

When should a family caregiver be paid?

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In many families, the situation is familiar: As your loved ones grow older, they need help with daily and routine tasks. Often, a family member steps in and takes care of the elder. Over time, the elder needs more help, so the family caregiver's responsibilities grow. As the caregiver spends more time with the elder, even in harmonious families, other family members can become resentful. If the elder gives money to the caregiver, disputes are even more likely to happen. An underlying question is: When should a family caregiver be paid?

Focus the Family on the Needs of the Elder

The feelings of the family member working hard to care for mom or dad and the conflicting feelings of family members who are not receiving compensation present a difficult situation to diffuse. As a starting point, get the whole family focused on the elder and his or her needs and wishes. When an elder begins to need help, it should signal everyone that the family needs to pull together and develop a comprehensive care plan for now and the future.

One key element of the plan is determining who assumes the caregiver role and whether that person should be compensated. When one family member is spending significant time taking care of the elder loved one, it is appropriate to consider monetary consideration. Key questions to ask include:

Is the family caregiver spending substantial time taking care of the elder?

Does the elder need regular, daily, routine help with personal care and other household tasks?

Is the family caregiver the only or primary person helping the elder loved one?

Has the caregiver given up employment or other income to be able to care for the elder?

Is the time spent with the elder roughly equivalent to a part-time or full-time job, in terms of daily, regular, and repeating responsibilities?

If someone outside the family were providing the same assistance to the elder, would the family expect to pay that person?

Affirmative answers to the questions signal a situation that probably justifies compensation for the family caregiver. However, it is a big mistake to have the elder to start giving money to a family member, even if the whole family agrees it is the right thing to do. If the elder might be eligible for Medicaid in the future, those payments could jeopardize that eligibility. Without a proper caregiver agreement, the payments will be considered to be gifts, not compensation, and will factor into the financial analysis that Medicaid conducts, including the five-year look-back period, to determine eligibility.

Caregiver Agreements for Family Caregivers

As more and more families face their elder parents' changing needs, many families are drawing up a legal contract called a caregiver agreement, also sometimes referred to as a personal services agreement or personal care agreement. A proper caregiver agreement is critical under the law in order for the payments not to be considered a gift under Medicaid law. In fact, unless there is a proper notarized care agreement with any caregiver — whether a family member, non-relative individual, or a company — any caregiver payments will cause some disqualification from Medicaid.

By laying out all the details relating to the elder's care and specifying compensation in a legal agreement, family members can all understand the time and effort required of the family caregiver

and be assured that the compensation is fair. Reaching that understanding often resolves the underlying competing feelings of the compensated and non-compensated family members.

A caregiver agreement details the all the tasks the caregiver will perform and sets the compensation associated with those tasks. Terms of the agreement include:

Specific details about personal and household responsibilities like bathing, cooking, transportation, housekeeping, laundry, exercising, and medication;
Weekly or monthly compensation rate, usually based on the going rates for caregivers in the geographic region; and
Documentation requirement, such as daily notes or a journal detailing the care provided.

There are strict legal requirements the agreement and payments must meet, including:

The agreement cannot provide compensation for any companionship;
All payments must be made in the month the care is provided; and
Compensation cannot be paid retroactively for services already provided, so the agreement must have a starting date no earlier than the date the agreement is signed.

After the agreement is in place, all family members will know exactly what the responsibilities of the family caregiver are and what compensation he or she will receive. That can go a long way toward smoothing over relationships within the family.

To meet Medicaid requirements, the agreement must be signed and dated by both parties, notarized, and supported by specific medical documentation. When the family caregiver agreement is in place, the compensation must be reported as income by the caregiver for tax purposes. Depending on the circumstances, the caregiver may owe self-employment tax on the income.

If the elder does not have the financial means to pay the family caregiver, other resources may be available. Some long-term care insurance policies cover family caregivers. In Michigan, there are several federal and state programs providing care for elders, some of which may allow payments to a family caregiver.

Comprehensive Planning for Your Elder Loved One

When an elder begins needing assistance of a caregiver at home, the family should make sure that all of the elder's needs are addressed. That includes ensuring that the elder has in place all necessary documents to ensure that all eventualities are addressed. Those documents include:

- A will or estate plan
- A durable power of attorney
- An advance directive

Addressing your elder loved one's needs also should include Medicaid planning and nursing home planning as well.

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