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JUSTICE IN AGING
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Can a Nursing Home Force a Resident's Family and Friends to Pay the Bill?

Can a nursing home force me to pay the bill for a family member or friend?

Usually not, although there are some exceptions. Many nursing homes try illegal strategies to frighten family members or friends into paying the bill. Don't be intimidated. Read the question-and-answer discussion below, and consult with a local attorney.

Can a nursing home make me liable through the resident's admission agreement?

Again, usually not. Federal law prohibits a nursing home from asking or requiring a third party to be a financial guarantor — in other words, a financially liable co-signer. If a resident is not mentally competent to sign an agreement, the nursing home can require the resident's representative to sign the agreement on the resident's behalf, but only to make the **resident** financially responsible. Find the relevant federal law at [section 483.15\(a\)\(3\) of Title 42](#) of the Code of Federal Regulations.

Does it matter if the admission agreement says that the family member or friend has “volunteered” to become financially responsible?

No, using the word “volunteer” does not allow the nursing home to avoid federal law. Federal law prohibits a nursing home from requiring **or requesting** a financial guarantee.

How do nursing homes try to get around the law?

Beware of terms like “responsible party” in nursing home admission agreements. The agreement might try to define a “responsible party” as someone who is financially responsible, instead of just someone who wants to be available to help the resident and (as necessary) make decisions for the resident.

Some of these agreements state that the person signing on behalf of the resident agrees to handle the resident’s money in a certain way, such as paying the nursing home bill first before any of the resident’s other bills are paid or to take certain actions regarding potential Medicaid applications. These types of agreements can be dangerous for representatives to sign because, if the resident owes money, nursing homes sometimes sue representatives personally for failing to comply with specific obligations in the agreement.

Can a nursing home win a lawsuit against me for breach of contract if I signed a responsible party clause?

As explained above, federal law prohibits a nursing home from holding a responsible party personally liable for a resident’s bill. Also, general legal principles say that a representative is not liable for the debts of the person being represented.

That being said, courts sometimes rule in nursing homes’ favor on types of claims based on (for example) the representative’s failure to use the resident’s money to pay the bill or apply for Medicaid, as promised in the agreement. Often this type of ruling for a nursing home happens in egregious situations where the representative used the resident’s money for the representative’s benefit, rather than paying the nursing home. Sometimes, however, courts order representatives to pay the nursing home personally for the resident’s bill even if they have done nothing wrong. It is key to have an attorney advise you of your rights if you are sued for someone else’s nursing home bills.

How can I avoid making myself financially liable through an admission agreement?

First, if a resident is capable of signing an admission agreement, the resident should sign. A representative is needed only if the resident is unable to sign.

If a representative is needed, remember that a nursing home can obtain the signature of a family member or friend only as the resident's representative and only to make the resident financially responsible. So read an admission agreement carefully, and make sure that, if you sign, you are signing only as a representative and are not agreeing to make yourself financially liable.

You should also beware of the type of language that requires you as the resident's representative to pursue Medicaid on the resident's behalf or to handle the resident's affairs in a certain way. The agreement can require the resident's money to be paid for legitimate nursing home bills, but it shouldn't require the resident's representative to take any specific actions. Remember, the agreement is with the resident, not the representative, and the representative is just signing on the resident's behalf.

If a resident has already moved into the nursing home, you are in a particularly strong position to edit the agreement to address the problems discussed above. Once a resident has already been admitted to the nursing home, the resident cannot be evicted for not signing an admission agreement or not having a representative sign an admission agreement.

If the resident has not yet moved into the nursing home, the nursing home may say that you can't edit the agreement if you want to get the resident a room in the nursing home, but you should still try to make edits or delete any clauses you don't agree with. You will most likely be dealing with a nursing home employee who wants to just process the admission and move on with his or her day, so you may be able to cross out parts of the agreement and still get the resident a place in the nursing home. You may also be able to sign the agreement solely as power of attorney or guardian on behalf of the resident, and make it clear that you are not personally responsible.

If you do not have any legal right to access the resident's money or make financial decisions on the resident's behalf (for example, because there is no power of attorney or guardianship), you should tell the nursing home that and not sign the agreement.

I'm a resident's spouse. Does all of this apply to me?

Yes and no. The laws discussed above apply to you, but you may be liable for your spouse's debts due to spousal obligations under state law. Talk to a local attorney to find out whether a spousal support law in your state makes you liable for your spouse's nursing home bills.

Am I responsible for my parent's bills just because I'm an adult child?

Generally not. But a few states have "filial support" laws that obligate adult children to be responsible for some of a parent's expenses. Usually these filial support laws are 80 to 100 years old and date to the years before Social Security when older people might have had no means of support. Many states have repealed their filial support laws with the passage of time, but in a few states the filial support laws remain on the books.

Talk to a local attorney if a nursing home threatens or sues you under a filial support argument.

I have been sued by a nursing home for my friend or family member's bill. What can I do now?

Do not ignore the lawsuit. If you ignore the lawsuit, you could end up with a default judgment against you, which may allow the nursing home to garnish your wages or seize your assets. First, talk to a lawyer in your area who deals with collection lawsuits or Medicaid issues. If you cannot afford a lawyer, contact your local legal aid or volunteer lawyer program to see if you can get free advice about your situation. You may be able to find your local legal aid program on LawHelp.org.

Do nursing homes sometimes sue family members and friends for payment for other reasons, whether or not they signed an admission agreement?

Yes. Perhaps the most common claim is “fraudulent conveyance.” The nursing home claims that the resident transferred so much money or other property to the family member or friend that the resident now is unable to pay the bills, so it wants the family member or friend to return the money. Nursing homes win occasionally on this theory, but only when the facts truly show that transfers to the family member or friend left the resident unable to pay the nursing home bill.

Many nursing homes claim “fraudulent conveyance” without any evidence that it actually occurred. If you are sued for a fraudulent conveyance claim, you should talk to a local attorney to evaluate your options.

My family member spent down to Medicaid levels while in a nursing home. Because of problems with the Medicaid application, Medicaid coverage was delayed for a few months. My family member now is eligible for Medicaid, but owes \$10,000 for nursing home charges that were incurred during the delay. Is there any way to get this bill paid?

Yes, if your family member has some income, you may be able to get this bill paid. For example, let’s assume a Medicaid-eligible resident has income and, as a result, must pay a monthly Medicaid deductible of \$1,000 each month to the nursing home. The Medicaid program then pays the remainder of the monthly nursing home bill. To pay off the old bill, talk to the Medicaid program and the nursing home to designate the \$1,000 monthly payment to the “old” bill. The deductible is met with this \$1,000 payment, and then the Medicaid program pays all of the current bill. If the resident owes \$10,000, this process will pay off the debt in 10 months, at \$1,000 per month, with the Medicaid program paying all of the current months’ bills during those 10 months.

Resources

[25 Common Nursing Home Problems, and How to Resolve Them](#) (Justice in Aging 2023)

[Know Your Rights: Caregivers and Nursing Home Debt](#) (Consumer Financial Protection Bureau 2022)