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Adult children may be liable for parent's nursing home bill

Many adult children of elderly and ill parents have discovered that they expend a great deal of time, energy and money to care for their parent or parents, but few, if any, expect to pay for a parent's nursing home bill, especially if that parent has a spouse. A recent Superior Court case in Pennsylvania changes the landscape of adult children's responsibility for parents by application of a 2005 change in the filial support laws in Pennsylvania.

In *Health Care & Retirement Corporation of America v. Pittas* (Pa. Super. Ct., No. 536 EDA 2011, May 7, 2012), an appeals court ruled that a son was responsible for his mother's \$93,000 nursing home bill under Pennsylvania's Filial Support law (23 Pa. C.S.A. §4603). In Pennsylvania, filial support was always "on the books" from laws dating back to colonial times. In 2005, the legislature moved this old law to the divorce code, breathing new life into filial support. The current law states that certain individuals have "a responsibility to care for and maintain or financially assist an indigent person, regardless of whether the person is a public charge." Those individuals with the responsibility include the spouse, the child or the parent of an indigent person. However, this responsibility does not apply if the "individual does not have sufficient financial ability to support the indigent person" or if a parent abandoned the child for 10 years during the child's minority. Neither the terms "indigent" nor "sufficient financial ability" are clearly defined in the law.

In this court case, Mr. Pittas' mother entered a nursing home in late September, 2007 after completing rehabilitation for injuries sustained in a car accident. She resided in the facility until March of 2008, when she relocated to Greece. She left behind most of her unpaid nursing home bill of \$92,943.41. There was an application made to Medicaid that was apparently still on appeal throughout the process. The court found that Mr. Pittas was financially able to provide support for his mother, and that it was his responsibility to join others who also might (or should) assist in supporting his mother financially.

This case shows that children (and parents of indigent children) should be warned. It does not seem fair that Mr. Pittas should pay his mother's nursing home bill, and further that his mother, her spouse, or his other siblings should not share in the burden. It is not clear why the Medicaid application was still pending and had not been approved or denied. It is, however, abundantly clear that Pennsylvania courts are willing to enforce the Filial Support law as it now stands, even if it appears that adult children did *not* play "fast and loose" with the parent's money. If a parent enters a nursing home with insufficient funds to pay for their care, adult children should be vigilant about potential claims against their own assets to pay for that care. Furthermore, there have been numerous attempts in the Pennsylvania legislature to amend or repeal the Filial Support law. Contact your representative and/or state senator to express your concern over what is currently the law being enforced in Pennsylvania.