

Article – Filial support law – 11-11-09

Kids Can Be Required to Pay for Parents' Nursing Home Care

Pennsylvania has passed a law to motivate children to help their parents plan for nursing home care: in some cases, children can be required to pay their parents' nursing home bills.

Pennsylvania's filial support law allows nursing homes to sue children and spouses for unpaid bills if they can prove that a parent is indigent, a child is capable of paying, and that no other law protects the spouse/child from paying.

The bad news is that nursing homes have very little trouble proving that a parents is indigent and that a child has the means to pay for the parent's nursing home care. The latter is merely an issue of showing a child's monthly earnings exceed his or her expenses. The worse news is that nursing home costs in Pennsylvania average \$7,000-\$8,000 per month. If that number is multiplied by several months or more, the figures become staggering, and they will undoubtedly increase.

The good news is that the third factor of the filial support law shields any child or spouse from liability if the parent qualifies for Medicaid. However, qualifying a parent for Medicaid assistance is far from automatic. It is dependent on the parent's income and available resources. As the aged population increases, stricter qualification requirements can be expected.

Elder law attorneys are trained to qualify persons for Medicaid through transfers of property and re-titling of property. When spouses and children attempt to do this on their own, however, disastrous results can occur. For example, a gift or transfer of property for less than fair market value today will disqualify a parent from Medicaid assistance for five years. Imagine five years of supporting a parent at the cost of \$5,000 per month.

The federal and state rules are complex, and change frequently. The importance of pre-planning for parents' possible nursing home care is clear: it requires talking to an experienced estate planning attorney about taking the appropriate measures to ensure that a parent's nursing home bills are not required to be paid by the child.