

FOCUS ON EMPLOYEE BENEFITS & INSURANCE

Old law's rebirth another reason for long-term care insurance

By JOHN ROSSI

Special for Lehigh Valley Business

Long-term care insurance for those older than 50, and who can survive underwriting, is an excellent option.



Rossi

Among the many reasons to consider buying long-term care insurance is the resurrection of filial laws, which can blindside close family members (usually a spouse, adult child or parents) with a potentially significant financial burden.

Just what are filial laws and how can close family members be affected by them?

Filial laws impose a legal responsibility upon a close family member for the support of an indigent relative.

Filial laws are not the same thing as the requirement to look back five years for anyone applying for Medicaid to ensure that his or her assets were not fraudulently diverted to qualify for government assistance.

Close family members need to be aware that they might be legally compelled to pay for the care of an indigent relative under the filial laws.

LONGER LIFESPANS

Americans are living longer – par-



In a Pennsylvania case, a son was held liable for his mom's past due nursing home bills even though he was not on the contract and was not accused of any wrongdoing. He did, however, have the ability to pay.

ticularly as baby boomers move into retirement – and fewer people have the financial resources to support themselves through all of their retirement years.

They will be increasingly unable to pay for the cost of health care and long-term care. So, there may be greater incentive among states and private businesses in resurrecting the dormant and old filial laws to go after a close relative (usually a spouse,

adult child or parents) for payment.

These laws are designed to minimize the burden on the state's welfare system. A state government or private business may have standing to seek reimbursement under the filial laws.

LAWS RESTORED IN PA. IN 2005

Filial laws (filial support laws or filial piety laws) have been part of states' stat-

utes since colonial times. More than half of the states have these laws on the books and enforced them until the middle of the 20th century.

Filial laws make close relatives with sufficient financial resources legally responsible for indigent family members. Fraudulent financial activity does not have to occur before filial laws can be enforced.

In most states, filial laws rarely have been used; however, there is one exception, Pennsylvania. The biggest problem with Pennsylvania's law is that almost no one knows about it.

Pennsylvania Act 43 of 2005 resurrected the old filial laws that can make close family members financially responsible for indigent relatives. Filial laws have been on the books for decades; their resurrection has focused debate and legal decisions on who is responsible for these costs.

SON HELD LIABLE FOR \$92K

Nursing homes have been successfully using the law to sue adult children for their parent's past due bills.

For example, in the case in Pennsylvania several years ago, the Health Care & Retirement Corp. of America vs. Pittas, a son was held liable for more than \$92,000

please see **LAW**, page 13

Looking for a new way to approach your employee health insurance benefits?

Try an integrated approach backed by advanced analytics.

- Population Health Analytics
- Health Benefits Administration & Consulting
- Clinical Care Coordination
- BeneFIT Corporate Wellness

Populytics utilizes data from health insurance claims to stratify members based on level of health risk.

Primary Goals:

- Right care
- +
- Right time
- =
- Right place

Happier, healthier, more productive employees

CONTACT US TO LEARN MORE! | POPULYTICS.COM | 484.862.3500

FOCUS ON EMPLOYEE BENEFITS & INSURANCE

LAW

continued from page 12

of his mother's past due nursing home bills.

The son was not on the contract and was not accused of any wrongdoing. The son was held liable because he had the ability to pay.

With the Pittas ruling and the state of the economy, health care providers and nursing homes may turn to the filial laws more often to recover past due bills.

MEDICAID ABSOLVES FUTURE LIABILITY

Filial laws do not apply:

- If an individual does not have sufficient financial ability to support the indigent close relative.

- If an adult child was abandoned or abused as a minor child.

Once an indigent person qualifies for Medicaid, under existing law, there should be no liability for future care under the filial laws. Federal law requires a nursing home to accept the Medicaid payment in full satisfaction of the cost.

For this reason, helping a person qualify for Medicaid eligibility is the most important thing a close relative can do to avoid being sued by a nursing home for past due bills. Once an indigent person is in a nursing home and qualifies for Medicaid, the close relative should have no reason to be concerned about liability for future care.

Helping a person qualify for Medicaid eligibility is the most important thing a close relative can do to avoid being sued by a nursing home for past due bills.

FAMILY MEMBERS VULNERABLE

With the ever-increasing costs of long-term care and tight state budgets, the new era of imposing financial responsibility for close relatives' care may be in the near future.

Nursing homes and other health care providers now appear to have an incentive to use the courts to receive financial support for indigent people.

A health care provider or nursing home in Pennsylvania can file a suit

against any family member who is financially able to pay the past due bill.

John D. Rossi III is a business leader, lecturer, accountant and financial planner with more than 30 years of business and academic experience. An associate professor of accounting at Moravian College in Bethlehem, he is president of JR3 Virtuoso Solutions Inc., specializing in financial reporting, taxation, professional training and consulting services. He can be reached at jdrossi3@verizon.net.

Funds for the future

**Business is good. The plan is working.**

You had a dream of one day running your own business. That day is now, but you need a safety net — something to keep you up and running while the business grows.

National Penn is there to grow along with you. With loans, lines of credit and advisors to help your business blossom, you can keep your passion alive and thriving.

Find out more at nationalpenn.com/fundsforbiz



LEHIGH VALLEY BUSINESS

TOUT YOUR SUCCESS NEWSMAKERS

Send announcements about new hires, promotions and board appointments to editorial@lvb.com. Save images at 300 dpi in JPEG or TIFF format.

FOR YOUR INFORMATION

Email your announcements of business openings, contracts, relocations or real estate transactions to stacyw@lvb.com. Releases should include the municipality in which the company is located.

PROMOTE YOUR EVENT OFF THE CLOCK

We print reader-submitted event photos of galas, receptions and other business events. Email images to chrish@lvb.com.

Save images at 300 dpi as JPEG or TIFF files. Send caption information, including the name, date and location of the event. Identify people from left to right. We reserve the right not to publish all photos.

Equal Opportunity Lender
Subject to Bank's normal underwriting criteria