



## A SHIFT IN COMPENSATION FOR PERSONAL CARE

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By Dorothy Hagel

Traditionally, family members have been expected to care for aging or infirmed relatives out of love or a sense of duty. Being compensated for such actions, no matter what these actions entailed or how long they continued, was practically unheard of. In fact, if aging parents could not afford their own living expenses, it was expected that their children would provide for them, as the parents had done for the children.

The Courts have recognized that individuals, who care for their incapacitated relatives are entitled to reasonable compensation but generally, the compensation awards had been low.

While many may feel it is their duty or responsibility to care for their parents, what cannot be ignored is how stressful, expensive, and time consuming this care can become. Caregiving duties can easily begin to interfere with a caregiver's employment, family life, and finances.

Most people would agree that someone, who incurs expenses during the course of their caregiving duties should, if possible, be reimbursed for those expenses. However, there has to be consideration given to the time, effort, and often sacrifices made by the caregiver. There now seems to be a growing recognition that those providing personal care should be properly compensated for doing so, and, some would say, rightfully so. No one would expect a professional caregiver, be it a nurse, aide, or personal support worker to provide these services for free. Rather, these individuals are recognized as providing a service that requires compensation.

The job duties are often stressful and exhausting, especially for someone, who has a personal attachment, lacks proper training, and has other employment and family obligations. Most people, who are caring for family members possess all of these characteristics, and to say that an individual does not deserve compensation simply because they are a family member or child is short-sighted, at best.

It is in the best interests of everyone involved and society as a whole that caregivers, whether they are family members, close friends or neighbours be compensated for the care they provide. From the public policy perspective, compensating caregivers would promote individuals to perform these duties and therefore relieve the demand that would otherwise be placed on health care facilities.

Very recently, the Ontario Superior Court reversed its previous decision awarding a child caring for her aging mother compensation in the amount of \$6,000 annually. Instead the Court awarded the daughter compensation in the amount of \$50,000 annually<sup>[1]</sup>. The daughter informed the Court that she would cease caring for her mother unless she was compensated for the caregiving in the amount of \$50,000 annually. The Court determined that it was in the best of interest of the aging mother that her daughter continues to reside with her and provide full-time care, and subsequently awarded the daughter the compensation she sought.

This decision was important for two reasons. Firstly, it recognized and affirmed the importance of caregiving and the role that compensation serves in the caregiving. Secondly, it set precedence for other Courts to follow.

<sup>[1]</sup> Childs v. Childs (2015) ONSC 6616, para 81.

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