

What is a Personal Service Caregiver Contract?

It is estimated that more than 20 million Americans currently care for ill parents, other relatives or friends. There is often little, or no, compensation for this care and terms of these arrangements are not spelled out.

A formal Caregiver Contract can outline the responsibilities of a caregiver and specify the payment one will receive for services rendered and expenses incurred. It ensures that the cost of care is paid at the time it is received or contracted and is not left for family members to struggle with as part of a later division of assets.

Having a care contract in place also ensures Medicaid will not impose penalties on the money received by the caregiver. Sometimes an elderly person will randomly give sums of money to their caregiver as payment for the care they provide. Without a contract in place, Medicaid will assume the money transferred is a “gift” or a “transfer of assets” and will impose penalties resulting in ineligibility for Medicaid benefits. A good Caregiver Contract should:

- Be drafted by an Elder Law attorney who can customize the terms to the client’s situation.
- Fix the caregiver’s compensation at a reasonable rate—comparable to what a professional would receive for the same services.
- Establish expectations for services to be provided by the caretaker and on what terms—as opposed to leaving it as a verbal agreement.
- Be signed as soon as the care need is developed—when the care-receiver is able to consent and approve the contract. Show that compensation is appropriate and the care provided is medically necessary.

Once the contract is in place, both parties should live up to its terms. The care-receiver should treat the caretaker as an employee—paying the specified wage plus any expected taxes such as social security, Medicare and income tax withholding. Failure to pay taxes can complicate any later dealings with Medicaid, should the ailing person apply for assistance. The Caregiver must also be aware that the funds received under a Personal Service Contract are considered compensation and must be reported as taxable income.

While most family caregiver situations involve adult children helping their aging parents, Caregiver Contracts can also help clarify arrangements for a disabled child, a sibling or any type of family member.



**FREEDMAN
FISH &
GRIMALDI LLP**

521 Fifth Avenue, 25th Floor
New York, NY 10175
Telephone: 212.953.1172
Facsimile: 212.953.5323

9201 Fourth Avenue, 5th Floor
Brooklyn, NY 11209
Telephone: 718.238.6960
Facsimile: 718.238.3091

www.ffglaw.com

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