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STUART + CARLYON

Financial advisers for your lifetime goals

Retirement issues – residential care subsidy implications

What would happen if you or your partner needed some kind of residential health care? Does the State subsidise this?

Don't hold your breath. Since the 1990s successive Governments have tightened the eligibility for subsidies and this Government is no exception judging by a recent presentation by a senior solicitor from the Ministry of Social Development (MSD) about the residential care subsidy.

The Ministry is concerned with social security law, not tax or trust law, and social security law trumps the other laws. They can delve into your Trust, for example. Their view is you are not allowed to preserve your resources for the use of your family or yourself beyond a permitted limit.

The clear message is that you have to rely on your own money as the thresholds make it difficult for you to be eligible – you will be both asset and income tested. Here is a summary:

Threshold for assets. For the year to 30 June 2014, you qualify for a subsidy only if your assets fall below these limits:

- $215,132 including the value of your home and car OR
- $117,811 excluding your home and car where there is a partner not in care.

> "The clear message is that you have to rely on your own money as the thresholds make it difficult for you to be eligible – you will be both asset and income tested."

Note that a single person can keep their house and apply for an interest free Residential Care loan. "Assets" generally includes all assets of the applicant and their spouse (whether held jointly or separately) that are capable of being realised and are adjusted each year in line with the CPI (Consumer Price Index).

Threshold for income. You are required to contribute to the costs of care, to a maximum set by the DHB for each region e.g. if you are in an Auckland City rest home, you'll pay the maximum of $47,320 per year.

- The income you can keep is very low:
  - $951 per annum single person in care
  - $2,852 per annum for a couple (one in care.)
- A partner keeps their employment income.

Allowed gifting. Any gifting you make is restricted as follows:

- From 1 July 2011, $6,000 per year per application for gifts made in any of the last five years, and $27,000 per year per application for gifts made more than five years ago. This $27,000 gift allowance cannot be averaged over missed years.
- The allowed gifting did not change as a result of the abolition of gift duty.
- Income can be charged on assets previously gifted.

No hiding. The asset-testing regime will examine:

- Trusts and other 'depriving' instruments.
- Investments in no or low income producing assets.
- Whether you have waived a right to asset or income.
- No interest loans.
- Relationship Property Agreements.
- No time limit in looking back.

With regard to the exempt home policy, you would miss out if the home has been gifted into a trust. The MSD does have discretion in the client's favour on a case by case basis. For instance where the only asset transferred is a former family home and would otherwise be eligible.

At the end of the day though, there is no way round it: the applicant and spouse have to look to their own resources first before seeking assistance from the Government. The law is not ambiguous.

Unfortunately the law does not recognise that people's circumstances may not be so simple – couples where one spouse is younger can potentially end up with no retirement money for that younger individual.

Couples who have assets supporting someone in the family with health issues (a disabled son, for example,) won't get help from the state for their own care. Very few of our clients would be eligible for state assistance, so careful planning of your financial affairs becomes more important and the priority is to make sure your assets are working for you.

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How to dent the retirement fund quickly

Have you noticed health issues sneaking into dinner party conversations? If you are part of the Baby Boom generation – and your advisers are – you will be acutely aware of the health perils that come with growing older. Cancers, neurological conditions, detached retinas: we are reminded that no amount of retirement planning can ever quite prepare any of us for The Serious Health Condition.

For a riveting read on the subject, Lionel Shriver's novel "So Much for That" confronts readers with the crisis of an American couple who watch their million-dollar nest egg dwindle as they pay for the wife's expensive medical treatment.

As a review in The Guardian summarises: *Shriver neatly illustrates the toll on his savings by starting chapters with a snapshot of his bank balance, which takes heart-stopping dips as Glynis grows more gravely ill. The couple are forced to face the deeply uncomfortable question: how much money is Glynis's life worth?*

Of course, it is easier to face a health crisis when you have plenty of resources, but our advice is: don't just save for a rainy day, be sure to invest in time spent with your loved ones before it is too late!

- If you plan one day to go on a world trip, do this sooner rather than later.
- If you plan to take up an activity, do this while you are able.
- If you are approaching your retirement years, then set a few life goals and start working on these.

Madoff and money laundering

A highlight at the recent documentary festival in Auckland was a rather sad film called "In God We Trust" which follows the tragedy of Eleanor Squillari who worked for Bernie Madoff as his personal secretary prior to Madoff's arrest. Squillari had no inkling that her boss was a crook and she lost her own home as a result of Madoff's scams.

Eleanor didn't lose her innate sense of decency however. As the film unfolds, we see Squillari patiently piecing together files and personal memories to help the FBI investigation untangle the financial crimes committed. As she probes deeper into the deceit, Eleanor discovers crimes far deeper than the Ponzi scam – she uncovers money laundering on an epic scale.

The heart of Madoff's criminal activity was a secretive operation on one floor of his office space. Upstairs was an official trading firm and this is what gave Madoff his legitimacy. Downstairs Madoff and his sidekicks were handling billions of dollars in a whole series of dodgy deals from which he'd skim an estimated 20 per cent.

> "As financial advisers we will be audited to ensure we have correct procedures and processes in place to prevent our services and systems being misused for criminal activities and funding terrorists."

How do we protect ourselves from the Bernie Madoffs? In most developed countries, laws are already in place to counter money laundering and this now includes NZ. The aim of the legislation is to ensure that the illegitimate proceeds of criminal activity is not laundered through our financial system.

As financial advisers we will be audited to ensure we have correct procedures and processes in place to prevent our services and systems being misused for criminal activities and funding terrorists.

How will this affect you?

- For our new clients coming onboard, it will be mandatory for them to supply a photo ID (e.g. passport), proof of address, and the source of their money.
- For existing clients there will be some changes to our Investment Management Service. For example third party bank accounts may no longer be loaded against your portfolio.

Some of our client relationships go back 28 years and have always worked on a huge level of trust. Nevertheless to protect your money, all client portfolios are held in custodial care.

The Madoffs of this world (and closer to home, in Wellington, the David Ross Ponzi scheme), have lead to a whole raft of regulations. The increase in compliance will never stop determined fraudsters but hopefully will make it much harder for them to operate.