

Parents Are Hard To Raise Season 2 Episode 87 Transcript

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[00:00:37] This week on Parents Are Hard To Raise, Elder Law expert, Amos Goodall, president of the National Elder Law Foundation is back to discuss some recent changes in the law that could immediately and severely impact the welfare of our aging parents and us. Parents Are Hard to Raise is now available on Spotify and it's 180 million monthly subscribers.

Diane: [00:01:15] Welcome to Parents Are Hard To Raise, helping families grow older together without losing their minds. I'm elder care expert, Diane Berardi.

[00:01:24] Long time listeners were recognized my next guest as our “go-to” expert on all matters of elder law. If I were to list all these credentials there'd be no time left in the show. So let me just say he is a Certified Elder Law attorney practicing in Centre County Pennsylvania with the firm Steinbacher, Goodall and Yurchak, where he's been practicing elder law since 1976. Philadelphia Magazine named him a “super lawyer” in elder law, as they have every year since the category was created. He's a Fellow of the National Academy of Elder Law Attorneys and currently serves as president of the National Elder Law Foundation.

Attorney Amos Goodall welcome to Parents Are Hard To Raise.

Amos Goodall: [00:02:08] Thank you, Diane. It's good to be here.

Diane: [00:02:11] We're so happy to have you. So, Amos what do you have for us this week?

Amos Goodall: [00:02:17] Well, I wanted to talk to your listeners about certain benefits that are available to veterans and how the rules on those benefits have changed probably for the first time in 100 years.

[00:02:29] So there's a there's a major change, the new regulations were adopted effective on October the 18th. And so we are still feeling our way through the regulations and of course how they apply. There are a lot of grey areas. But at least people should know about what the regulations are, how they apply and what they apply to.

Diane: [00:02:51] Definitely.

[00:02:53] So you said when you want to talk specifically about compensation and pension?

Amos Goodall: [00:03:00] Well, yes. There are two V.A. programs that, most of our clients by the way are most elderly people are possibly able to acquire benefits under one of these two veterans programs.

Diane: [00:03:16] OK.

Amos Goodall: [00:03:17] Many people have served in the Service and those people who have, one of the things that you get back for giving two to 30 years of your life and maybe part of your body is that you get some compensation for that and that. And that compensation continues. And the two

programs that we often encounter in advising elderly clients are something called "compensation" and something called "pension". They're two different separate programs and they are both very important.

[00:03:50] Compensation is very similar to workman's compensation, in that a Veteran can show that he had several ... meets several conditions. First of all that he was discharged for reasons other than dishonorable.

Diane: [00:04:05] OK.

Amos Goodall: [00:04:06] Second of all, that he incurred a disease or injury or aggravated that disease or injury in the line of duty, even though the problem may not have shown up for years... The disabling part of it may not have shown up for years.

[00:04:19] And third that there was not willful misconduct or alcohol or drugs involved in creating the problem.

[00:04:28] As with any workman's compensation or disability compensation there are no income or asset requirements. If someone meets the elements of the... For the benefit, the benefit is payable to the person.

Diane: [00:04:42] Okay.

Amos Goodall: [00:04:43] Now there are a number of rules and really it's probably beyond the scope of this program, we could talk for three or four hours about just this particular program and the rules.

[00:04:56] What I'd like to say that the folks who are considering whether they might be entitled to compensation, that they contact the local Veterans Service Office or an attorney. There are accredited attorneys who practice in this area. And one of the things that you have to do to become accredited, and that's how you get that license is, that you are accredited. One of the things you have to do is agree that you don't charge a fee for the initial consultation or for this initial work up until you for making the application. So people shouldn't hesitate a second to talk to a qualified lawyer or a veteran service officer, VSO, about whether they might qualify for this compensation. As I said what happens is there were some in service precipitating condition injury or event that occurred.

Diane: [00:05:43] Right.

Amos Goodall: [00:05:44] Typically someone might come back and say well I was in Vietnam and I have... I now suffer from say, Lou Gehrig's disease. I don't want to pick a bad one but, pick Lou Gehrig's disease, and the presumption is that you show those two things... I was in Vietnam and I now suffer from Lou Gehrig's disease, and the presumption is that this program applies to you and that you're entitled to compensation.

Diane: [00:06:11] OK.

[00:06:12] So that's how the program works. Now, no one's going to get rich on V.A. compensation. But a veteran who is hundreds of disabled, in 2017 was entitled to up to two thousand nine hundred seventy three dollars per month. That's 100 percent disability. A veteran who is 10 percent disabled, was and would be entitled to compensation of one hundred and thirty six dollars. So she goes up and down.

Diane: [00:06:39] Right.

Amos Goodall: [00:06:41] If the veteran has a spouse, has as a spouse and parents dependent on him, has a spouse parents and children depending on dependent on him those numbers will change.

[00:06:49] But the compensation is payable to a veteran. It's it's a payment that occurs as I said, without regard to assets that a veteran has.

[00:07:03] Now the next program, which is the one that a lot of folks will qualify for is something called pension.

Diane: [00:07:12] OK.

Amos Goodall: [00:07:13] And pension... The elements of a pension program are that the veteran was served at least 90 days during a period of war. And I'm going to come back to that, again was discharged for reasons other than dishonorable, and is either permanently and totally disabled, in a nursing home, or is over the age of 65. And that if he's disabled, the disability was not the result of willful misconduct.

[00:07:42] Now, the applicable war time periods, which are important for this program.

Diane: [00:07:47] I was wondering about that.

[00:07:50] Go back we go back. I don't imagine any of your listeners were in the Mexican border period which was 1916 and 1917 and probably not too many were in World War I.

[00:08:02] But if people were in service during the period December 7, 1941 to December 31, 1946, they are considered World War II veterans.

[00:08:13] June 27 1950 to January 31 1955. They're considered Korea veterans.

[00:08:20] The Vietnam era is August 5, 1964 until May 7th 1975, except for veterans who are actually in the Republic of Vietnam and they're their start date goes back to 1961.

[00:08:34] And then the Gulf War, which according to the V.A. started on August 2nd 1990 and still goes, it goes on.

[00:08:43] So those are, you have to have served during one of those periods.

[00:08:48] Many, many, many of our clients served during those periods.

Diane: [00:08:52] Right.

Amos Goodall: [00:08:53] So what is the pension program and how does it help?

[00:08:56] Well, what the pension program does is it makes a payment to the veteran. And again there are going to be... There are rates of payment, but the the veteran without a spouse or a child is entitled to a pension of up to thirteen thousand one hundred sixty six dollars a year. And that amount, that doesn't sound like a lot. But let's talk about how you get to that amount.

Diane: [00:09:30] You know what... We're going to talk about how you get to that amount after the break. We're going to continue talking to Amos Goodall, president of the National Elder Care

Foundation.

[00:09:40] But first, I wanted to talk to you about something. If you're a woman or there is a special woman in your life something you really need to listen to.

[00:09:49] I want to tell you about my friend Katie. Katie is a nurse and she was attacked on her way home from work. She was totally taken by surprise. And although Katie is only 5 feet tall and 106 pounds she was easily able to drop her 6 foot 4, 250-pound attacker to his knees and get away unharmed.

Katie wasn't just lucky that day. She was prepared.

In her pocketbook, a harmless looking lipstick, which really contained a powerful man stopping aerosol propellant.

It's not like it was in our grandmother's day. Today just going to and from work or to the mall can have tragic consequences. The FBI says a violent crime is committed every 15 seconds in the United States. And a forcible rape happens every five minutes. And chances are when something happens; no one will be around to help.

It looks just like a lipstick. So no one will suspect a thing. Which is important since experts say, getting the jump on your attacker is all about the element of surprise.

Inside this innocent looking lipstick is the same powerful stuff used by police and the military to disarm even the most powerful, armed aggressor. In fact, National Park rangers used the very same formula that's inside this little lipstick to stop two-thousand pound vicious grizzly bears dead in their tracks. It's like carrying a personal bodyguard with you in your purse or your pocket.

Darkness brings danger. Murderers and rapists use darkness to their advantage. We all know what it's like to be walking at night and hear footsteps coming at us from behind. Who's there? If it's somebody bad, will you be protected? Your life may depend on it.

My friend Katie's close call needs to be a wake up call for all of us. Myself included. Pick up a Lipstick Bodyguard and keep it with you always.

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Diane: [00:12:03] Remember there's so many new ways to listen to our show. Spotify, Roku. On your smartphone with Apple podcasts, Google podcasts. You can get us on Apple TV, Direct TV. You can even just ask Alexa to play the show for you.

[00:12:17] So if you're listening in one of these new ways please do me a big favor and help someone else learn about the show and show them how to listen.

[00:12:27] So, Amos... We're talking to Amos Goodall president of the National Elder Care Foundation. We were talking about pensions.

Amos Goodall: [00:12:34] Thank you Diane.

[00:12:35] I'm talking about now how one acquires pension. And as I said, it doesn't sound like a lot... Thirteen thousand dollars a year.

Diane: [00:12:40] Right.

Amos Goodall: [00:12:41] But for a family who might be an assisted living facility, thirteen thousand dollars a year may make the difference between being able to pay the bill and stay in the facility and not being able to pay the bill and stay in the facility.

Diane: [00:12:53] Sure.

Amos Goodall: [00:12:54] By the way, a veteran with a spouse may be entitled to up to seventeen thousand dollars a year. But whatever the number is, and those numbers change every year, if you can acquire that you can live a better life.

[00:13:08] And the way that's calculated is that you look at the veterans in the family's income has been a wife's income from that you subtract unreimbursed medical expenses. So if you're living in an assisted living facility, a lot of your income is going to be taken away for unreimbursed medical expenses.

[00:13:26] So if you've got, say you're getting a two thousand dollar... Twenty five hundred dollars a month Social Security payment and you're in a thirty five hundred dollar a month assisted living facility, you're already below zero.

Diane: [00:13:39] Right.

Amos Goodall: [00:13:40] And so this pension will make... Will allow you to make up the difference and be able to stay in that facility, because you... Even though you're getting 25 hundred dollars a month, in my example from the Social Security Administration, from that is subtracted your medical, your unreimbursed medical expenses. So we can qualify folks. That can stay. They don't have to go into a nursing home to get and get Medicaid. They can stay in an assisted living facility with the privacy and with the... Some people think a better lifestyle, than having to go to a nursing home, because they have this this pension that comes to them.

[00:14:20] So it's really an important tool in the estate planners tool chest, to be able to say to a client you can qualify for this pension which is going to help you out.

Diane: [00:14:31] Definitely.

Amos Goodall: [00:14:33] Now... The Rules.

[00:14:33] It used to be that there were two other... There was another qualification for the pension and that was that you had resources or assets under the amount that the examiner thought you might need to live the rest of your life. And that's pretty Lucy Goosey as you can imagine.

[00:14:53] The rule of thumb was... Well, roughly 80 thousand dollars. If you have resources of under 80 thousand dollars you have you don't have too many resources. If you have over eighty thousand dollars you've got to spend down for a while until you get down to eighty thousand dollars.

[00:15:08] And sometimes if an examiner was in it maybe in a... I wouldn't say a bad mood, but was looking at someone who was old and very ill and not expected to live very long, they might say well

you don't need but twenty thousand dollars a year or you're twenty thousand dollars you don't need one but maybe thirty thousand dollars.

[00:15:25] So that number was subject to adjustment, it was not fixed. So the new regulations have established, based on Medicaid regulations, have established the number of one hundred and twenty three thousand odd dollars, one hundred twenty three thousand six hundred dollars as a net worth statement.

[00:15:45] So if the veterans net worth is under one hundred and twenty three thousand six hundred dollars, for him and his wife or him in her and her husband, then they're going to qualify to apply for a veteran's pension.

[00:16:01] There are some assets that are excluded from that category.

[00:16:04] One of them is a residence with up to two acres of land. Household goods are excluded from that category.

[00:16:12] Actually the regulations... they say were going to exclude... there's about 12 in the regulations and they say plus any other regulation that any other asset that's excluded anywhere else.

[00:16:23] So there are a number of assets that are excluded from this calculation but it's one hundred and twenty three thousand six hundred dollars. That's the number.

[00:16:33] Now, for Medicaid. That's the maximum that the community spouse can have and the spouse in the nursing home actually has some additional resources that they can keep. But for veteran's pension the total is \$123,600.

[00:16:49] Now there are some... So that's one change that there is a finite number. It's the veterans it's the maximum that the veteran or the veteran's spouse can have and still qualify for the for the program.

[00:17:05] The other thing that the regulations have done that is very important to understand is that the regulations now impose a penalty for transfers. Under Medicaid rules, any gifts made, most gifts made within the five year period prior to applying for Medicaid can give rise to a Medicaid transfer penalty. For veteran's purposes, until October the 18th, there were no penalties for transfer.

[00:17:34] Now, if you give away money that causes you to come down to within a hundred and twenty three thousand six hundred dollars you're going to be subject to a penalty equal to the maximum amount of \$13,166 a year. So whatever that works out to, divide that into your gift and that's the penalty.

[00:17:56] That's going to be a problem for folks, because they're... Under the Medicaid rules, there is an exception for someone who for example has given away assets within five years in good faith. Suppose you are a grandparent who is supporting a grandchild and you're perfectly healthy. No reason to think you're going to need to apply for Medicaid. You're supporting a grandchild... You've supported the grandchild with an education payment and four years later you have a stroke and have to go into a nursing home. Well rather than penalizing you because of that gift, which was not for any thought about applying for Medicaid was for some other reason.

Diane: [00:18:41] Right.

Amos Goodall: [00:18:41] Medicaid Rules have a relief provision. Under this pension program, if you have made transfers because you're the victim of some sort of a fraudulent veteran's annuity practice you can get some relief. And if you have made contributions to a trust for a disabled child under some circumstances you can be entitled to relief, but for no other reason.

[00:19:07] So our... In my example, the grandparent that supported their grandchild. And let's make it three years before they applied, had a stroke and then had to apply, would be out of luck for a while because they'd be penalized because of that gift. I see that as a real problem for this pension program. It's something that people need to be aware of.

[00:19:29] Yeah. Pension is so important in estate planning for veterans.

[00:19:33] Sometimes it's the difference between being able to live comfortably and not because medical expenses take up so much of the senior's income.

Diane: [00:19:42] Right. Now how... Veterans, how would they know about all these changes?

Amos Goodall: [00:19:48] Well that's why many of us are trying to talk to the public and to alert them to what's going on. There should be articles in the paper. There are people who were advising veterans. Hopefully, if someone was dealing with an attorney a year ago and doing planning and their plans are not in place, hopefully the attorney that's helping and will advise them hey the rules have changed.

Diane: [00:20:13] Right. Right.

Amos Goodall: [00:20:15] Regulations were announced in late September and most of the lawyers that I know sent out letters to their existing clients so you better get your plan in place before October the 18th.

Diane: [00:20:26] OK. Now how does someone find an attorney that would really know? I guess wouldn't they need help with the applications?

Amos Goodall: [00:20:36] Well there are... There's a lot of resources that are available. I think in most counties there are, at least in Pennsylvania, there are veteran services offices in most counties where there's someone who can help with applications. In other places, there are national veterans organizations who will assist in these applications. For applying for a pension, though, I would be talking to... I mean it's a pretty specialized area.

[00:21:06] Yeah.

Amos Goodall: [00:21:06] And with Rules changing, It's... You know there are nuances that need to be taken into account.

[00:21:14] For example in calculating your assets, your home is is exempt. But it's your home and two acres. And if you happen to live on 10 acres then it may be that the other eight acres are not exempt resources and those will count against your hundred twenty three thousand dollars. And there are and then there are exceptions to that rule.

[00:21:34] If they can't be set aside and sold separately and maybe that won't affect you. But you see, all of a sudden it's gotten very complicated.

Diane: [00:21:44] Yeah. We need attorneys to help with this. And you were saying there's just so

many exceptions and so many rules. You need an attorney to sift through all this.

Amos Goodall: [00:21:54] Well, the National Elder Law Foundation maintains a directory of attorneys who are certified elder law attorneys.

Diane: [00:22:02] OK.

Amos Goodall: [00:22:02] So that, if you if you go to the Web site and it's NELF.org there is a directory where you can find lawyers who are certified Elder Law Attorneys. And in their credentials, they'll talk about the fact that they are they're accredited veterans attorneys or not. Most that I know are a credit to veterans attorneys, because it's, as I said, it's an important tool in your toolbox.

Diane: [00:22:27] There is an 800 number as well?

Amos Goodall: [00:22:30] There is an 800 number.

[00:22:34] I don't have that committed to memory.

[00:22:38] [laughing] That's Okay. We'll have that on the Web site.

[00:22:40] There is an 800 number that you could call in our executive director would be happy to help people find it.

[00:22:45] The other thing is understand that the veteran's rules do not permit the attorney to charge for the application itself. They can charge for estate planning. They can charge if there is a denial. They can charge for a number of other reasons. But they can't charge for the application itself.

[00:23:04] I don't have the 800 number but I've just looked up the main number which is.

[00:23:08] 5 2 0- 8 8 1- 1 0 7 6.

Diane: [00:23:14] Okay that's perfect. And we'll have that number on our Web site. So that's fine.

Amos Goodall: [00:23:20] Great.

[00:23:20] So, I want to emphasize that this is not the end of the world that the rules have changed. Because with careful planning we can help people become qualified, it may not be quite as easy, it may not be quite as quick, the qualification. But we can help folks become qualified. Knowledgeable lawyers can help provide assistance so that folks will qualify as soon as they possibly can, and that all ties are decided in their favor.

Diane: [00:23:52] What brought about all these changes? They haven't... It hasn't been changed since the Civil War.

Amos Goodall: [00:24:00] Well, it's interesting. There have been discussions about changing the rules for years, five or six or seven years. And regulations were first put out, there not the current ones that were adopted, but the regulations were first put out a number of years ago, 2015, and there were hundreds of comments made to those rules, about how they were wrong or how they were right, how they were fair, how they were unfair, how they were ambiguous and they're still ambiguous. And the V.A. took all those things into consideration and then nothing happened. And we kept thinking, well, they're going to adopt it now, and... Well, they're going to adopt it now.

[00:24:41] And most federal agencies have a list of actions that they are going to studying and proposed to take within the near future, within the next year.

[00:24:53] And this wasn't even on the V.A. list. It just was sort of announced on the middle of September, on September the 18th, saying, here's the new rules are going to go into effect on October 18.

Diane: [00:25:05] Oh my gosh. It's sort of typical.

[00:25:11] Well it's also frustrating for folks who have work who worked as hard as they can and as long as they can and have given to there of themselves to their Country, you know. The typical service person was young and in the prime of his or her life when he was... When they went into service. And now that they're older or disabled and need help all of a sudden the rules are changing.

Diane: [00:25:35] We really need to support our Vets. And we definitely need Certified Elder attorney to help in the process for veterans and their families.

[00:25:46] Thank you so much. Amos Goodall for being here.

[00:25:49] I hope you got something out of this episode. I know I did. I love getting your e-mails and questions so please keep sending them.

[00:25:56] You can reach me at Diane@ParentsAreHardToRaise.org. or just green button on our home page.

[00:26:02] Parents Are Hard To Raise is a CounterThink Media production. The music used in this broadcast was managed by Cosmo Music, New York New, York New York.

[00:26:11] Our New York Producer is Joshua Green. Our broadcast engineer is Well Gambino. And from our London studios, the melodic voice of our announcer, Miss Dolly D.

[00:26:21] And Please... If you love the show, give it a five star rating. That will help other people find our show and please help someone else find the show as well. Someone you know that would really benefit from our show.

[00:26:34] Thank you so much for listening. Till next time... May you forget everything you don't want to remember, and remember everything you don't want to forget.

[00:26:42] See you again next week!