

## Should You Pay a Relative To Take Care of Mom?

Growing numbers of families are compensating relatives who serve as caregivers to elders. But to avoid exacerbating tensions, it is important to disclose such arrangements to the entire family.

According to a report by the National Alliance for Caregiving and AARP, 43.5 million Americans looked after a friend or relative age 50 or older in 2009, 28% more than in 2004. In a survey conducted for Home Instead Senior Care, a home-care franchiser, nearly 7% of respondents said they receive compensation for providing care to a relative.

Jeffrey Bloom, an elder-law attorney in Boston, says the number of such cases in his practice has quadrupled since before the recession. "I have several clients with adult children who are out of work," he says. "Rather than pay someone else for care, many hire the child."

Feeding the trend: the high unemployment rate, the rising cost of nursing-home care, an aging population and a 2006 change in Medicaid law that makes it harder for people who wish to qualify to give away assets. (Individuals are subject to strict limits, which vary by state, on the value of their assets in order to qualify for Medicaid benefits.)

When caregivers make financial sacrifices, elder-law attorneys say, it is often appropriate to compensate them. Some 37% of caregivers surveyed by the NAC in 2007 said they had quit a job or reduced their hours to accommodate their responsibilities.

There are several ways to compensate a family caregiver. Attorneys say many families pay an hourly wage. As an estate-planning tactic, others opt for annual gifts or a lump-sum payment designed to cover services over an extended period. Some arrange for the caregiver to receive a larger inheritance.

Which option makes the most sense will depend on factors such as the caregiver's desire for income now versus later and the care recipient's estate-planning goals. Families also must consider tax consequences. And if a parent may need to rely on Medicaid to cover future nursing-home costs, it is important to pay the caregiver in a way that is permitted under Medicaid law.

Regardless of the method selected, elder-law attorneys urge clients to disclose these arrangements to the whole family. When revealed after the fact, compensation agreements can create suspicions that result in family conflicts or even estate litigation, says Howard Krooks, an elder-law attorney who practices in Boca Raton, Fla., and Rye Brook, N.Y. (To find an elder-law attorney familiar with your state's rules, go to [www.elderlawanswers.com](http://www.elderlawanswers.com) or [www.naela.org](http://www.naela.org).)

Under federal law, when annual compensation exceeds \$1,700, an employer and employee each owe federal payroll taxes of 6.2% for Social Security and 1.45% for Medicare. The employer must generally also pay 6.2% on the first \$7,000 in wages in federal and state unemployment tax, says Melissa Labant, a CPA with the American Institute of Certified Public Accountants. (For more information, see IRS Publication 926, "Household Employer's Tax Guide.")

In many cases, people employing someone 40 hours or more a week also are required to contribute to state workers' compensation insurance pools.

Some families prefer to give caregivers tax-free gifts in lieu of compensation. Current law allows people to give up to \$13,000 a year to anyone, which also may reduce the amount of a taxable estate. While each person also is permitted to give away an additional \$1 million over his lifetime, such gifts reduce the amount a donor can ulti-

mately shelter from the estate tax.

Particularly in situations where a care recipient may eventually need to rely on Medicaid, attorneys say it is important to draft a written agreement—often called a "personal care contract"—that documents the caregiver's responsibilities and hours and sets a rate of pay in line with that of local service providers.

Under such a contract, Anne Stone, 51, received \$420 a week for providing 21 hours of care to her wheelchair-bound father, William Stone, 81, from October 2008 until last February, when he entered a nursing home. Ms. Stone says the payments made up for some of the income she lost when caregiving responsibilities forced her to take time away from the doggie-day-care business she operates in Sudbury, Mass.

"I was taking so much time off from work that we had to turn business away," she says.

The payments had an unanticipated benefit: They also helped Mr. Stone deplete his savings so he could qualify for Medicaid. Without the employment contract, Medicaid would have considered all of the payments to Ms. Stone a gift made to hide assets, subjecting Mr. Stone to delays in coverage, says Mr. Bloom, the Stones' attorney. To pass muster with Medicaid, he says, it is important to have such a contract in place before the services are rendered.

Rather than issue regular paychecks, some families opt to pay caregivers an upfront lump sum, typically calculated by multiplying the caregiver's hourly wage by the number of hours he or she is expected to work over a parent's life expectancy. With such a move, a family can transfer assets to a child that Medicaid might otherwise deem available to pay a nursing home.

Still, in some states, says Mr. Krooks, lump-sum payments can trigger delays in Medicaid coverage.