Newstead & Walker Solicitors

Facts about…

Paying for Long Term Care

With an estimated 150,000 people entering care each year, paying for long term care is an issue that will face many adults at some point in their lives. Here we set out a brief overview of the complicated rules on long term care funding, and how we can help with any funding issues you or your family may have.

The present position – most people needing residential care will have to contribute towards the cost of their social care and accommodation.

The amount a person pays is governed by their financial position.

If a person has more than £23,250 in capital - they will have to self-fund the cost of their care. They will not be eligible for financial assistance from Social Services.

If a person has capital between £14,250 and £23,250 - Social Services will pay part of their fees. The person in care will contribute £1 for every £250 over the threshold of £14,250.

If a person has capital below £14,250 – they will not have to pay any contribution towards residential care from their savings. Social Services will however, still expect the person to apply their pension and other income towards the cost of care fees.

**The above rules will continue to apply for the immediate future, as the Government has recently announced that the proposed lifetime care cap of £72,000 and the more generous means test will now be delayed until at least 2020.

Social Services means test – if a person cannot afford the full cost of the home or nursing care, Social Services will carry out a financial assessment of his or her ability to pay. The means test takes into account a person's **eligible** income and capital, with income being used in the first instance to meet the cost of care.

How capital is treated - capital is very widely defined in the current rules. Capital includes property, savings, stocks and shares, premium bonds, holiday homes, ISAs, cash, interest in partnerships and shareholdings within family companies.

Certain capital assets are ignored ("disregarded") in the financial assessment. These include the surrender value of a life insurance policy, endowment policies, some investment bonds and personal possessions (e.g. paintings and antiques) unless purchased with the intention of avoiding residential care charges.

The treatment of the family home in the means test – many people fear having to sell the family home to pay for care fees. The value of a person's main home can, however, be disregarded in certain situations. For example, the value of a home is ignored by Social Services if it is still occupied by the resident's partner or close family member over the age of 60. The rules on property disregards are complicated and it is important to seek legal advice.

If the stay in care is "temporary" the value of the home must be ignored. Temporary stays can be up to 52 weeks. The value of a home must also be ignored for the first 12 weeks of any permanent stay.

For people in residential care, deferred payment agreements are one way to avoid selling the family home to pay for care fees. Under a deferred payment agreement, the payment of fees is delayed during the resident's lifetime. Social Services will put a charge onto the resident's home, which is paid back when the resident dies, or when the property is sold.

How income is treated - income is always taken into account in the financial assessment. Income includes occupational and private pensions, most social security benefits, annuity income and earnings from employment.

Some types of income are ignored in the financial assessment, such as any payment as a result of any personal injury.

When working out how much a person should contribute, any disability related expenditure should also be ignored by Social Services.

For married couples, only the resident's income can be assessed. The rules allow 50% of the resident's private pension to be ignored so that this can be passed on to the spouse.

A care home resident must be left with a "pocket money allowance" for personal expenses (such as clothing and haircuts) of at least £24.40 per week.

Paying for Long Term Care (cont.)

Disputes with Social Services – deprivation of capital or income

Many people make financial gifts or transfer property to family members as a way of trying to protect their assets.

The problem here is that Social Services could challenge the gift made, and treat the resident as still owning the property gifted away. It is up to Social Services to show that the resident has deliberately deprived himself of capital to reduce his or her accommodation charge.

Exceptions - when nursing home care is free

Nursing Home Care is free in the following situations:

- Where the resident has been detained in hospital for treatment for a mental disorder and is now entitled to after care services under Section 117 of the Mental Health Act 1983.
- Where the resident is eligible for NHS continuing healthcare. If the resident has a primary health need, then the NHS has a legal obligation to fully fund care costs.
- Where the resident is eligible for an intermediate care package – this is a short term care package generally offered for up to 6 weeks.

How Newstead & Walker can help

Contact us now for legal help on care home fees including:

- How Social Services will treat your assets (including your family home, jointly held assets and investments)
- Social Services income and capital assessments
- The deprivation of capital rules
- Challenging funding decisions

We can also help you with accessing different types of care funding, such as respite care, funding temporary care, and NHS continuing healthcare funding if you or your relative have complex health needs.

Contact our team now on 01943 461414 or email them to arrange your first appointment.

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