

Care Home Fees Case Studies For St. James's Place Clients

Paying for residential care is rapidly becoming a hot topic, as people are living longer and a significant number of us will live out our days in residential care. The Care Act 2014 sets out how care is to be funded. However, this is a complex area and it is important to seek expert legal advice. At Linder Myers we have had a number of cases where we have successfully challenged funding assessments.

Incorrect Local Authority Financial Assessment

In her late 80's an extremely independent Mrs M had transferred half of her house into her daughter's name (Mrs C). This gift was made on the basis that Mrs C would take over responsibility for the ownership and maintenance of the house, and allow Mrs M to remain in the house without further worry. 5 years later Mrs M's health had deteriorated and she decided to move into a care home.

The Local Authority undertook a financial assessment of Mrs M and took the view that the value of Mrs M's house meant that she would have to pay for her own care. The Local Authority agreed that they would pay for the care initially to avoid selling the house during Mrs M's lifetime, but when Mrs M died the house would have to be sold and the money paid back.

Mrs M sadly died 3 years later at which time Mrs C thought she would have to sell the house and pay the entirety of the £90,000 which Mrs M's care had cost.

Mrs C sought advice from us at which point we identified that the original Financial Assessment had been carried out incorrectly. The Local Authority had failed to comply with the correct requirements for valuing a half share of a house, and in fact Mrs C would not have to make any further payments towards Mrs M's care, which should have been funded in full by the Local Authority throughout.

Inadequate Funding of Care After Client was Sectioned (detained under the Mental Health Act)

Mrs B was a lady in her 90's who had resided within a nursing home for several years during which time she had paid for most of her own care home fees, with a small contribution from her Local Authority. Her attorney, Mr A, had asked for some advice about the funding of Mrs B's care as her care home was very expensive and he was concerned that her money may run out.

Inadequate Funding of Care After Client was Sectioned (detained under the Mental Health Act) continued

It was very quickly identified that, immediately prior to entering the care home, Mrs B had been sectioned in hospital under the Mental Health Act 1983 as her doctors considered her to be a risk to herself. The provisions of the Mental Health Act meant that Mrs B's care home fees should have been funded by her Local Authority as soon as she had been discharged from hospital and she should not have been paying for the majority of her care home fees

The Local Government Ombudsman considered Mrs B's case and agreed that the Local Authority should increase the amount it currently contributed to Mrs B's care home fees. In addition the Local Authority was asked to make a large lump sum payment to Mrs B to reimburse her for the past fees which it should have funded.

Error with Discharge from Hospital

Mrs P had been living with Parkinson's Disease for many years. Her husband, Mr P, had been her full time carer and had devotedly looked after her until a serious seizure meant Mrs P had to be admitted to hospital. Whilst she was in hospital it was agreed that Mrs P needed 24 hour nursing care and would have to be discharged from the hospital into a residential care home.

As part of the discharge process the hospital had to assess whether Mrs P was eligible for NHS Continuing Healthcare (CHC), which would mean that the NHS paid for her care home fees. Mr P had been told that an assessment had taken place but that Mrs P had not been eligible for funding.

Copies of the assessment were obtained and it was discovered that Mrs P's medical team had actually recommended that she was eligible for CHC funding. Unfortunately there had then been an error when this recommendation was forwarded to the relevant NHS body which would have made the payment to the care home. This had caused the funding body to wrongly reject the hospital's recommendation. Once the error was pointed out the NHS agreed to pay for Mrs P's care home fees.

Problems with Top Up Payments to Care Homes

1) Mrs K was suffering from dementia and had recently been assessed as eligible for NHS Continuing Healthcare (CHC) funding as her health had deteriorated.

Her son and attorney, Mr K, thought that Mrs K's care home fees would now be paid in full by the NHS, so was surprised when the care home got in touch to ask him to pay an extra top up fee towards the cost of the fees. The care home said that they did not receive enough funding from the NHS and that Mrs K would have to leave the care home if the top up payment was not made.

It was quickly established that the care home had already entered into a contract with the NHS and that the cost of Mrs K's care was being paid for in full by the NHS. The care home was trying to charge Mr K a top up for services which Mrs K did not actually need and which did not need to be paid for.

The care home subsequently agreed that no top up fee was in fact required.

2) Mrs T was elderly and suffering from dementia. Her health had deteriorated to the point that it was in her best interests to go into residential care. Mrs T had previously enjoyed daily visits from her daughter, Mrs G, and wanted to continue her close relationship once she had moved into the care home.

Mrs T had no real assets and lived on her state pension, so her Local Authority would be funding her care home fees. The Local Authority identified a home which it was prepared to pay for, however the home would be very difficult for Mrs G to visit on a regular basis as it was quite far away.

Mrs G suggested a closer alternative care home to the Local Authority but they felt it was too expensive. They told Mrs G that she would have to contribute to the cost of this home with a top up payment if Mrs T wanted to live there.

Submissions were made to the Local Authority that it would not be in Mrs T's best interests to be so far away from her daughter, and that it was essential to her wellbeing that she maintain her regular contact with Mrs G.

The Local Authority subsequently agreed that the local care home was the best place for Mrs T to live and that it would fund the extra cost of the care home in order to meet Mrs T's care needs, meaning no top up payment was needed.

Why Use Linder Myers

Linder Myers have a large team of dedicated lawyers specialising in the legal issues affecting the elderly, including issues relating to health and social care needs and the funding of care.

A number of our lawyers are members of both the Society of Trust and Estate Practitioners (STEP) and Solicitors for the Elderly (SFE).

We are committed to delivering the very best possible service at a competitive price. We work closely with clients to take the strain out of the legal process. Distance is not an issue as we provide:-

- A postal service or email service.
- Telephone service - at a time suitable to the client one of our lawyers will go through a range of questions and take instructions over the phone.
- Skype and Face Time – as with the telephone service but using this technology to enable face to face discussion.
- Office appointments - clients visit a lawyer in one of our offices.
- We can arrange a home visit and if this is necessary we will discuss the costs associated with this prior to the visit.

Contact Linder Myers – place your trust in a specialist lawyer.



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