

Elder Law Guys: A way to help ease the financial pain of caregiving

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Here you are, a hard-working career person with kids and parents. Suddenly one or both of your parents become ill or injured. Now, you may find you are being put in the role of your parents' caregiver.

For our purposes, we'll define a caregiver as someone who, generally, is unpaid for their services in assisting another with either or both of that person's activities of daily living (personal care activities fundamental to being able to care for oneself such as bathing, dressing, toileting and eating) and instrumental activities of daily living (related to activities such as cooking, shopping, doing housework, driving, managing personal finances, etc.)

According to the National Alliance for Caregiving and AARP, in 2015, there were almost 43.5 million caregivers or 13.5 percent of the U.S. population providing care for an adult or child over the previous 12 months.

Obviously, the role can create many physical demands, but also financial burdens by potentially disrupting the caregiver's ability to earn a continuous and sustainable income.

One way to help ease the financial burden is by compensating the caregiver, using a method called a caregiver agreement.

With the cost of personal care/assisted living running from \$50,000 to as much as \$80,000 a year and skilled nursing care averaging over \$113,000 a year in Pennsylvania, a caregiver agreement becomes a legal way for the older person to "spend down" their resources in exchange for the personal care services which might allow them to "age at home."

If the loved one simply made gifts of their resources to the caregiver and then became a resident of a skilled nursing facility, they could then be subject to a five-year "lookback" period as to those gifts which could create periods of ineligibility for Medical Assistance.

What are some of the critical items to have in a written (and, it must be in writing) care agreement?

State, in clear detail, the type and nature of the services to be provided by the caregiver.

For example, are meals being provided? Who is paying for the food? Is rent to the loved one being charged if living in the caregiver's home? What about gas, electric, water and sewage? How much housekeeping, laundry and driving services are to be provided?

Spell out all types of additional services such as bill paying, home maintenance and repair items, shopping etc.

Look for a reasonable hourly rate for each of the specific services you're providing such as what a home care agency might charge.

Keep a log of the time and services provided. Remember also that the money received is taxable income and needs to be

reported.

Record keeping is critical.

Both the older person and the caregiver can benefit from such an arrangement.

The older person may, because of your services, be able to stay in your or their own residence, and, possibly never have to enter a long-term care facility. The caregiver can receive compensation for the services provided which could be vital if they must give up the opportunity to earn a living.

Even the state could benefit. The period for which the state, under the Medical Assistance program, might have to pay for skilled nursing care could be substantially decreased or even eliminated by having the older person being provided care under a care agreement in a home environment.

Given the increasing number of seniors in our society and the desire of most to age in place, coupled with the increased pressure on family caregivers, it's important for the caregiver and other family members to come to a consensus on the utility of using a care agreement.

Remember, that the state County Assistance Offices may test the validity of the agreement.

While both you and your parents may feel that you are entitled to an inheritance from them and feel a little uneasy about adopting a business-like approach to your caregiving, such an agreement will help withstand such scrutiny.

Also, don't do such an agreement yourself. It's too important not to do it correctly by obtaining competent elder law advice both for the agreement and related tax and estate planning matters.

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