

FAMILY CAREGIVER AGREEMENTS

A Solution for Keeping Your Elderly Parent at Home



"There's no place like home." Dorothy's remembrance in the Wizard of Oz immediately brings to mind our own cherished abode. Yet, as your parents age, they may not be able to live in their homes without the assistance of family members. The assistance you provide to your parents (e.g., cooking, cleaning, paying bills, medication schedules, etc.) is often the critical difference between their staying at home or moving to a nursing home. Given the high cost of nursing home care (\$7,500 - \$10,000 per month) and the current economic climate, paying you to provide care to your parents can be a win-win solution.

When you provide care to a parent, you may need to cut back on your work schedule, or, ultimately, leave your job altogether. In turn, your parent may compensate you for your time and loss of income. This arrangement may be a viable solution for both parent and child. However, payments made to you, *without a written caregiver agreement in place*, may result in a period of ineligibility for Medicaid benefits for your parents. Please note, caregiver agreements may

also be entered into between other family members or persons unrelated to the person requiring care.

Your parent can qualify for Medicaid whether as a resident of a nursing home or by remaining in their home under the PDA Waiver program. Medicaid is a needs-based program. In Pennsylvania, eligibility is limited to those individuals who have spent down their resources to \$2,400 or \$8,000, depending on their monthly income. Also, the spouse not applying for Medicaid, known as the community spouse, can keep additional resources.

When a person applies for Medicaid, the Department of Public Welfare (DPW) will review the application and supporting documentation to ensure that the applicant and/or spouse has made no transfers for less than fair consideration (gifts) within five (5) years. Without a caregiver agreement in place, DPW may rule that the payments provided by your parent to you were gifts.

Preparation of a family care agreement will prove to DPW that the payments made to a child by a parent were in consideration for the care provided. As such, DPW will be precluded from asserting that the care provided was based solely on love for the parent, since there is a legally binding contract in place.

When a transfer is deemed to be a gift, DPW imposes a penalty during which the applicant will not be eligible for

Medicaid benefits. During the penalty period, the applicant will be required to pay for his or her care from his or her private funds. Currently, the penalty is approximately one day for every \$250 "gifted". The penalty period is particularly problematic as the applicant will have spent down his or her resources to \$2,400 or \$8,000 to qualify for Medicaid benefits. Clearly, paying privately for care will be a hardship, if not an impossibility, once resources have been exhausted.

Since your parents will be compensating you to care for them, there will be income tax implications for both you and your parents. Therefore, it is important to consult with your tax advisor to ensure you understand the tax implications before entering into such an agreement.

In summary, you and your parents should consider entering into a written family caregiver agreement if they need assistance with their care needs. Such an agreement can be a win-win situation for both of you. It enables your parents to remain at home while simultaneously providing you with additional income, income which may be particularly helpful to you at this time.

Learn about the "27 Costly Misconceptions About Planning for Your Senior Years" and other important information by visiting our website at www.GummerElderLaw.com.

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