



Compensating Caregivers

by Ben Mattlin

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In November 2009, the National Alliance for Caregiving, an independent nonprofit coalition based in Bethesda, Md., conducted a study of caregiving in the U.S. The survey, conducted in collaboration with AARP and funded by the MetLife Foundation, found that the number of Americans who look after a disabled person age 50 or older had jumped 28% since 2004 to 43.5 million.

That's about 14.5% of the U.S. population, or almost one in every seven.

It's not surprising, perhaps, given the aging population. Yet this may be only the cusp of a swelling tide that some dub a crisis.

"America's 78 million baby boomers will begin turning 65 next year at a rate of one every 10 seconds, [or] 3 million to 4 million per year," says Claudia Fine, the chief professional officer at SeniorBridge, a national geriatric-care manager headquartered in New York City. "These are the best-educated, richest and healthiest seniors the country has ever seen, but they're still aging."

Anecdotal evidence suggests an increasing number of family caregivers are getting paid for their efforts—which is natural given the aging population and the high unemployment rate. And as most financial advisors know, when you mix money with family dependency, things can get tangled.

"There's always been a segment of the population that voluntarily cared for a parent or loved one without compensation," says Angela Crandall, an elder law and estate planning attorney at Tripp Scott, in Fort Lauderdale, Fla. "Often, these individuals were also employed outside of the home and cared for a loved one in addition to holding down a full-time job."

But now, she says, "more and more people are making the care of a loved one their full-time job and getting compensated for doing so. Also, as the cost of nursing homes, home health care and assisted-living facilities rise, more and more families find themselves unable to cover the cost of care for a loved one and must instead provide the care themselves."

ESTATE REDUCTION

This is not necessarily bad financial news, though. "If you're paying heirs out of your estate, you're lowering their potential tax liability," says David Keator, a financial advisor who specializes in retirement and estate planning at the Keator Group, in Lenox, Mass. "Chances are it's income for the caregiver at a lower rate"—assuming the caregiver's income tax rate is lower than the estate tax whenever he or she inherits—"while at the same time, it may be a medical deduction for the caregiving recipient." (Medical expenses are deductible if they exceed 7.5% of adjusted gross income.)

To maximize these benefits and avoid running afoul of the law, experts caution that it's essential to report all transactions. That may not seem easy or desirable at first, but there's really no good reason not to. "Many caregivers who come into the home want to be paid in cash," Keator acknowledges.

"That's not just illegal, but a liability problem. If the caregiver gets hurt on the job and becomes disabled, they'll be unable to collect government benefits if there's no record of employment."

For the same reason, it's always a good idea—and in many states legally required—to carry insurance for any full-time employee who works in the home.

PAYROLL REPORTING

To keep track of all this, Keator recommends hiring a payroll service to cut checks, withhold appropriate employee taxes, file employer taxes and perform other back-office tasks. "It might be a little more expensive, but it means clients don't have to worry about the details, and it creates plenty of opportunities for savings down the road," he says.

Even if the caregiver is living in the same house, and room and board is considered partial payment, the value should be quantified and documented along with whatever salary is paid. "I would never encourage the bartering of caregiving in exchange for room and board," cautions Fine. Such arrangements, though common, can "blur boundaries and confuse expectations," she says.

Many advisors suggest drawing up a formal employment agreement, especially if the disabled elder ever considers applying for Medicaid. The joint state-federal benefits program, which provides a degree of long-term care for people of extremely limited means, disqualifies candidates who intentionally transfer assets just to make the cutoff. That means routine payments to a family caregiver "will raise a red flag, unless there's a family-care contract," says Fine.

What's in that contract can vary, but it shouldn't be taken lightly. "Payments must be reasonable and customary for the region," says Michael Fliegelman, an independent financial advisor in Greenlawn, N.Y. "While the process may seem as simple as drawing up a family care or personal service contract that specifies the number of hours a week, the rate per hour and the job responsibilities of that family member, the reality is these are complicated, and families need to see a professional."

Similarly, transferring assets of any sort to pay for care can be deemed a sneaky attempt to game the system. "It's critical to be very careful anytime someone who might be eligible for Medicaid, now or in the future, gives away property or sells it at bargain prices," asserts Michael Floyd, a professor at Samford University's Cumberland School of Law, in Birmingham, Ala. "There are enormous traps for the unwary in the Medicaid eligibility and disqualification rules."

DEFUSING SIBLING RIVALRIES

Another advantage of formalizing the family caregiver's duties and compensation is that it tends to defuse any possible future tension with other heirs. Consider the problems that may arise later, for instance, if the elderly person pays only one of the three adult children as a caregiver and the other two resent the depletion of their future inheritance. "They

may say, 'You manipulated the situation, turned mom against us and acted as an undue influence,'" warns David Okrent, an accountant and estate law attorney in New York. "That's why I always encourage families to let everyone know what they're doing from the outset. By putting the whole family on notice, you can avert a lot of complications later."

Sometimes it's necessary to go a step further, however. Okrent says the family should carefully document the loved one's valuable possessions when the caregiver first goes in. "Put together a list of assets and even take pictures of the house and its contents so the other kids can't come forward later and say, 'While you were there as a caregiver, you took away the baby grand piano!'"

Of course, sibling rivalries may come into play sooner rather than later. "For many families, the first thing they'll talk about is who is best suited for coping with the care-giving challenges," notes Lewis Walker, a financial advisor who specializes in estate planning, family care and special-needs issues at Norcross, Ga.-based Walker Capital Management Corp. "A lot of times, the one who picks up the ball feels stuck with it. He or she just happens to be the closest geographically, or the only one who doesn't have small children still at home, and gets kind of drafted involuntarily."

So Walker recommends that the family start with a free-flowing family discussion to talk through these issues and come to an understanding. He tries to facilitate, to point out that fair compensation is a good way to help an overburdened sibling feel appreciated for the hard work of caregiving. "Often, family caregivers don't feel entitled to ask for pay," he says. "They don't know if it's a legitimate request to bring up."

The psychotherapy doesn't necessarily end there. "One of our clients had to get psychiatric counseling because her 95-year-old mother, for whom she was caretaker, was in so much pain and was so feisty, frustrated, angry and fearful that she kept lashing out," Walker recounts. "It was just brutal."

Walker also coaches other financial advisors dealing with these emotional complexities. Planners and wealth managers "tend to be left-brain types, and this takes moving into the right-brain area," he says. "It can be difficult stuff. You have to ask clients to face some really tough, deep questions."

To get the ball rolling, he often gives clients a hypothetical situation about a couple with three grown children. "Suppose it's 3 a.m., and the husband is having a stroke or heart attack," he says. "The wife calls 911. But who gets the second call?"

Is it the eldest child? The one who is the closest geographically? Or is it someone else entirely?

"The advisory profession has to move well beyond money matters ... to a whole series of conversation about major life transitions," he insists.

PAYING FOR OUTSIDE HELP

For many families, the best option is to pay for professional caretakers. But if the member who needs care doesn't have sufficient liquid assets, the financial burden may fall on the children. "Often, there is one child in particular who can afford it," says Keator. "In those cases, we recommend the parent or whoever is receiving the financial assistance sign a note, as you would in a business transaction."

The caretaking funds become a kind of debt, at a reasonable interest rate. When the aging parent passes away, the debt is paid first, to the child or children who footed the bill, before the remaining estate gets divided among heirs. This strategy makes particular sense not only when the elder's assets are illiquid—tied up in a family home, say—but also if it's a bad market for dumping assets, as it is today.

OTHER FUNDING OPTIONS

Another option, often overlooked, is long-term-care insurance. This is separate from regular health insurance, and must be purchased when you're young and healthy enough to qualify. "It's an economical way to protect your assets," says Murray A. Gordon, CEO of MAGA LTD., a financial advisory firm in Riverwoods, Ill. "A lot of wealthy people feel they don't need it, without realizing that their assets might not be worth as much or go as far as they used to."

Some long-term-care policies cover only skilled nursing or institutional care, while others offer cash benefits with more flexibility—for example, the ability to pay a family caregiver to come into the home. In all cases, says Gordon, they are "portable and guaranteed renewable," no matter how many years of care are needed.

Once someone is covered, the benefits are triggered as soon as the recipient needs help with "at least two activities of daily living," says Gordon—such as eating, dressing, toileting, and so forth. "You don't have to be bedridden."

The catch, though, is that you have to take out the policy before you need the benefits. "If you're using a walker or wheelchair, you cannot get coverage," Gordon says. "But if you've been treatment-free for six months, even if you're diagnosed with a heart condition or some forms of cancer, you can still qualify." Moreover, most plans do not exclude pre-existing conditions.

Even for the wealthy, then, planning ahead is key to success. "People don't take the time to look at the big picture when it comes to financial planning for old age," says Fliegelman. "If you wait until you are in the stage you're planning for, you might find yourself inadequately prepared."

To be sure, for many people caregiving is a labor of love. But it is also work, sometimes grueling work, and it can go on for years or even decades. "You have to recognize both aspects—the love and the work," stresses Keator. This, he adds, means, "You have to take care of the caregiver also."