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MONEY BOX LIVE

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LEWIS: Hello. Nearly 6 million people care for an ill, frail or disabled person in their family, or a friend. That's about one adult in every eight. Half of them manage to combine that with working. More than a million people spend at least 50 hours a week on caring duties. Every day, 6,000 more people take up the role of unpaid carer. These are extraordinary figures, so today Money Box Live takes your calls on carers and the financial help they may or may not be able to get. Carers are really not given very much help despite the huge savings the rest of us make because they work for nothing. Carer's allowance, which only a small fraction get anyway, is just over £53 a week - barely a fifth of the minimum wage for the 35 hours caring needed to qualify for it. Other benefits are only paid on grounds of low income. But carers do have a growing range of rights, especially at work - they can request flexible working, get time off for emergencies or to look after a disabled child - and a recent case established that carers are protected against discrimination under the Disability Discrimination Act. Whatever your question about carers and their rights, why not call Money Box Live now? 03700 100 444. With me today to answer your questions are Jean French, who is Advice and Information Manager at Carers UK, which provides advice for carers and campaigns for their rights, and indeed on Friday is running National Carers Rights Day. Lucy McLynn is a partner with lawyers Bates Wells & Braithwaite. She took a recent test case on rights at work for people who care for someone with a disability. And in Glasgow is Derek Sinclair, a welfare rights specialist with Contact a Family, a UK charity for families with disabled children. And our first question is from Julia from Hale and Ringway. Julia, your question?

JULIA: Oh hi there. Yeah, my mother-in-law is in her 80s, and I had to effectively give up work a couple of years ago and one of the reasons was because the care requirement was getting greater. I applied for attendance allowance at the time and got it, but it said you had a 6 week time limit in which to apply for carer's allowance and you had to prove that you were caring for more than 30 hours a week. And at the time, I couldn't hand on heart say that I was doing that because even though you add everything up that I was doing - she doesn't live with us - it just wasn't that number of hours. She's got Alzheimer's. Her condition is getting worse. Our financial situation is deteriorating and I just wondered now if there's anything we *can* do?

LEWIS: Well let's find out. And you don't work at all now, Julia? You just don't have the time for it?

JULIA: I gave up work. Sorry, I gave up work and now I'm self-employed.

LEWIS: Ah right.

JULIA: I'm working from home. I am managing to fit that in. I've got two small children of my own.

LEWIS: So you have some income from that?

JULIA: I do, yeah, and my husband works as well. It's my mother-in-law, so it's my husband's mother.

LEWIS: Sure, but she doesn't live with you? Well let's ask Jean French first from Carers UK. Jean?

FRENCH: Hello Julia.

JULIA: Hiya.

FRENCH: I need to ask you some questions because carer's allowance is paid if certain rules are satisfied. You said that your mum was getting attendance allowance. That's right, isn't it?

JULIA: Yeah. It's my mother-in-law, yeah.

FRENCH: That's great. Sorry, your mother-in-law. Because you need to be getting DLA or the person you're looking after needs to be getting disability living allowance, the middle or higher rate, or attendance allowance. Obviously you're not a student, which is good because you're not allowed to be a full-time student and get carer's allowance. But you need to be showing them that you're working 35 hours a week in your caring role. So it's 35. There's also an earnings limit, which is £95 a week. Now you can obviously if you're a self-employed person make the normal deductions, very similar to those you would make for tax. Also you're taking off tax and national insurance as well. You can also make deductions for pensions and if you have to employ anybody to provide alternative care for your mother-in-law while you were working. But I don't know how that's going to tie in with the amount that you're actually earning from being a self-employed person.

JULIA: Yeah, I mean I'd have to do some calculations because she does get you know people going in four times a day because I can't be there that often.

FRENCH: Of course.

JULIA: I'm just picking up the slack and keeping everything going - you know sorting out the washing, doing the shopping, stuff like that.

LEWIS: But your earnings from your self-employment, are they more than about - what is it - £4,900, £5,000 a year?

JULIA: They're about at that level.

LEWIS: Right.

JULIA: It's my first year of actually being self-employed.

LEWIS: Yes, that's always a difficult one, isn't it, because you never quite know how it's going to come in. So you're sort of on that limit.

FRENCH: I would definitely make a claim then, Julia, and send them in your accounts from the previous year and make sure they're as detailed as possible.

LEWIS: But it's her first year. That's the trouble.

FRENCH: Ah! In which case, I think sitting down and doing some paperwork on what the expenses are, planning out in detail where that's going.

LEWIS: And is it an all or nothing rule, Jean? If it's above ... what was the level you said?

FRENCH: £95.

LEWIS: £95 a week. If it's £95.25, you don't get it. If it's £94.75, you do.

FRENCH: Exactly.

LEWIS: So it's all or nothing?

FRENCH: Yeah - there's no taper, I'm afraid.

LEWIS: It's trying to see if you can be below that barrier.

JULIA: And it has to be 35 hours care at least a week that you're providing?

FRENCH: It does, yes.

JULIA: Right.

SINCLAIR: Can I ask Julia a couple of things, please?

LEWIS: Yes, of course. Derek Sinclair from Contact a Family, yes.

SINCLAIR: Julia, do you know if your mother-in-law's receiving pension credit?

JULIA: Oh, I don't know.

SINCLAIR: Because it's just one issue you have to take into account - is if your mum lives alone ... sorry, your mother-in-law lives alone and receives the guarantee type of pension credit, then a claim for carer's allowance by you could potentially affect her benefit as well. So you would probably need to get specific advice about that issue.

LEWIS: What, could it reduce her benefit?

SINCLAIR: It could. If her pension credit includes a payment called the Severe Disability Premium, that could be affected if Julia receives carer's allowance.

LEWIS: Right, well that's a complexity I'm sure most people didn't know about when they started claiming benefits. And where can Julia go for some help on this because it is very complicated, Jean, isn't it?

FRENCH: Local citizen's advice bureau or any other advice centre may be able to help you. Maybe able to help you also with getting financial details together in order to make the claim because the rules on what will actually be taken into account as income are quite complicated.

LEWIS: And sometimes the local council might have a welfare rights office.

FRENCH: Absolutely.

SINCLAIR: Can I ...

LEWIS: Derek, yes?

SINCLAIR: Can I also ask Julia if she's claiming tax credits because I note she said that she has small children?

JULIA: I don't, no. You know we get the child benefit that isn't means tested, but I've never really gone into anything. It's all a bit complicated really. I've never really looked into it.

SINCLAIR: Sure. I mean it would definitely be worth looking into that in more detail. If your joint taxable income as a couple is under £58,000, you'll definitely be entitled to some tax credits as a family. The rules around tax credits are very much more generous than most of the other means tested benefits.

JULIA: Right.

LEWIS: So that's worth knowing and worth seeing if perhaps you can get a bit more. Thanks very much for your call, Julia. There's obviously a bit of work for you to do. (*Julia laughs*) I'm sorry to say that most carers don't stop work when they stop caring. They then have to go and claim benefits and check their tax and everything else. But I hope that advice is useful, and of course Carers UK does have a website with a lot of useful information on it. There are links to that and lots of other useful websites through ours, which is bbc.co.uk/moneybox. And I'll say at this point that in a couple of days there'll be a transcript of this programme, so you'll be able to read all those annoying little details that you didn't perhaps quite write down.

JULIA: Thank you.

LEWIS: Not just you, Julia, (*Julia laughs*) but of course all the people listening. Thank you very much for your call and good luck with that. We're going to move on now to Elizabeth who's in Chelmsford.

ELIZABETH: Oh hi.

LEWIS: Your question, Elizabeth?

ELIZABETH: Well what it is, I care for my mum who's got Alzheimer's really badly (she's 89) and I look after her Monday, Tuesday and Wednesday, and my husband does it for the rest of the week because I have to work. I've been with Tesco now for 11 years and always worked Thursday, Friday and Saturday, and now they're trying to make me work on a Wednesday. And if I don't accept what they offer, they have informed me that they can dismiss me. Now is that correct or not?

LEWIS: Right. Well I think that's one straight to Lucy McLynn, our lawyer. Lucy?

McLYNN: Hello Elizabeth.

ELIZABETH: Hello.

McLYNN: What does your contract say about the days that you're required to work?

ELIZABETH: It's the Thursday, the Friday, the Saturday, 11 till 5.

McLYNN: You've got that written down?

ELIZABETH: Yes. Yes, I've had that for 11 years.

McLYNN: Right. And how long have they been talking to you about changing your

rota?

ELIZABETH: It must be about 11 weeks now because I have to have a meeting with one of the managers every week up until I think it's about 16 weeks, and that's when they either turn round and say either you accept what we've offered, you take out a grievance, you know or we dismiss you.

McLYNN: And have you explained to them your caring situation?

ELIZABETH: Yeah I have, and they don't seem to want to accept it because it's my husband that gets the carer's allowance because he doesn't work.

McLYNN: Well that shouldn't make any difference at all.

ELIZABETH: Well what they're doing is they're classing him as the prime carer and not me.

McLYNN: But that really makes no difference from an employment law perspective. I mean it seems to me there are two issues here. There's the question of them acting in a way that's trying to alter your contractual terms. You're contracted to work a specific three days ...

ELIZABETH: Yes.

McLYNN: ... and they can't just unilaterally say well we're changing that because it's a variation to your contract and you're not agreeing to it. They'd certainly have to give you notice under your contract - you know offer you a new contract, offer to re-engage you. They're effectively dismissing you. There's lots of issues there obviously around unfair dismissal. But also, in any case you are recognised as a carer in terms of employment law and you've got the right to request to work flexibly to accommodate your caring responsibilities. It's only a right to request, not necessarily a right to have, but ...

ELIZABETH: Well that was what I thought. But what it is, they've brought in this right time, right place policy, and at the moment - as far as I know or I'm aware - it's only happening in one particular store. It's not happening in the other one at the moment. So really I don't know where we stand.

LEWIS: But I suppose, Lucy, the point is they can have all the policies they like, but they have a contractual employment relationship with Elizabeth and they've got to fulfil it. And we often though come across this on Money Box. We say well these are your rights and our lawyers say this is your right, and then callers say well I'm not quite sure how to enforce it. It is difficult, isn't it? What can Elizabeth do practically to make sure she gets what you say are her rights?

McLYNN: Well I think she should certainly put in a grievance - which is clearly something that's already been discussed - explaining why she needs to stick to this pattern, the pattern that she's worked to for 11 years, and making it clear that she insists on that, and that if they try to change her pattern then in any event clearly she has a statutory right to request to work flexibly. She's clearly an eligible carer under that statutory framework. It would seem ridiculous that they would force her to move onto a new pattern with all the risks of dismissing her unfairly when she's been in a situation where she could make the request to move back to the old pattern anyway, and then the issue for them is whether they can justify the new work pattern.

LEWIS: Yes, it seems strange that employers are willing to go through all that when they're just going to end up with a lot of trouble on their side just because they have a particular policy. It might also help, Elizabeth, to wait for the transcript of this programme and wave it under their noses and mention Lucy McLynn. (*laughs*)

ELIZABETH: Yes, how do I get ...

LEWIS: Sorry?

ELIZABETH: How do I get hold of the transcript?

LEWIS: Well if you go to our website, which is bbc.co.uk/moneybox, in a couple of days - because we can't do it immediately - but in a couple of days there'll be a transcript of the programme up there and you can print that off. I'm assuming you have access to the internet either at home or through work or possibly from an internet café if you don't. Or the local library, very often you can get free access. So I think most people can get access now. So that may be worth doing. And certainly it seems as if you have rights, so you've just got to stick by your guns really and tell them you are a carer in employment law even if you don't get carer's allowance. Thanks very much for your call. I'm sure there's lots of people in that difficult situation. And I'm just going to move onto an email now, which is from Lynn. Lynn has a son who is 4 years old and has Coeliac Disease - on a very strict diet, behavioural problems - and she wants to know if she can apply to be a carer. Does she count as a carer and what can she claim? Derek Sinclair, probably one for you.

SINCLAIR: Okay well in terms of the benefit system, there's a very strict definition of what a carer is, and it's somebody who's looking after a disabled person, whether they're a child or an adult, who's receiving disability living allowance at the middle or highest rate for personal care. Unless a child is receiving DLA at those kind of levels, then I'm afraid in terms of the benefit system you're simply not recognised as a carer and are unable to claim any benefits as a carer. In terms of practical help from the social services department, for example, then the issue is really whether or not the child's condition (whatever it may be) impacts on their health and development. And you know if the condition means that the child's ability to carry out normal day to day activities is affected, then they'd be entitled to an assessment under the Children's Act and the parent would also be entitled to an assessment as a carer.

LEWIS: And where do they go for that?

SINCLAIR: It would be through their local authority, through social services department.

LEWIS: Right, so the local county or borough authority?

SINCLAIR: Yes, exactly. Usually social services break themselves down into various teams and there'll be a children and families team. There may be a specific disability team within that.

LEWIS: Okay. I mean people often, they don't understand those things, they don't know about those things. So she's just got to find social services, contact them, explain her circumstances and get an assessment, and then see what help there might be?

SINCLAIR: Yeah, she'd be requesting an assessment of her child under the Children's Act, an assessment for herself as a carer. And local authorities have a duty to carry out these assessments. It's not just that they have the *power* to do so. It's that they're *obliged* to do so on request.

LEWIS: They're not obliged to give you what you need though, are they, as I recall - the rules?

SINCLAIR: Well, yes, I mean you have a right to an assessment. Whether you're going to get any services as a result of that is going to be determined by the assessment itself.

LEWIS: It depends where you are and what the resources are and what they're willing to do.

SINCLAIR: Unfortunately, that's often the case.

LEWIS: But an important right, nonetheless, to get that assessment. Okay, thanks very much for that and thanks for your email, Lynn. Let's move on now to Donald who's calling us from Newcastle. Donald, your question?

DONALD: Well I myself, I'm disabled after having a stroke a few years ago. But one of the things is me wife was my carer, which was okay, but now we can't have it

because she went onto her pension and you can't claim for two things from the government. But also on top of that, we now have to pay for care, for assistants to come in to give me the assistance for me to get ready and that of a morning.

LEWIS: Okay, let's deal with those separately. And that first point, Jean, I think we've had well more calls and emails on that today than any other subject - the overlap between carer's allowance and retirement pension. Just explain the rules to us.

FRENCH: Okay. Donald, the rules are that there are a group of benefits which are called earnings replacement benefits. They include carer's allowance, the state retirement pension, incapacity benefit, contributory employment and support allowance, maternity allowance. Those benefits, you only ever get one of them. And what happens is if you're entitled to more than one of them, you're going to be paid the highest. Now most people's state retirement pensions are worth more than £53.10 a week, so you get the state retirement pension but the carer's allowance stops. Now what I would like to say at that point though is are you entitled to any of the means tested benefits, Donald - pension credit, for instance?

DONALD: I couldn't tell you.

FRENCH: Okay. What happens with the means tested benefits is that if you're entitled to the carer's allowance but you can't be paid it because of the overlapping benefit rules, then you can get some additional means tested benefit because you are a carer. So what I would suggest that you do, Donald, is ring up the Pension Service, talk with them about the money that you've got coming in at the moment, and check whether you've got any entitlement to pension credit. Because if you have, then it's worth your wife making another claim for carer's allowance. It won't be paid to her, but she'll get more pension credit.

LEWIS: This is one of the really complicated things, isn't it Jean? That although you don't get any more immediate money because they overlap - and many people think there's no point claiming - you get this underlying entitlement, which gives you sometimes access to other benefits like help with council tax or rent (if you pay rent)

or indeed pension credit. It's just so complicated.

FRENCH: I'm afraid it is complicated. What I would say to people is please do go and talk with somebody about whether you have any entitlement to any of the means tested benefits at the moment. Or if you made the claim for the carer's allowance - even if it wasn't going to be paid to you, that would give you entitlement to any of those means tested benefits.

LEWIS: Right. And I would encourage you, Donald, to claim those benefits because - I know it's a bit off the topic today - but millions of pensioners or at least a million pensioners at least don't claim billions of pounds and it's well worth trying. And there will be links through our help line to the benefits line at the DWP where you can claim pension credit and indeed council tax benefit all with one call. Now you also had another point, Donald, which was about having to pay someone to assist in the morning.

DONALD: Yes.

LEWIS: What help is there with that, Jean?

DONALD: Well what happens is I must admit ... I must put in as well me wife is awaiting a transplant, so naturally it's a bit much for her, so we don't want to get involved in anything. And what we needed to do was ... the family got on and they said the best thing to do is to get sorted and get help in case me wife *does* have to go into hospital. So I said okay and I said we'll have to pay.

FRENCH: Okay, Donald. Did you have an assessment by your local council at all? Did anybody come out from the local council?

DONALD: Yes. I must admit, mind, she went to me daughter's because me daughter does all our business.

FRENCH: Right. Okay, well there's two things, I suppose. One is have a chat with your daughter and make sure you have had a proper assessment, both yourself and your wife, from the local council. When it comes to having to pay, are you paying for people to come in and help you that has been arranged through the local council?

DONALD: Yes.

FRENCH: Okay. Again I would go back and say do check whether you've got any entitlement to pension credit because, if nothing else, that may then help you pay for those costs for people coming in to help you.

LEWIS: Yes it's worth noting, isn't it, those means tested benefits help you get entitlement to all sorts of other things. So claim one and you get a lot more. And a lot of people like Donald and his wife are struggling on very, very low incomes when there is possibly, in many cases - hopefully in his as well - more to be had. Donald, thank you very much. I think if your daughter does help you with these things, she should certainly look into that for you and perhaps talk to Citizens Advice or somebody locally, go onto the Carers UK website and see if there is more money that you can get. And, as I say, our helpline, which I'll give you the number at the end of the programme, and our website, will have lots of useful information. We must move on now, but good luck with that and thanks for your call. I'm just going to take another email. This is another employment one. This is from Jenny who says, 'I care for my mum, I work full-time. I go home every lunchtime. Am I entitled to anything because I work full-time?' On the benefits side, probably not Jean, because of the earnings if she earns more than £95 a week.

FRENCH: Unlikely.

LEWIS: But what about employment rights? Is there something there, Lucy, that she might get?

McLYNN: Well she would have the right to request a change to her working pattern because clearly it sounds like quite a difficult situation to be working full-time and

rushing home at lunchtime to care for her mother and then rushing back to work again - assuming she's an employee who's got 26 weeks service under her belt already and hasn't already requested flexible working, which it doesn't sound like it if she's working full-time.

LEWIS: So she could perhaps ask for a longer lunch hour or something, so she could more ... you know and perhaps work a bit later in the evening, so she could get home.

McLYNN: Absolutely.

LEWIS: Jean, there must be an awful lot of people who combine work with caring in this way?

FRENCH: Very much. In fact the vast majority of carers are in some form of employment. What I would suggest is that she also contacts her local council because carers can get a carer's assessment, and one of the key things that a local council must look at is whether an employed carer is at risk of losing their employment - because they don't want to do that in any way - and what support can be provided for the carer to ensure that that doesn't happen. So I think although benefits don't look good, I think she should contact her local council.

LEWIS: So she might get someone to do a bit of caring for her to give her a bit of freedom, a bit of time?

FRENCH: Exactly. So what she needs to ask for is a carer's assessment for herself and an assessment for the person she's looking after.

LEWIS: Right, good advice. Well thanks very much for your email, Jenny. And we'll now move onto Stephen in Wrexham who has a question. Stephen?

STEPHEN: Good afternoon. One of my concerns is we've managed to save a certain amount of money and when we need assessments we are not eligible for any you

know paid care. And I'm thinking over time that our savings are going to go, and if I eventually go into a home or die there's going to be no money in our savings for my wife. So how can I preserve our savings, so that at least my wife's got some money when I do go?

LEWIS: Right, so your savings are above the limit where you get any help paid for?

STEPHEN: Yes.

LEWIS: Jean, this is a problem with people who feel they've saved up all their lives and now they're not getting any help because of that.

FRENCH: Absolutely. I mean let's try and think positively. Stephen, there are various benefits that can be applied for that are not means tested, so I would suggest that you start out by looking at whether you've got any entitlement to either disability living allowance ...

STEPHEN: I get disability living allowance.

FRENCH: Great. Then there is that. Carer's allowance - but your wife is working full-time, did you say?

STEPHEN: No, she's working part-time.

FRENCH: But earning more than £95 a week?

STEPHEN: Yes.

FRENCH: That's going to be the problem really.

LEWIS: Yes. And the limit has gone up for pension credit very recently.

STEPHEN: I think our main concern is that eventually all our savings are going to go and she's going to have nothing left when I go.

LEWIS: Yes.

FRENCH: Stephen, what I would suggest is as your savings come down, you should have regular reassessments of whether you're entitled to any of the means tested benefits. Recently, November 2nd of this year, the amount you can have in savings without having any effect at all upon your pension credit went up to £10,000. Now I don't know if that's going to help at all. But clearly as those things change, you should always go back and check to see if you've now come within the limit whereby you can get some help with the means tested benefits.

LEWIS: Yes because it's fair to say that the money will never go down to nothing because there is always a minimum you're allowed without it affecting things. It may not be very much, but at least there will be something left. Thanks for your call, Stephen. It is a worry for a lot of people, I know. Let's take Ian now from Horsham in West Sussex. Ian, your question?

IAN: Yes, the question is not quite so much that of savings. It's really one of income. I had the surprise of my life quite recently when one of my industrial pension payers advised that if the present economic situation continued that to start with they were capping pensions and the pension fund was due to run out of money by about 2016. Now this came as a surprise, but didn't worry me too much until since then both my wife and I have in fact become sufficiently handicapped - I following a heart attack and my wife following a need for admission to hospital for pelvic floor repair operation, coupled with vertebrae C5 and C6.

LEWIS: Ian, could I interrupt you a second? Can you ask us a question because we're coming to the end of our time and we're not going to have time to answer it if you don't ask it very soon?

IAN: The question is, is there any way that my wife and I can apply to be one

another's carers?

LEWIS: Okay, that's a clear question. Jean?

FRENCH: Ian, yes you can. Both your wife and yourself would need to be in receipt of either attendance allowance or the middle or higher rate care component of disability living allowance, but then you could both apply to be each other's carers providing you are providing each other with 35 hours of care a week. If you're already getting a state retirement pension, the overlapping benefits rule that we've talked about will apply, but it does considerably increase the amount of means tested benefits you could get.

LEWIS: So again complicated arithmetic to do there, Jean, and local help needed, I think?

FRENCH: If you ring us on our Carers UK advice line, we can take you through it.

LEWIS: Okay, the Carers UK advice line and that number will be with our advice line. And I think we've just got time to squeeze in a final email, which is an employment matter. David is a carer for his ex mother-in-law. Also works 10 to 12 hours a week, earning he says £4.50 an hour. 'As a carer, I get £1.50. Is there a minimum wage for caring?'

McLYNN: Sadly there isn't. But I'm concerned to hear what he describes as the rate he's earning in employment because the actual minimum wage rate at the moment is £5.80 for adults over the age of 22.

LEWIS: Right, so even if you're working 10 or 12 hours, you should earn that. And it's worth pointing out, isn't it Jean, that the carer's allowance of £53.10 a week - you have to work 35 hours and that comes to, by my calculation, £1.51 an hour, which is pretty scandalous really.

FRENCH: I think it's an outrage.

LEWIS: (*laughs*) And you'd like to see it raised?

FRENCH: I would love to see it raised.

LEWIS: Okay. We must finish there. My thanks to Jean French of Carers UK; Lucy McLynn from Bates Wells & Braithwaite; and Derek Sinclair of Contact a Family. Thanks to you for all your calls and emails. Find out more about carers rights from the BBC Action Line - 0800 044 044. 0800 044 044. Our website, bbc.co.uk/moneybox. You can listen again, download a copy or subscribe to the podcast, and, as I said, read a transcript in a couple of days. I'm back at noon on Saturday with Money Box, to take more of your calls on Money Box Live next Wednesday afternoon. Tax and the pre-budget our topics. Can't wait.