comes into the possession of the recipient. The fact that non-cash income comes into the recipient’s possession on a weekend or holiday (when it would be difficult or impossible to convert it into cash) makes no difference.  Likewise, banking practices which prevent the recipient from drawing on a check for a certain period of time are irrelevant to determining the date of receipt of income. However, a post-dated check is not considered to have been received before the date of the check, even though it might be in the recipient’s possession earlier. Electronically transferred income is considered to have been received by the recipient on the date that it is credited to the recipient’s account.  ***Example***: The Veteran is notified on September 29, 2014, that he has inherited $10,000. The Veteran receives the $10,000 check on October 28, 2014. The $10,000 is considered to have been received on October 28, 2014. |

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| t. Renouncement of Benefits Under 38 CFR 3.106(c) | Under [38 CFR 3.106(c)](http://www.ecfr.gov/cgi-bin/text-idx?SID=9e36aeeb585e15d596d1d968e46579cd&node=se38.1.3_1106&rgn=div8)   * an application for Pension filed within one year after renouncement of that benefit is not treated as an original application, and * benefits are payable as if the renouncement had not occurred.   This provision, which was effective November 2, 1994, the date of enactment of *Public Law (PL) 103-446*   * requires VA to include income received in that one year period as income for VA purposes, and * precludes the planned renouncement of the benefit prior to receipt of nonrecurring income in order to avoid having that nonrecurring income used to calculate IVAP. |

#### 7. Counting Income During the Initial Period

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| Introduction | This topic contains information on counting income during the initial period, including   * a definition of ***initial period*** * counting irregular income received during the initial period * deductible medical expenses paid during the initial period * income counting for the initial period and three examples * income changes during the initial 12 months of the award and two examples * counting the initial 12 months of income for disallowed claims * counting the second 12 months of income for disallowed claims, and * four examples of counting income during the initial period. |

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| Change Date | June 27, 2015 |

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| a. Definition:Initial Period | The ***initial period*** is defined as the period extending from the effective date of the award, or later date of the Veteran’s death, through the end of the month that is 12 months from the month during which pension entitlement arose.  ***Examples***:   * Veterans Pension: If the claim is received on October 14, 2014, then the initial period is October 14, 2014, through October 31, 2015. * Survivors Pension: If the Veteran died on May 2, 2014, and the claim is received * on August 4, 2014 (within one year after the date of death), then the initial period is May 2, 2014, through May 31, 2015, or * on August 4, 2015 (more than one year after the date of death), then the initial period is August 4, 2015, through August 31, 2016. |

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| b. Counting Irregular Income Received During the Initial Period | If irregular income is involved, income received during a period of more than 12 months (the initial period) may be a factor in determining initial year IVAP for original awards and reopened awards after a period of nonentitlement. |

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| c. Deductible Medical Expenses Paid During the Initial Period | Deductible medical expenses paid during the initial period are allowed for the first 12 months of the award.  ***Note***: Because income is generally reported on a calendar year basis, the initial year overlaps the first calendar year unless the date of entitlement is in December. *Count the lower amount of irregular income and allow the higher amount of medical expenses during periods of overlap.*  If a surviving spouse is entitled to the Veteran’s rate for the month of death under [38 CFR 3.20](http://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_120), deductible medical expenses are allowed for the first 13 months of the award although they affect the IVAP for only 12 months.  ***Important***: In Survivors pension cases, do *not* deduct unreimbursed medical expenses paid by the surviving spouse between the effective date of the death pension award (first day of the month of the Veteran’s death) and the date of the Veteran’s death. However, the expenses may be deducted as final expenses, if they are related to the Veteran’s last illness.  ***References***: For more information on   * medical expense deductions, see M21-1, Part V, Subpart iii, 1.G, and * irregular income, see [M21-1MR, Part V, Subpart iii, 1.E](imi-internal:M21-1MRV.iii.1.E.32.e). |

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| d. Example 1: Income Counting for the Initial Period | A Veteran with no dependents is permanently and totally disabled effective March 14, 2014. Use the guidelines below to determine the Veteran’s IVAP.   * If the Veteran is receiving monthly recurring income on March 14, 2013, enter the monthly income into the computer system with no end date. The system will multiply the monthly income by 12 and count it on an open-ended basis. * If the Veteran receives irregular income between March 14, 2013, and April 1, 2014, count it for the period April 1, 2013, through March 31, 2014. * Include all deductible medical expenses paid during the period March 14, 2013, through March 31, 2014, in calculating IVAP for the period April 1, 2013, through March 31, 2014. * If the Veteran starts receiving recurring income on June 15, 2013, that ends in October 2013, count the total amount received as short-term recurring income from July 1, 2013, through June 30, 2014. * If the Veteran receives nonrecurring income on December 5, 2014, count it from January 1, 2015, through December 31, 2015. |

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| e. Example 2: Income Counting for the Initial Period – IVAP Changes | The table below shows the effective dates and reasons for the IVAP changes described above in M21-1MR, Part V, Subpart iii, 1.E.7.d. |

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| Date | IVAP | Reason for IVAP Change |
| 04-01-2013 | 3,400 | $200 monthly recurring income plus $1,000 irregular income received March 24, 2013. . |
| 07-01-2013 | 4,900 | $1,500 short-term recurring income first received June 15, 2013. |
| 12-01-2013 | 4,900 | COLA |
| 04-01-2014 | 3900 | Irregular income removed. |
| 07-01-2014 | 2400 | Short-term recurring income removed. |
| 01-01-2015 | 2700 | $300 nonrecurring income received December 5, 2014. |
| 01-01-2016 | 2400 | Nonrecurring income removed. (13-month rule does not apply.) |

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| g. Example 3: Income Counting for the Initial Period – Survivors Pension | ***Example***: The Veteran was receiving disability compensation of $1,037.01 per month prior to his death on April 7, 2014. The surviving spouse files an original claim on July 5, 2014, and is found to be entitled to Survivors Pension at the rate of $200 per month.  Pay $1,037.01 for the month of April 1, 2014 (the Veteran’s compensation rate for the month of death), and pay $200 per month, effective May 1, 2014. In this case, the payment date is the same as the effective date, because [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_131) does not apply when the Veteran’s rate is payable for the month of death under [38 CFR 3.20](http://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_120). |

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| h. Income Changes During Initial 12 Months of Award | If there is a change in income that occurs after the effective date of the award, apply the income-counting principles found here in this topic. This means that an original or new award might be discontinued after having run fewer than 12 months. |

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| i. Example 1: Income Changes During Initial 12 Months of Award | In Examples 1 and 2 below, it makes no difference whether or not the award is running at the time VA learns of the retroactive payment. The income counting procedures found in this topic apply equally to original, new, and running awards.  ***Example***: A surviving spouse is entitled to Survivors Pension with an effective date of March 15, 2014. The award is payable from April 1, 2014. The award is based on IVAP of $0. The surviving spouse receives a retirement check for $800 on July 3, 2014. It represents a $600 retroactive check and the regular $200 check for July. The surviving spouse expects to receive $200 each month in the future from this source.  Pay based on IVAP of $0 from April 1, 2014. Increase IVAP to $3,000 effective August 1, 2014 (12 x $200= $2,400 + $600 retroactive). Reduce IVAP to $2,400, effective August 1, 2015, when the $600 retroactive comes off the award.  The table below shows the date and reason for the IVAP changes in Example 1. |

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| Date | IVAP | Reason |
| 04-01-2014 | 0 | Entitlement is effective from date of claim, March 15, 2014. (Claim received more than one year after Veteran’s death.) |
| 08-01-2014 | 3000 | Retirement check received July 3, 2014. Count $600 nonrecurring plus $200 per month recurring ($2,400). |
| 08-01-2015 | 2400 | Remove nonrecurring income. |

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| j. Example 2: Income Changes During Initial 12 Months of Award | ***Example***: A surviving spouse is entitled to Survivors Pension with an effective date of March 15, 2014. The award is payable from April 1, 2014. The award is based on IVAP of $0. The surviving spouse receives a retirement check for $3,000 on July 3, 2014. It represents a $2,500 retroactive check and the regular $500 check for July. The surviving spouse expects to receive $500 each month in the future from this source.  Stop the award effective August 1, 2014, because IVAP of $8,500 exceeds the applicable MAPR. If there are no other changes in the surviving spouse’s income, entitlement exists effective August 1, 2015, when the $2,500 retroactive payment has been counted for 12 months.  ***Note***: If the surviving spouse re-establishes entitlement effective August 1, 2015, the payment date would be September 1, 2015, per [38 CFR 3.31](http://www.ecfr.gov/cgi-bin/text-idx?SID=9608af361e54e8b20073f42918f4a4cd&node=pt38.1.3&rgn=div5#se38.1.3_131) and [VAOGCPREC 02-89](http://www.va.gov/ogc/docs/1989/PREC_2-89.doc). |

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| k. Counting the Initial 12 Months of Income for Disallowed Claims | A corollary of the rule that all income must be counted for 12 months on Pension awards is the principle that income that bars payment of Pension must be considered for a full 12 months from the first day of the month after the effective date.  ***Example*:**   * May 10, 2013: Veteran died. * June 10, 2014: Surviving spouse files original pension claim. Pension denied because of monthly wages of $1,400. * May 1, 2015: Surviving spouse re-applies for pension. She states she has no income because she lost her job in November 2014. She received $9,800 between June 10, 2014, and November 2014.   The $9,800 short-term recurring income must be counted for a full 12 months from July 1, 2014, through June 30, 2015. An award can be made based on IVAP of $0 with a payment date of July 1, 2015. The period July 1, 2015, through June 30, 2016, then becomes the surviving spouse’s initial period for the purposes of claiming medical expenses.  ***Note***: In the initial denial letter, inform the surviving spouse that she has until January 1, 2017, to claim unreimbursed medical expenses to establish entitlement from June 10, 2014. |

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| l. Counting the Second 12 Months of Income for Disallowed Claims | Under [38 CFR 3.660(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c9a1194b7c24a11e12ad84accb509171&node=se38.1.3_1660&rgn=div8), a claimant has two 12-month periods to submit evidence establishing entitlement to benefits for the second 12-month period after denial of a claim because income exceeds the limit during the initial period.  ***Note***: This time limit is actually shorter than the time limit to establish entitlement for the initial period.  Therefore, if a claim has been denied because income for the initial period exceeded the MAPR, evaluate income for the second 12-month period to determine if entitlement exists. If income is below the MAPR for the second 12-month period, pay from the beginning of that period.  ***Example***: A 65 year-old Veteran files an original claim on March 14, 2013. The claim is denied because the Veteran receives disability retirement of $1,200 per month.  On September 29, 2014, the Veteran reports that the last disability check was received on September 3, 2014. The Veteran also reports winning $500 in a lottery on June 16, 2014. The Veteran asks to be paid based on IVAP of $0 from October 1, 2014.  In this case, income was excessive for the initial period of March 14, 2013, through March 31, 2014. Therefore, the Veteran’s entitlement for the second 12-month period must be based on income received from April 1, 2014, through March 31, 2015. During this period, the Veteran received disability retirement of $7,200 and lottery winnings of $500.  ***Result***: The table below shows the effective dates and reasons for the changes in IVAP. |

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| Date | IVAP | Reason |
| 04-01-2014 | 7200 | Entitlement from beginning of second 12-month period. Nonrecurring income of $1,200/month retirement income times 6 months. |
| 07-01-2014 | 7700 | Add $500 lottery winnings received June 2014. |
| 04-01-2015 | 500 | Remove $7,200 nonrecurring income. |
| 07-01-2015 | 0 | Remove $500 lottery winnings. |

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| ***Reference***: For more information on the time limit to establish entitlement under [38 CFR 3.600(b)(2)](http://www.ecfr.gov/cgi-bin/text-idx?SID=c9a1194b7c24a11e12ad84accb509171&node=se38.1.3_1660&rgn=div8), see [M21-1, Part V, Subpart iii, 1.A.5](imi-internal:M21-1MRV.iii.1.A.5). |

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| m. Example 1: Counting Income During the Initial Period | ***Example***: A Veteran’s date of entitlement to pension is March 14, 2015. Before the award is authorized, the Veteran reports receipt of SS on February 13, 2015. The Veteran is entitled to SS from December 2004. The first check includes a monthly payment of $200 and retroactive payment of $400.  Count the $200 monthly SS payment (recurring income) on an open-ended basis from the effective date of the award. Disregard the $400 retroactive payment (nonrecurring income) because it was received before date of entitlement to VA pension, March 14, 2015. |

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| n. Example 2: Counting Income During the Initial Period | ***Example*:** A surviving spouse is entitled to pension from March 14, 2014. Before the award is authorized, the surviving spouse reports receipt of SS on July 19, 2014. The surviving spouse is entitled to SS from February 2014. The surviving spouse receives a monthly SS check of $200 and a retroactive payment in the amount of $1,200.  The table below shows the effective dates and reasons for the changes in IVAP. |

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| Date | IVAP | Reason |
| 04-01-2014 | 0 | Entitlement effective March 14, 2014. |
| 08-01-2014 | 3600 | $200 monthly recurring income plus retroactive SS payment of $1,200. |
| 08-01-2015 | 2400 | Remove nonrecurring income. |

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| o. Example 3: Counting Income During the Initial Period | ***Example***: A Veteran is entitled to pension from March 14, 2014. After the award is running, the Veteran reports anticipated receipt of SS in the amount of $200 per month starting August 7, 2014.  Count $200 monthly SS ($2,400) from September 1, 2014. |

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| p. Example 4: Counting Income During the Initial Period | ***Example***: The Veteran died on July 19, 2014. The surviving spouse files a pension claim on August 2, 2014. The surviving spouse reports the following one-time income:   * $500 received on June 30, 2014 * $500 received on July 17, 2014, and * $500 received on July 29, 2014.   Disregard the $500 received on June 30, 2014 since it was received before the effective date (July 1, 2014). Disregard the $500 received on July 17, 2014, because it was received before the Veteran’s death (although after the effective date). Pay based on IVAP of $500 from August 1, 2014. Reduce IVAP to $0 effective August 1, 2015. |