

Smart Investor

Everything you need to know about your money

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FAMILY MONEY

Aged care help A paper trail will keep the peace, writes Bina Brown.

ILLUSTRATION:
SIMON LETCH

They may have raised you, provided opportunities and selflessly supported you during your youth, but when it comes to helping elderly parents it may pay to make it a gift with strings attached.

With the entry cost of aged care accommodation anywhere between \$300,000 and \$1 million, it is not uncommon for successful kids to stump up all or some extra cash just to ensure their parents are in a nicer place than they could afford alone.

But before you start transferring money and signing contracts, make sure you look at the bigger picture.

Like most situations involving government support, money and family, it can get complicated and be detrimental to your and their financial situation.

If the quoted market price of a room in an aged care facility is \$550,000 but a loved one only has \$250,000 in the bank plus the age pension to survive on, then the kids should be the avenue of last resort when it comes to making a lump sum payment towards the room. So says Aged Care Steps technical director Lara Hansen. That's because it will impact on their pension entitlement and

could skew any inheritance.

There are three cost components of aged care: the accommodation cost which is set by the facility in the form of a refundable accommodation deposit (RAD); the basic daily care fee which is set at 85 per cent of the age pension; and a means-tested care fee.

Rather than pay the RAD as a lump sum, it can be paid as an equivalent daily interest charge known as the daily accommodation payment (DAP). The rate is set by the government and is currently 5.76 per cent.

Residents also have the option to pay a combination of the RAD and DAP or to pay a part RAD and then deduct the DAP from

this. As an example of the latter and using the same \$550,000 example, a resident could pay \$250,000 RAD and use this to finance the interest payments of \$47.47 a day. This would obviously mean less deposit would be returned to the estate.

Also watch out for facilities that charge additional daily fees of around \$20 for residents who pay the RAD upfront, rather than in instalments.

Further, if the facility offers rooms with extra or additional services, it can charge a further \$20-\$120 a day for better quality furnishings, a choice of meals, newspapers or wine with dinner. For many elderly people

these can make all the difference.

These are the three options generally considered by adult children, and how you need to navigate each situation:

1

Kids pay the RAD

Paying the full RAD on someone else's behalf might look like the simplest solution to ensuring a good room in a better facility. But regardless of who pays the RAD, it becomes the resident's asset for aged care fee purposes and generally gets repaid to the estate when the resident dies.

If the intention is for the person who paid the money to get it back, this has to be documented. Otherwise, says estate law specialist with DDCS Lawyers Rebecca Tetlow, the RAD could end up being distributed to a number of beneficiaries in the deceased resident's will. "It might mean the parent updating their will to account for the fact a child has paid the extra money or having a document loan agreement so there is an obligation on the resident's estate to pay the money back after death," she explains.

Complications may arise if the parent has impaired decision-making capacity and the child intending to make the RAD payment is the enduring power of attorney. This is because whoever has power of attorney cannot enter into a conflict transaction and so needs to tread carefully.

"It may be that they are signing a document as the lender and on behalf of their parent as the borrower, so are at risk of being on both sides of the transaction," Tetlow says.

Solutions depend on whether there are other attorneys and whether other siblings are willing to entering into an agreement with the one lending the money that the money will be repaid. Attorneys in this position should obtain specific legal advice.

Aged Care Steps' Hansen says even if there is a loan agreement with the kids, using the funds to pay the RAD can have unintended financial consequences on their parents' ongoing care costs.

Payment of a RAD doesn't count towards a resident's assets for age pension purposes but it does get counted as an asset when it comes to calculating their means-tested care fee. Unfortunately, there is no loan offset available for funds borrowed to pay the RAD, which means 100 per cent of the paid RAD is assessable.

"It may mean that the person paying the RAD may also need to help out on an ongoing basis because there is a higher means-tested care fee," Hansen adds.

So using the earlier example, if the kids were to pay the full RAD of \$550,000, the means-tested care fees would increase by



about \$10,000 a year. If the kids pay for the higher monthly bill, they would need to decide whether they are doing it with no obligation or want the funds to be repaid, in which case they would need to look at including this in a loan agreement, says Hansen.

■ Kids pay the extra expenses

2 Facilities with extra service status don't necessarily offer a higher level of care for residents, and can have a significant effect if someone is low on cash.

For an extra charge of anywhere between \$20 and \$120 a day, the facility provides additional hotel-type services and a higher standard of accommodation, food and services than the average provided by aged care homes which do not have extra service status.

Affinity Aged Care Financial Services adviser Donald Swanborough says most new facilities are predominantly "extra" or "additional services" which, for someone on the pension alone, may potentially put it out of reach unless family helps. Affinity provides specialist financial advice tailored to aged care.

"The issue for that family is how do the paying members get reimbursed for their outlay when mum or dad passes?" says Swanborough.

Tetlow says that if whoever is covering the extra expenses expects to be repaid at some point, it is important to be clear about it with other family members.

"It may be that the funds won't be available until after death. If the money spent has benefited the resident and it is properly accounted for, then the executor would assess it and may reimburse the person - but this shouldn't be automatically assumed. Communication is the key here. These arrangements are always improved if everyone in the family is clear on who is paying for what and what is intended in the end," says Tetlow.

■ Granny flat rights

3 Promises of "don't worry mum, you won't have to go to a home - we will look after you" aren't always easily met but one possibility is to make use of the "granny flat right" provisions within the Social Security Act.

It is a way of transferring the parents' home or other funds to the children, purchasing a home in the children's name or paying for renovation costs to the children's existing home in return for the right to be provided with lifetime accommodation without falling foul of Centrelink's gifting

rules. No "granny flat" has to be actually built but there does have to be a designated room or area that allows for the parent's exclusive occupancy.

There also has to be an agreement in place which shows they have security of tenure and details any other arrangements like contributing to the cost of running the house etc.

Swanborough says that if parents transfer cash to the kids to create a "granny flat right", the amount that is allowed that is not subject to gifting rules is based on a Centrelink formula involving the couple's pension and their life expectancy.

For example, an 80-year-old couple could put aside \$336,948 to give to the kids which is exempt from Centrelink's gifting rules.

Hansen says families have to be clear about the purpose of the arrangement for the money to be exempt from Centrelink gifting rules if the parents subsequently needed to go into aged care.

"If you have an Aged Care Assessment Team assessment for residential aged care then a granny flat right may not be the best solution.

Gift rules may apply if the parent vacates the right and lives somewhere else

It says to Centrelink that as a move to aged care could have been expected at the time, that any transfer of property or funds to create the right will most likely be treated as a gift rather than a genuine living arrangement for the longer term," says Hansen.

"If there is a move to aged care within five years of the right being created, gifting rules may apply, resulting in the loss of the age pension and potentially not having enough funds available to pay for aged care fees," she says.

When it comes to estate planning, any property or funds transferred to the child in exchange for the right no longer forms part of the parent's estate, as once the parent vacates the right ceases to exist. But gifting rules may apply if the parent vacates the right and instead lives permanently somewhere else.

This means that upon the death of the parent, any property or money handed over to the child will not be distributed in accordance with their will, as it is no longer an estate asset, says Hansen.

Bina Brown is a director of aged care placement company Third Age Matters.