

# The Nuts and Bolts Guide to Veterans Benefits:

An introductory tour of the Special  
Monthly Pension available for  
Wartime veterans and/or  
surviving spouses who are 65  
or older OR permanently and  
totally disabled.



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Most people think of veterans benefits as being only for service men and women who were wounded or disabled while serving in the armed forces. By and large, that is true; however, there are substantial benefits that may be available to wartime veterans who are now senior citizens and are facing the burden of long-term care due to a host of diseases such as Alzheimer's, Parkinson's, MS, Lou Gehrig's disease, and many others. In fact, the Veterans Administration estimates that millions of wartime veterans and their spouses may be eligible for these benefits, called Special Monthly Pension benefits, and not even be aware of it.

Wartime veterans, or their surviving spouses, become eligible for the Special Monthly Pension benefit when they are over 65 years of age, are permanently disabled and unable to work, are homebound, or need the regular aid and attendance of another, whether at home, in assisted/supportive living, or in a nursing home. The program is based on actual financial need for assistance, so there are income and asset limitations.

Unfortunately, there is widespread misunderstanding regarding how to determine qualification for this important benefit. It is the goal of this *Nuts and Bolts Guide* to give you a start in understanding the ins and outs and the ups and downs of the VA benefit maze commonly referred to as "Aid and Attendance." Even though finding your way through the maze can be extremely difficult, it is worth the effort.

**The maximum benefit available can provide significant help in paying for long-term care costs, for either a veteran or surviving spouse.**

There are only three types of persons who are authorized to provide a veteran with assistance filing a claim for veterans' benefits:

1. An attorney licensed to practice law in your state
2. A veterans' service organization such as VFW, American Legion, Amvets, etc.
3. A state or county official of the Department of Veterans Affairs in your state.

Any of these organizations previously described must have an individual who has been accredited by the General Counsel of the VA to file claims. Unfortunately, there are few attorneys who have knowledge in this particular area of legal practice due to the fact that it is illegal to charge a veteran a legal fee for providing assistance in filing a claim for benefits. Veterans Service Organizations (VSOs) are often hard-pressed to have sufficient resources to assist multiple generations of veterans, so it is often difficult for a veteran or his/her surviving spouse to get help in filing a claim. Sadly, the *Knight-Ridder Newspapers* reported on December 30, 2005, that "a veteran who turns to the VA for information about veteran's benefits might want to get a second opinion. According to the VA's own data, people who call the agency's regional offices for help and advice are more likely to receive completely wrong answers than completely right ones."

The only other common source of information regarding this benefit generally comes from annuity salespeople who often offer to consult with veterans and their families for free. This “free” offer is based on the strategy of counseling the veteran to meet the asset and income limitations of the benefit by buying an annuity and giving away their assets to their children. The offer is that the annuity sales organization will assist the veteran in filing for the VA benefit claim. They also promise to provide any necessary estate planning work at no charge. In reality, the annuity salesperson is being compensated by the annuity company for selling a financial product to the veteran. An annuity may be an excellent financial decision or a poor one, depending on the facts and circumstances. All we are saying is this: You should seek independent advice before making a decision to purchase an annuity.

### **A Medicaid trap...**

Another important factor that one must consider when thinking about trying to meet the VA asset limitation test is that giving away cash or other things of value can create terrible problems for senior citizens if or when they later need to apply for Medicaid to help pay for nursing home care. Giving away assets can create a long penalty period of ineligibility for Medicaid benefits. Any senior facing long-term care needs to seek capable legal advice from an attorney who is skilled in the areas of estate planning, financial planning options, Medicaid, Medicare, income tax, and gift tax, as well as having experience regarding VA rules.

The big question for many families will be, “What will it cost me to seek advice in this area?” Although an attorney who chooses to actually file a claim for veteran’s benefits must do that portion of his/her work for free, the attorney may charge the usual fees related to any estate planning, financial planning options, Medicaid, Medicare, income tax, or gift tax work, as well as the determination of the financial suitability of filing for a veteran’s benefit claim. No one should pay an attorney fee unless receiving a fair return on his/her investment.

After reading this *Nuts and Bolts Guide*, we strongly recommend that you contact an elder law attorney such as those at Hurley Elder Care Law to determine if you qualify. An elder law attorney can assist you and your family by explaining many difficult to understand things about long-term care. Qualification for a VA benefit is only one of several concerns that must be considered. As you struggle to provide dignified long-term care for a wartime veteran and/or surviving spouse, we can help you understand the options. We are your advocates, and we want to help you stretch your hard-earned dollars further. VA benefits are only one part of the puzzle. We will hold your hand and guide you every step of the way as we consider all of your family’s resources and needs.

## WHAT'S INCLUDED IN THIS GUIDE:

- ✓ Fact sheet: Veterans Administration compensation and pension benefits
- ✓ Veterans benefits at a glance
- ✓ More details
- ✓ The benefits available
- ✓ Who can help you file a claim?
- ✓ Official dates for periods of war
- ✓ Other eligible groups
- ✓ Excerpts from *Knight-Rider* article
- ✓ VA benefits checklist
- ✓ Listing of possible medical expenses
- ✓ The wrap-up

### Legal Disclaimer

This information has been provided for informational purposes only. It does not constitute legal advice. The receipt of this information does not establish attorney-client privilege. Proper legal advice can only be given upon consideration of all the relevant facts and laws. Therefore, you should not act upon any of the information contained herein without seeking appropriate counsel.

# Veterans Administration Compensation and Pension Benefits

There are many types of VA benefits available to veterans through the Veterans Administration for things such as education, life insurance, health care, home loans and burial benefits. Two major categories of benefits, however, are compensation and pension.

## **Service-Connected Disability COMPENSATION**

Compensation is a benefit that veterans receive when the veteran has a disability caused by, or exacerbated by, military service. Disability compensation is available to a qualified veteran regardless of his or her level of income. Once a veteran can show disability due to military service, a level of disability is rated by the Veterans Administration, (for example, 20% disabled), and the amount of compensation paid depends on the rating assigned. A veteran can apply for increases in the percent rating should the condition worsen. A rating above 100% disabled will qualify the veteran for special monthly compensation that could more than double the normal benefit. During 2019, monthly compensation payments ranged from \$140.05 for a veteran with no dependents and a 10% disability rating, to \$3,227.58 for a veteran with a spouse and a 100% disability rating.

Dependency and Indemnity Compensation (DIC) is paid to survivors of deceased veterans if the death was due to a service-related injury or illness. Eligible survivors include spouses who have not remarried and unmarried children under 18 years old. Disabled children are also eligible, as are children up to 23 years old who are attending school. Monthly DIC payments are \$1,319.04 per month.

## **Non-Service-Connected Disability PENSION**

A pension is a benefit for veterans with low incomes who are permanently and totally disabled, when that disability is not related to military service. This is sometimes referred to as a “Special Monthly Pension” or sometimes an “Improved Pension.” Veterans will be considered permanently and totally disabled if they are: (1) a patient in a nursing home for long-term care because of disability; (2) receiving Social Security disability benefits; (3) unemployable as a result of a disability that is reasonably certain to continue throughout their life; or (4) suffering from any disease or disorder that renders them permanently and totally disabled as determined by the Secretary of the Department of Veterans Affairs.

In 2019, the maximum disability pension rate for a veteran with no dependents is \$13,535, or \$1,128 per month. The rate for a veteran with one dependent, or for two

veterans married to each other is \$17,724, or \$1,477 per month. Each additional dependent child adds \$2,313, or \$193 per month, to the pension.

The VA pays a death pension to low-income surviving spouses and unmarried dependent children of deceased wartime veterans. In order to be eligible, a spouse must not have remarried, and a dependent must be under age 18, or must be under age 23 if attending a VA-approved school. Dependents who are permanently incapable of self-support because of disability before age 18 are also eligible for the death pension. For 2019, the maximum death pension for a surviving spouse is \$9,078, or \$756 per month. If the spouse has a dependent child, the maximum pension is \$11,881, or \$990 per month. If the spouse has more than one dependent child, the benefit for each dependent child is \$2,313, or \$193 per month.

The amount of the Special Monthly Pension will be increased if the permanently disabled veteran is also housebound. A person is housebound if they are permanently and totally disabled and, either (1) have an additional disability or disabilities ratable at 60% or more; or (2) are substantially confined to their residence or the immediate premises due to a disability that is reasonably certain to remain throughout their lifetime. In 2019, the maximum pension for a housebound veteran with no dependents is \$16,540, or \$1,378 per month. If the housebound veteran has one dependent, the maximum pension is \$20,731, or \$1,727 per month. If a surviving spouse is housebound, the maximum pension is \$11,095, or \$925 per month. With a dependent child, the maximum pension is \$13,893 or \$1,158 per month. Again, each additional dependent will increase the pension \$2,313, or \$193 per month.

If the veteran is in need of regular aid and attendance, the maximum Special Monthly Pension is increased further to \$22,577, or \$1,881 per month if the veteran has no dependents. With one dependent, the maximum pension is \$26,766, or \$2,230 per month. If the surviving spouse is in need of regular aid and attendance, the maximum pension is \$14,509, or \$1,209 per month. If the surviving spouse has a dependent child the maximum pension is \$17,309, or \$1,442 per month. Again, each additional dependent will increase the pension \$2,313, or \$193 per month. To be in need of regular aid and attendance, the veteran or spouse must be permanently and totally disabled and (1) a patient in a nursing home; (2) blind, or nearly blind; or (3) needing the regular aid and attendance of another person to perform basic activities of daily living, such as dressing, bathing, and attending to the wants of nature.

### Attaining age 65 – Service Pension

A low-income, wartime veteran who attains the age of 65 is also entitled to a pension, known as a Service Pension, whether or not he/she is disabled. The amount of the maximum pension is the same as the Special Monthly Pension.

### Low-Income and Net Worth Requirements

In order to be eligible to receive any of the above non-service connected **PENSIONS**, the veteran must meet income and net worth requirements. First, the annual maximum pension amount is decreased, dollar for dollar, by the veteran's countable income. Income that is countable is, in general: all of the veteran's income, including that of any dependents, MINUS unreimbursed medical expenses. Unreimbursed medical expenses include doctor's fees, dentist's fees, prescription glasses, Medicare premiums and co-payments, prescriptions, insurance premiums, transportation to physicians' offices, and the costs of assisted living facilities or in-home aides. (See list on page 17 of this guide.)

So, for example, if a single veteran has \$20,000 in annual income and \$10,000 in annual unreimbursed medical expenses, his/her countable income is \$10,000. The \$10,000 in countable income is deducted from the maximum annual Special Monthly Pension of **\$13,535** for a benefit of **\$3,535**. As another example, suppose the veteran is in a nursing home (and so qualifies for the additional pension for aid and attendance) and has an income of \$50,000. If the unreimbursed medical expense for the nursing home is \$5,000 per month, or \$60,000, the veteran's countable income is negative \$10,000. Any negative income is counted as an income of \$0 and the veteran will be eligible for the maximum annual Special Monthly Pension for aid and attendance of **\$22,577**.

In addition to low income, the veteran must also have a limited net worth. The VA defined limited net worth as \$127,061 for 2019. Items included in the calculation of a veteran's net worth would include things such as CDs, savings accounts and bonds.

The VA has instituted a 36-month look back period for as- sets. This means that if you have given away any assets in the 36 months prior to applying for VA benefits, you may incur a penalty period or be disqualified for VA benefits. Consulting with a Certified Elder Law Attorney can help you determine the best way to qualify given your circumstances, and the quicker you act, the more options you will have.

# Veterans Benefits at a Glance:

The focus of this *Nuts and Bolts Guide* is the “non-service-connected pension” which may provide money to assist a wartime veteran or surviving spouse who now faces substantial medical costs due to Alzheimer’s, Parkinson’s, MS or other “non-service-connected” diseases.

**Table 1: Disability Compensation**

**VETERAN**

- Must have a disability caused by, or worsened by, military duty
- The amount of money paid to the veteran is not based on need/income/net worth of the veteran.

**SPOUSE/DEPENDENTS**

- Eligible for Dependency and Indemnity Compensation (DIC).

## More Details...

**Table 2: Non-Service-Connected Pension**

**VETERAN**

- Must be permanently and totally disabled, or 65 or older
- Disability does not have to be related to military duty
- Pension is needs-based so must meet income and net worth requirements; or
- If the veteran has too much income or too many assets, he/she should create an asset protection plan prior to applying
- A higher pension is awarded if the veteran is housebound
- An even higher pension if the veteran is in need of regular aid and attendance.

**SPOUSE/DEPENDENTS**

- Eligible for Death Pension
- A higher pension is awarded if the spouse is housebound



## Who is eligible for the non-service-connected pension?

- Honorably discharged veterans, surviving spouses, or children of any military, naval, or air service. Also includes certain other special groups such as:
  - Women's Army Auxiliary Corps (WAAC)
  - Merchant Marines from WWII
  - U.S. civilians of the American Field Service
  - Plus 30 more! See list on page 13.
- Served in active duty 90 consecutive days, one of which was during a period of war
- At least 65 years old OR "Permanently and Totally Disabled."

### "Permanently and Totally Disabled" is defined as:

- Receiving long-term nursing home care; or
- Receiving Social Security disability benefits; or
- Unemployable as a result of disability reasonably certain to continue throughout the life of the person.

The veteran's current disability does not need to have any connection to the veteran's actual time in the armed forces. (Non-service-connected disability can be Alzheimer's, Parkinson's, etc.)

### Other requirements:

This is a needs-based program with income and asset tests.

- Income limitation
  - Gross income MINUS certain expenses
    - Unreimbursed medical expenses of veteran and his/her household
    - Certain educational expenses
  - After reducing gross income by the above expenses, net income must be lower than **\$9,078** to **\$26,766**, depending on your circumstances
- Net worth limitation
  - In addition to your house, car, life insurance, burial policies, and annuities in payout status, you must have less than \$127,061 in assets, including CDs, stocks, bonds, etc.
  - If your net worth is higher, consult with a qualified attorney for an appropriate asset protection planning

# The Benefits Available

(2019 figures)

## Special Monthly Pension Rates Paid to veterans age 65 or older OR Permanently and Totally Disabled

Situation	Maximum Annual Pension Rate	Maximum Monthly Check
Permanently and totally disabled veteran	\$13,535	\$1,128
With one dependent	\$17,724	\$1,477
Permanently and totally disabled and also housebound	\$16,540	\$1,378
With one dependent	\$20,731	\$1,727
Permanently and totally disabled and in need of regular aid and attendance	\$22,577	\$1,881
With one dependent	\$26,766	\$2,230
Increase for each additional dependent child	\$ 2,313	\$193

## Death Pension Rates Paid to Veteran's Surviving Spouse

Situation	Maximum Annual Pension Rate	Maximum Monthly Check
Surviving spouse	\$ 9,078	\$ 756
With one dependent child	\$11,881	\$ 990
Surviving spouse is permanently housebound	\$11,095	\$ 925
With one dependent child	\$13,893	\$1,158
Surviving spouse is in need of regular aid and attendance	\$14,509	\$1,209
With one dependent child	\$17,309	\$1,442
Increase for each additional dependent child	\$ 2,313	\$ 193
Pension for each surviving child	\$ 2,313	\$ 193

## Who can help you file a claim?

- Recognized Veterans Service Organizations, like the VFW or American Legion
- An accredited agent, such as an employee of the State of Georgia
- A licensed attorney.

Only accredited agents and attorneys can receive fees for their services. *HOWEVER*, no-one can receive a fee for filling out forms or actually filing a claim for you once you have decided to make a claim.

To check if someone is accredited by the VA, go to <http://www.va.gov/ogc/apps/accreditation/index.asp>

Hurley Elder Care Law offers pre-filing and asset protection consultation to veterans who may qualify for a pension. Our consultation is part of our overall long-term care planning practice.

**Contact us today for a complimentary phone consultation!**

Phone (404) 843-0121  
[www.hurleyclaw.com](http://www.hurleyclaw.com)

## Official Dates for Periods of War

According to Code of Federal Regulations, Title 38, Part 3.2

Mexican Border:	May 9, 1916 to April 5, 1917
World War I:	April 6, 1917 to November 11, 1918 April 1, 1920 if served in Russia
World War II:	December 7, 1941 to December 31, 1946
Korean War:	June 27, 1950 to January 31, 1955
Vietnam War:	August 5, 1964 to May 7, 1975 February 28, 1961 if served in Vietnam
Persian Gulf War:	August 2, 1990 to [date not yet determined]

## In addition to active duty vets from the armed services, these little-known groups also meet the active duty qualification for VA benefits.

If you belong to any of these groups and received a discharge by the Secretary of Defense, your service meets the active duty service requirement for benefits:

- Recipients of the Medal of Honor
- Women Air Force Service Pilots (WASPs)
- WWI Signal Corps Female Telephone Operators Unit
- WWI Engineer Field Clerks
- Women's Army Auxiliary Corps (WAAC)
- Female clerical employees of the Quartermaster Corps serving with the American Expeditionary Forces in WWI
- Civilian employees of Pacific naval air bases who actively participated in defense of Wake Island during WWII
- Reconstruction aides and dietitians of WWI
- Male civilian ferry pilots
- Wake Island defenders from Guam
- Civilian personnel assigned to OSS secret intelligence
- Guam Combat Patrol
- Quartermaster Corps members of the Keswick crew on Corregidor during WWII
- U.S. civilians who participated in the defense of Bataan
- U.S. merchant seamen who served on block ships in support of Operation Mulberry in the WWII invasion of Normandy
- American merchant marines in oceangoing service during WWII
- Civilian Navy IFF radar technicians who served in combat areas of the Pacific during WWI
- U.S. civilians of the American Field Service who served overseas under U.S. armies and U.S. army groups in WWII
- U.S. civilian employees of American Airlines who served overseas in contract with the Air Transport Command between 12/14/41 and 8/14/45
- Civilian crewmen of certain U.S. Coast and Geodetic Survey vessels between 12/7/41 and 8/15/45
- Members of the American Volunteer Group (Flying Tigers) who served between 12/7/41 and 8/14/45
- U.S. civilian flight crew and aviation ground support of TWA who served overseas between 12/14/41 and 8/14/45
- U.S. civilian flight crew and aviation ground support of Consolidated Vultee Aircraft Corp. who served overseas between 12/14/41 and 8/14/45
- Honorably discharged members of the American Volunteer Guard, Eritrea Service Command, between 6/21/42 and 3/31/43
- U.S. civilian flight crew and aviation ground support of Northwest Airlines who served overseas between 12/14/41 and 8/14/45
- U.S. civilian female employees of the U.S. Army Nurse Corps who served in the defense of Bataan and Corregidor from 1/2/42 to 2/3/45
- U.S. civilian flight crew and aviation ground support of Braniff Airways who served overseas in the North Atlantic between 2/26/42 to 8/14/45
- Chamorro and Carolina former native police who received military training in the Donnal area of central Saipan and were placed under command of Lt. Casino of the 6<sup>th</sup> Provisional Military Police Battalion to accompany U.S. Marines on active, combat patrol from 8/19/45 to 9/2/45
- The operational Analysis Group of the Office of Scientific Research and Development, Office of Emergency Management, which served overseas with the U.S. Army Air Corps from 12/7/41 through 8/15/45
- Honorably discharged members of the Alaska Territorial Guard during WWII

## **VA BENEFITS – VETERAN’S CHECKLIST**

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### **MILITARY INFORMATION**

- \_\_\_\_\_ Military Discharge or Separation Papers (DD214) for All Active Duty, Reserve Service, and National Guard Service (if Available)
- \_\_\_\_\_ Proof of Name Change, if Name is Different from that in Military Records

### **PERSONAL INFORMATION**

- \_\_\_\_\_ Copies of All Divorce Papers or Death Certificates from Previous Marriages (for Both Veteran and Spouse, if Veteran is *Currently Married*)
- \_\_\_\_\_ Copies of Marriage Licenses from All Marriages of Veteran and His/Her Current Spouse
- \_\_\_\_\_ Veteran’s Last Date of Employment and Job Description (if Employed Within Five Years)

### **FINANCIAL INFORMATION FOR VETERAN AND HIS/HER DEPENDENTS**

- \_\_\_\_\_ Proof of **ALL** Household Assets
  - \_\_\_\_\_ Latest Bank and Financial Statements
  - \_\_\_\_\_ Latest IRA and 401K Statements
  - \_\_\_\_\_ Trust Fund and/or Annuity Statements
  - \_\_\_\_\_ Annuity Contracts
  - \_\_\_\_\_ Latest CD Statements
  - \_\_\_\_\_ Statements from Life Insurance Company showing current cash value
  - \_\_\_\_\_ Latest Mutual Fund Statements
  - \_\_\_\_\_ Current Value of All Stocks and Bonds
  - \_\_\_\_\_ Value of Any Business Interest
  - \_\_\_\_\_ Deed and Value of Any Real Estate
  - \_\_\_\_\_ Value of ALL Other Investments
  - \_\_\_\_\_ Voided Check for Checking Account
  
- \_\_\_\_\_ Proof of **ALL** Household GROSS Income
  - \_\_\_\_\_ Current Monthly Pension Statements Showing **GROSS** Amount before Taxes/Insurance or Other Deductions
  - \_\_\_\_\_ Proof of Current Monthly Social Security Payments – Award Letter
  - \_\_\_\_\_ Current Year’s Annuity Statements, Showing **GROSS** Amount before Any Deductions
  - \_\_\_\_\_ Statement Showing Expected Current Year’s IRA Distribution
  - \_\_\_\_\_ Statement Showing NET Income from Rental Property, including Primary Place of Residence
  - \_\_\_\_\_ SSI and SSDI Payments

### **MEDICAL INFORMATION FOR VETERAN AND HIS/HER DEPENDENTS**

- \_\_\_\_\_ Signed Care Provider Report (a VA form)
- \_\_\_\_\_ Proof of Medical Insurance Premiums with Name of Company and Frequency of Payments
- \_\_\_\_\_ Statement Showing Medicare Part D Premium Amount (if Applicable)
- \_\_\_\_\_ Signed Physician’s Statement (a VA form)

# Listing of Possible Medical Expenses

These can be deducted from your gross income to determine VA benefit eligibility.

Medicare Premiums deducted from Social Security	Hearing aids & batteries	Psychologist
Supplementary medical insurance (Part B) under Medicare	Home health services	Psychotherapy
Abdominal supports	Hospital expenses	Radium therapy
Acupuncture service	Insulin Treatment	Sacroiliac belt
Ambulance hire	Insurance premiums (medical)	Seeing-eye dog
Anesthetist	Invalid chair	Speech therapist
Arch supports	Lab tests	Splints
Artificial limbs	Lip reading lessons (in connection with disability)	Surgeon
Back supports	Neurologist	Telephone/teletype for deaf
Braces	Nursing services	Transportation expenses (20 cents per mile)
Cardiographs	Occupational therapist	Vaccines
Chiropodist	Ophthalmologist	Vitamins prescribed by doctor
Chiropractor	Optician	Wheelchairs
Convalescent home (for medical treatment only)	Optometrist	Whirlpool baths for medical purposes
Crutches	Oral surgery	X rays
Dental services	Osteopath	
Dentures	Pediatrician	
Dermatologist	Physical examinations	<b>Note:</b> Most medical expenses must be prescribed by a physician to be deductible from gross income for VA benefit qualification purposes.
Eyeglasses	Physician	
Food or beverages prescribed by doctor for treatment of illness	Physical Therapy	
Gynecologist	Podiatrist	
	Prescriptions and drugs	
	Psychiatrist	
	Psychoanalyst	

# The Wrap-up: You made it to the end!

After reading this *Nuts and Bolts Guide*, you may have enough information to file a claim on your own. If you do decide that you need the help of attorneys who are concentrated in the area of assisting senior citizens, then please contact us at Hurley Elder Care Law. Our goal is to make sure that our clients make the most of their financial and family resources so that they are ***never out of money and never out of options for as long as they live***. If you are like most people, then we believe that you will need guidance to apply the information in this guide to your life or the life of your loved one.

We are here to provide guidance to you in the following areas:

- Care options available in the local community for both the veteran and spouse
- A comprehensive understanding of availability and extent of personal and financial, as well as family resources to pay for care
- Basic estate plan documents such as powers of attorney, wills and possibly trusts
- Basic analysis of any income tax, estate tax, and gift tax issues
- A review of Medicare and Medicaid as it applies to your circumstances
- Analysis of financial suitability of any asset protection tools
- Analysis of both positive and negatives of all tools and planning options
- A calculation of the actual dollar benefit and/or cost of any helpful idea that is discussed
- Possibly completing and submitting the VA claim form.

To take advantage of our complimentary consultation, call us at (404) 843-0121.

Miles P. Hurley, JD, CELA

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