

In today's society people are living longer, which in turn is leading to an increase in the number of people requiring assistance with their care in old age. The financial implication of this is becoming an important consideration for many when considering planning for their own future.

When making future plans it is worth noting that the taxman will take 40% of your assets if you are liable to Inheritance Tax but if you need residential care the Local Authority will take 100% over the £23,250 limit.

How will I be assessed?

The Local Authority (also known as social services) is responsible for ensuring people with care needs are receiving the assistance they require. Each Local Authority is different and you should discuss specific needs with your local representative.

How will my care be funded?

a) Health care

The NHS is responsible for payment of any nursing element of your care. This can range from the provision of free disability aids to the cost of a part or full time registered nurse. The care assessment is carried out by the NHS and Local Authority to determine the level of nursing required. The key here is that the health care requirement is the "primary" need.

The NHS contribution to the cost of your nursing care is known as the Registered Nurse Care Contribution (RNCC). There are different levels and the contribution depends on the level of care you are assessed as needing. The payment will be made direct to your nursing home, thereby reducing your fees.

The sectioning of someone under Section 3 of the Mental Health Act 1983 (constituting a danger to yourself and others) and subsequent discharge in accordance with Section 117 of the same Act (continuing care/sponsorship of care of your mental condition in the community) will result in all social services including residential and nursing care being free.

b) Accommodation and personal support

Where an individual requires health care which is "incidental or ancillary" to their accommodation needs, this falls within the jurisdiction of the Local Authority and their financial assistance is limited and means tested. The Local Authority is responsible for the residential aspect of your long term care if your capital assets are less than £14,250 (2010/11).

If your assets are between £14,250 - £23,250, you will be deemed to receive a notional income of £1 for every £250 you hold between these two levels which needs to go towards the payment of your fees. Clearly this will erode your capital level and payments should be assessed every time the level falls into the next category.

If your assets are in excess of £23,250 you will be expected to pay for all your care costs. You will be eligible to apply for Attendance Allowance. This is limited to set rates of £47.80 (basic rate) and £71.40 (higher rate).

Where an asset is held jointly (such as a bank account) 50% will be taken as belonging to the person needing care at the point of assessment. It is advisable to separate your finances at this stage into individual accounts, to maximise any financial assistance which can be obtained.

If this is not done, the joint holder can end up subsidising the care cost. Irrespective of your capital limits, all your income, with the exception of a weekly allowance of £22.30, will go towards the payment of your care costs.

After the payment of your fees from your own income and capital, any shortfall will be met by the Local Authority up to a limit. They set a limit on what they will contribute and, other than for Local Authority homes, this will not cover the full costs of your accommodation and support. Each authority differs on the amount they will pay.

If you wish to reside in a home which charges more than the Local Authority limit, you will need an agreement in place with a third party to make the additional payment. You are not permitted to top up your fees from your own capital, once below the £23,250 limit.

c) Your home

The value of your home will be taken into account when calculating your capital assets, although there are circumstances where this will be excluded as follows:

1. For the first 12 weeks of your residence if it is permanent
2. If your spouse, civil partner or cohabitee continues to live in the house
3. If you are a single parent with children or dependants under the age of 16
4. If you have a relative over the age of 60 or who is incapacitated living with you
5. If the Local Authority exercises its discretion to ignore the value – for example where a child under 60 has been living with the person for many years to care for them

There is also the option of deferred payments which applies to residents of all types of nursing homes where accommodation is paid by the Local Authority. A charge is placed over the property to reimburse the Local Authority for care fees paid on your behalf.

If you are receiving support in your own home, the value of that home is not taken into account when determining the level of financial assistance towards that care cost.

Can I give away my assets?

You should be very wary of doing anything that would indicate that you have deliberately deprived yourself of assets. If this is done within 6 months of needing care, the gift can be overturned. If more than 6 months, you can still be treated as owning the assets and having “Notional Capital” equivalent to the value of the capital disposed of. Seek legal advice before considering any such action.

For more information contact our Wills, Trusts & Probate team today, email wtp@goughs.co.uk or visit our website www.goughs.co.uk



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