



MANAGING YOUR FINANCES

Going After Kids for Parents' Care Costs

WHEN AN OLDER ADULT RACKS UP UNPAID LONG-TERM-care bills, who's responsible for paying the debt?

In a growing number of cases, adult children are being held legally responsible for their parents' nursing-home or other care expenses. The reason: More than half of U.S. states have "filial responsibility" laws obligating adult children to financially support their parents.

These laws, which have gone largely unenforced for decades, are reappearing in court cases as an aging population struggles with care costs. "I get calls at least once a month from somebody saying, 'I've never heard of this law. Why is somebody suing me?'" says Katherine Pearson, law professor at Penn State's Dickinson Law School and an expert on these laws.

For family members, the consequences can be severe. A 2012 Pennsylvania court decision ordered an adult son to pay roughly \$93,000 to cover his mother's unpaid nursing-home bills.

Many families who don't wind up in court are being threatened with legal action if they don't pay a loved one's bills. Court decisions such as the one in Pennsylvania have prompted more long-term-care facilities to mention filial-responsibility laws in letters demanding payment from residents' families, elder law experts say. "A lot of that has been more posturing than action—but it works," says Jamie Hopkins, professor of retirement income at the American College.

State filial-responsibility laws can be traced back

to 16th century English "Poor Laws," which created an obligation for financially able family members to support indigent relatives as an alternative to the newly established public welfare system, Pearson says. At one time, nearly all U.S. states had such laws. But starting in the 1960s, when Medicaid became a safety net for people who couldn't afford care, some of the laws were repealed—and those that survived were largely ignored.

But that has changed in recent years as more seniors are living for many years with dementia or other chronic conditions, requiring costly long-term care. Ideally, a senior who is running out of money and has no other resources would make a timely application for Medicaid, and filial-support laws would never come into play. But it doesn't always work out that way. In some cases, seniors don't apply for Medicaid on time, or they're disqualified because they made gifts to their children before applying. If there's any coverage gap, large unpaid bills can accumulate quickly.

Who Might Sue

While the laws vary from state to state, they generally apply only when the parent is indigent and the adult child has some ability to pay. In many states, the laws won't apply if the child can prove that the parent abandoned or abused him. If the parent and child live in different states, courts will typically apply the filial-support law of the state where the parent lives.

Depending on the state, filial-responsibility lawsuits may be filed by a parent or other family member or by a third party, such as a long-term-care facility, that has an interest in the individual's care. In some filial-responsibility cases, siblings are suing each other. In a case decided in Pennsylvania last year, a son who was caring for his elderly mother at home successfully sued his brother for filial support.

To minimize your odds of being saddled with a parent's care costs, have open family discussions about long-term-care planning and understand the Medicaid rules, says K. Gabriel Heiser, a retired elder law attorney and expert on Medicaid planning. Seniors who give away assets within five years of applying for Medicaid generally trigger a period of ineligibility for benefits.

When reading nursing-home admissions contracts, watch out for any provisions asking for a financial "guarantor" or "responsible party." Federal law prohibits nursing homes from requiring a third-party guarantee of payment as a condition of admission—but some facilities still try to get family members to voluntarily agree to pay the bills. **K** ELEANOR LAISE