Financial Assessments and the Care Act 2014

When the time comes to think about your care needs, financial support to help with your healthcare and living costs is very important. We'll explain what support is available under the Care Act regulations.

The first step is for your local authority to assess your needs. If the local authority feels that you have eligible needs, it'll decide whether it can provide services to meet them.

The local authority's duties are set out in legislation. Section 18 of the Care Act (for adults) and section 20 of the Care Act (for carers of adults) say that a local authority has a duty to meet eligible needs in the following circumstances:

- The adult is ordinarily resident in the authority's area
- The adult's accrued costs don't exceed the cap on care costs
- There's no charge for meeting the needs. If there's a charge, one of the following conditions must be met:
  - The adult's finances fall below the threshold at which they'll need to pay towards the costs of their care
  - The adult's finances are above the threshold but they ask the local authority to meet their needs anyway
  - The adult lacks capacity to arrange for the provision of care and support but there's no person authorised to do so on their behalf.

This means your local authority has to decide that your finances fall below the relevant thresholds before they can arrange any care for you.

If you're entitled to aftercare under section 117 of the Mental Health Act, or you're eligible for continuing healthcare under the NHS, the local authority doesn't need to assess your means. Your care costs will be covered by the NHS and you won't have to pay anything.

The local authority has to carry out a means assessment in all other cases, to decide whether or not they can give you financial support.

Financial assessment process

The way people pay for their care is under review by the government but changes haven't yet taken place.

The rules that were in place on 1 April 2015 still apply to the assessment of your capital:

- If you have capital (e.g. savings or investments) over £23,250, you're not eligible for state funded care
- If you have capital less than £14,250, you're eligible for state funded care
- If you have capital between £14,250 and £23,249, you're eligible for state funded care but you'll need to pay a contribution towards the costs. This is £1 for every £250 over the £14,250 threshold.

The following rules apply to income:

- If you live in a care home, you must be able to keep at least £24.40 per week as a personal allowance
- If you receive support at home, you must be able to keep a minimum of:
    - £71.70 if you're aged between 18-25
    - £90.50 if you're over 25 but under pension credit age
    - £185.45 if you're pension credit age.

Additional allowances and premiums apply if you have dependent children, or receive certain disability benefits.

The Care and Support (Charging and Assessment of Resources) Regulations 2014 set out which income and capital must be disregarded in the financial assessment. Some key points include:

- For domiciliary care (care provided in your own home), the value of your property isn't taken into account when the local authority considers how much money you have
- The local authority must take into account any disability related expenditure you might need. For example, if you need to spend more money on laundry or heating costs, these should be excluded when the local authority works out how much you should pay towards your care costs
- When it asseses your capital, the local authority can't take into account any capital held in a personal injury trust, or any damages from a personal injury award that are managed by a financial deputy. But rules about the treatment of income from personal injury awards mean that some payments are taken into account, depending on their purpose. If you're moving into residential care, you might be able to enter into a deferred payment scheme with your local authority. This means you can delay payment and defer the sale of your home during your lifetime.

The rules relating to financial assessment are complex and your local authority should explain the assessment to you carefully. If it thinks that you need help to understand the assessment process, it should make sure that you have someone to support you. In some cases, the local authority will instruct an independent advocate on your behalf.

Your needs assessment should take place before your finances are considered, and your abilty to pay shouldn't influence any decision about your needs.

Deferred payment schemes

Since April 2015, there's a universal entitlement to enter into a deferred payment scheme with your local authority under sections 34 and 35 of the Care Act.

This means that if you live in residential care, you can choose not to sell your home during your lifetime. You can also choose to delay the sale for a fixed period of time. In either case, the local authority registers a charge against your property to make sure its fees are paid back when your home is sold.

Care Act funding reforms

The government has suggested reforms to the financial assessment process, but it's not clear when the changes will be introduced.

The latest target date is October 2023.

You can read the latest government proposals on health and social care here.

It's expected that the reforms will introduce a 'care cap' and increase the capital thresholds. This would make more people eligible for state-funded care. The proposals are that:

- There'll be a "cap" on total care costs, and you'll be asked to contribute towards the costs of care. The cap is likely to be set at £86,000. This means you wouldn't have to pay more than £86,000 towards the cost of care over your lifetime. The cap will be lower for people who develop eligible needs when they're still of working age, and it'll be set at £0 for people who have eligible needs when they reach 18
- The lower threshold for financial eligibility for state-funded care will increase. The proposal is to increase it to £20,000. This means if your assets are worth less than £20,000, you don't need to contribute towards your care costs
- The upper threshold for financial assessment would be increased to £100,000.

Challenging financial assessments

If you don't think your financial assessment was completed properly, you should speak to your social worker, ask for a review, or make a complaint. After the review, if you still dispute the assessment, you can seek legal advice.

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