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## **MONEY BOX LIVE**

**Presenter: PAUL LEWIS**

**TRANSMISSION: 30<sup>th</sup> MAY 2012 3.00-3.30 RADIO 4**

**LEWIS:** Hello. As the population gets older, the bill for care grows. The Local Government Association warns today that the current annual bill of 14.5 billion pounds could almost double in the next 18 years to nearly 27 billion. Or, as they put it, that's an extra £230 for every man, woman and child in the country. Well actually that's just England and Wales. The Government has promised to publish its own plans to deal with the cost of care later this year, responding to a major report by the economist Andrew Dilnot who recommended anyone with savings under £100,000 should get help and no-one should have to pay more than £35,000 towards the cost of their care. But for now we're stuck with the current tougher and complicated regime which sees anyone with savings of more than around £23,000, though it varies from country to country in the UK, they have to pay in full for the cost of staying in a care home unless they can get help from the NHS to pay it all. With nursing home fees around £700 a week, savings can vanish pretty quickly. Many people are concerned about whether their home can be taken to pay the fees. So today questions about paying for care. How do you get the NHS to pay for it? Who does pay? How does the means test work and so on? They've been pouring in all lunchtime. Whatever your question, you can call Money Box Live now - 03700 100 444. With me today to answer your questions, in the studio in London is Frances Auger who's Manager with the advice team at First Stop Advice. That's a national service for older people about housing and care. And also here is Jean French, Head of Advice and Information at Carers UK. In our Plymouth studio, Jeanette Roberts with First Care South West. She specialises in helping people claim free care through the NHS. And in Paignton, Dave Robinson is a Chartered Financial Planner. He's also a founder member of the Society of Later Life Advisers. So I'll be very surprised if you find a question that at least one

of them can't answer. And the first person to try is Terry who's calling from Bournemouth. Terry, what's your question?

**TERRY:** Hi. My uncle has recently moved into a private rest home. He's got about two and a bit years of funding of his own private money and I just wondered what happens when his money runs out?

**LEWIS:** Right, so these are his savings in the bank so to speak?

**TERRY:** Yes.

**LEWIS:** Okay. Okay, well let's start with Frances, Frances Auger.

**AUGER:** If he's self-funding ... He's likely to be self-funding his care unless he gets NHS funding. When that gets down to currently £23,250, he can apply to the local authority for some help towards those costs, but I would certainly recommend getting some financial advice in the meantime.

**LEWIS:** And he'll get advice, he'll get help from the local authority. Jean?

**FRENCH:** Yeah absolutely. What I'd do is, depending on how much he's got left - as Frances says, the limit is £23,250. Once it's getting close to that, say around about 30,000, possibly a bit more, then start speaking to the local authority at that point because it can take a while to get things organised and put in place.

**LEWIS:** And once it goes below that point, you don't get all of it paid in England, do you?

**FRENCH:** No. There's a tariff system, so once you're over £14,250 in England but under £23,250, you lose one ... well they treat you as having a certain amount of income per £250.

**LEWIS:** So you get some of it, but not all of it.

**FRENCH:** Some of it.

**LEWIS:** And I should say the rules are different in England, Scotland, Wales and Northern Ireland. Although the figures are similar, they are actually slightly different, so do check if you live outside England for what your own limits are. I've got a list of

them here, but I'm not going to read them out. Terry, does that answer your question? Does that help?

**TERRY:** It helps, yes, but I mean will he get 100% funding from you know council sources, or will there always be an element that either he or the family are going to have to put in?

**LEWIS:** Right, I think Dave Robinson wants to help here.

**ROBINSON:** Ultimately yes he could get full 100% funding, but that will take a while because of the tariff income system. A couple of points I'd just like to make. It's important to understand exactly how this capital is held because not all forms of capital are actually assessable when it comes to care. One of the crucial exempt assets at the moment is something called an insurance, often known as an investment bond if it has an element of life assurance attached to it. Now if your uncle holds any assets in that form, they are not actually assessable, so he may actually get down to that £23,250 limit quicker than he may think. The other point I would just like to flag up is that he may wish to consider whether or not it's feasible for him to purchase an immediate care annuity. Now essentially what that is is using capital to buy guaranteed income stream for life, which is then paid direct to the care provider. It can be a very, very tax efficient way to deal with this, but, as with buying a pension annuity, it's a gamble. If his early death occurred, then he may actually lose capital. Alternatively, if his life actually continued beyond what is expected, then he would receive a significant, potentially significant financial benefit. But it's one way to buy piece of mind. If people are worried about their capital or income running out and not sustaining them, an immediate care annuity is a possible way forward and it does avoid the situation of a self-funder actually falling back on local authority care because one of the points I would make there is with the best will in the world, the public purse may not fund the same standard of care that self-funders are used to or would indeed like.

**LEWIS:** And just remind us, Jeanette, remind us if you are a self-funder, you can also claim more benefits. You can claim attendance allowance, whereas you can't do that if you're not a self-funder. Is that right?

**ROBERTS:** No, no you can't. I think the point I wanted to make was really

following on from Dave Robinson's comments on immediate care annuities, and this is why I do deal with a lot of solo accredited financial advisers because they come to me when someone is looking at taking out such a policy to actually check to see whether that person might qualify for continuing healthcare funding first because continuing healthcare funding is not means tested. And if the person does qualify, if their health is such, if it has deteriorated to such an extent that they qualify for that funding, actually you wouldn't have to take out an immediate care annuity and certain financial advisers have advised clients to take those out without looking at continuing healthcare funding first and they've subsequently been sued because they haven't given the right advice to their clients. So I don't know the sort of prognosis or the diagnosis for your uncle, but it may be worth considering whether actually you should be looking at asking for a continuing healthcare assessment for him in any event.

**LEWIS:** Well let's talk about that with our next caller. Terry, stay on the line, but, Maureen, you have a similar question but you are being pursued by somebody who's trying to make you try to get one of these assessments?

**MAUREEN:** Well my father is in a care home and he's paying for it currently from the sale of his little flat, and he's almost down to the £30,000 that you've been talking about. There is a company that is advertising in the popular press that say they may be able to reclaim care home fees from the DSS. But unfortunately they charge a 25% fee plus VAT for any money that they may recoup. Also they've said that there's a deadline of 30<sup>th</sup> September this year for any applications to the DSS to try to recoup this money.

**LEWIS:** Okay, it's the Department of Health, I think. But Jeanette, you can explain all this because this is what you specialise in - just how Terry or indeed Maureen could see if this was relevant for their relatives.

**ROBERTS:** Yeah, it's difficult to comment on particular claims management companies. There are a few out there and they do offer ... You know the good side, the nice side to it is that you can have a no-win no-fee contract with them, so if the case doesn't go anywhere, it's not successful, then you don't pay any costs. That works if the person has possibly died and you're looking at reclaiming fees retrospectively after death, but if the person's alive actually they need to have

someone go in and be at that assessment and those claims management companies don't necessarily offer advocacy services. They just go in and ask for a retrospective review. So the person's care actually isn't reviewed at all, only the money.

**LEWIS:** (*over*) Jeanette, can I just interrupt you because I think people listening are going to be a bit confused. Most people get their fees paid partly or through the local authority or they pay themselves. But there is a group of people who can get the fees paid in full without a means test by the National Health Service. Just explain to us who those people are and what circumstances you have to be in because it's by no means everyone, is it?

**ROBERTS:** No. Basically continuing healthcare funding is not means tested and it's provided to persons over the age of 18 who through disability, illness - and that could be mental health illness as well as physical - are needing continuing care. There is no exact definition or nothing that you can actually say this person will qualify for continuing care. There's no absolute criteria other than they have to be seen to be unpredictable, unstable, complex and/or intense, and that's a very difficult criteria to fulfil. So it's those sorts of ...

**LEWIS:** (*over*) But their primary need has to be for healthcare, doesn't it?

**ROBERTS:** Their primary care need has to be health, but trying to establish that is very, very difficult. And these claims management companies will tend to look retrospectively, so that for example one particular company that I'm aware of will only look at a claim if someone has been in a care home for a year. But I'm more concerned about how the person has got there and what their care is whilst they're actually there. So it's not just about funding. You're actually looking at them having a review to see what their health and social care needs are.

**LEWIS:** Jean French, I know you give advice on this, don't you? What would you say to Maureen and indeed to Terry about this?

**FRENCH:** I think check out first of all the level of health-related care needs that your family members have. So that's the first starting point. There's an excellent fact sheet on NHS continuing healthcare on the Age UK website, which you can download, and it explains to you a basic checklist that you can go through that might give you some

indication of whether it's relevant or not. If you think it is relevant, then you can approach either one of the officials in the care homes, a GP, or the local authority in order to discuss the best way of starting that process off.

**LEWIS:** Okay.

**ROBERTS:** Can I just add to that?

**LEWIS:** Yes, Jeanette.

**ROBERTS:** The process for residents in a residential care home is that you actually have to approach your GP at the moment and the GP will then ask the district nursing service to carry out an assessment by way of what's called a checklist assessment, which is a screening tool which can also ... you can get a copy of that from the Department of Health website. If you're in a nursing home, you can approach the Primary Care Trust direct and ask for a continuing healthcare assessment.

**LEWIS:** Okay. So Maureen and Terry, I think you have to consider whether you might ... you know first of all can you get free healthcare through the NHS. If you can't, then the rules that we described earlier, which are I have to say very complicated, come into play and you might be able to get help from the local authority when your relatives' resources fall below round about £23,000, £24,000 depending where in the UK you live. Our next question is from David who's somewhere near Chester. David?

**DAVID:** Hello. My question is my step or our stepmother lives in a house that's jointly owned by my brother, myself and our stepbrother, her son. Can the local authority, council, whatever, appropriate this to pay for her domiciliary care?

**LEWIS:** Right, this is care in her own home, you mean?

**DAVID:** Care in her own home.

**LEWIS:** Does she have this care at the moment?

**DAVID:** We believe so.

**LEWIS:** Right, okay. I've got another email on this subject and it's one that many

people worry about: is my house safe? This is from Barbara who says, 'Our house is in my husband's name only. If he should need to go into a nursing home, would the house have to be sold or could I continue to live in it?' So that's the question of husband goes in, can the wife live there, which is also a worry to some people, I know. So two questions there. Frances Auger?

**AUGER:** While it's her home, its value isn't counted anyway, but because it's jointly owned that would be different. As for somebody going into a care home, if their partner or wife is still resident in the home, then it would have to be ignored from the local authority financial assessment, so it would be ignored.

**LEWIS:** So in Barbara's case, if the husband went in she'd obviously be able to live there as long as she didn't have to go into care. Jean French, this is something that worries people, isn't it - what's going to happen to my house - and they imagine the local council can sort of come along and take it, which of course they can't, can they?

**FRENCH:** Yes I mean it causes a great deal of anxiety, but no they can't. And, David, in your circumstances there's another issue I suppose that we could look at, which is the value of the property. If you all own it together, then when we look at what is the value of a share in that property, it will be very low indeed. In fact realistically it might be zero. So in those sorts of slightly more complicated situations where we're not just looking about husbands and wives or partners, then often the reality of the situation is there's very little value.

**DAVID:** I see.

**FRENCH:** So do remember what you're looking at is if an individual owns their property, then it's an issue; but for most other people it's probably not going to be.

**LEWIS:** And in your case, David, your stepmother doesn't own the house at all. It's the three of ...

**DAVID:** No she doesn't.

**LEWIS:** No, so there wouldn't be any question of that being taken or the value of it being counted at all. So no worry for you and indeed no worry for Barbara. And just Jean explain one thing that many people ask and I don't think we've had a question

specifically on this, but husband goes into care, maybe dies, then the wife goes into care, the house is left empty. Even then the council can't take it, can they?

**FRENCH:** No.

**LEWIS:** There are ways around that.

**FRENCH:** Well indeed, yes there are. Well it depends on who the property then owns, it depends on whether there are outstanding funds, it depends on what systems have been put in place to begin with by the local authority. What I would say is if people are anxious, do seek some advice. There are some very good websites out there and there are some very good advisers.

**LEWIS:** Indeed.

**ROBINSON:** (*over*) Paul, housing is often ...

**LEWIS:** Dave?

**ROBINSON:** ... one of people's main concerns - obviously because it's often people's biggest asset. Just to summarise it quite simply, I think the lady referred to in the question was in receipt of domiciliary care. The house is exempt while it's part of the fair setting.

**LEWIS:** (*over*) David, yes David certainly.

**ROBINSON:** Just to go a little bit further. A house is also disregarded. It's one of the forms of exempt capital that I alluded to in a previous answer. Importantly, a house is exempt until care is deemed to be permanent and that can be a question of fact that can take a good while to establish. It's also exempt for the first 12 weeks of permanent care and it's also exempt whilst it's occupied by a spouse or dependent relative. So the house is exempt regardless of who owns it under these certain circumstances.

**LEWIS:** And spouse includes partner as well, doesn't it?

**ROBINSON:** It does - yeah, yeah absolutely. Or dependent relative. You know so there are many situations where a house can be exempt, and it's also important to note



that a forced sale cannot happen, not under most situations. You know, so I think where there is a house involved, it's very, very important to take proper advice in your situation because it's a very complicated area.

**LEWIS:** Because the house can be left empty and they can rent it out ...

**ROBINSON:** Absolutely.

**LEWIS:** ... and the bill can tot up with the local authority and then be paid after death.

**ROBINSON:** Yeah, joint ownership is a fundamental issue. Joint occupation with another party fundamentally changes things.

**LEWIS:** Jeanette, did you want to come in there?

**ROBERTS:** I was just going to add that with regards to the 12 week disregard, that that can also now be applied retrospectively. So if someone doesn't benefit from it when they first go into a care home because their assets are over the capital threshold, they can actually now - and have been able to for about 3 years - ask for that retrospectively, So there are probably quite a few listeners that may be able to claim some money back from the local authority by way of overpayment with regards to the 12 week disregard.

**LEWIS:** Frances?

**AUGER:** Yeah I think the rest of your capital and assets has to be below £23,250 because it's the value of the property that's ignored. So if the rest of your capital and assets are over that, until they're down to that level the property is only ignored at that stage for the 12 weeks.

**ROBERTS:** That's why it's retrospectively, because some people didn't benefit from the 12 week disregard when it was first applied, when they became a permanent resident, because they were over the capital threshold. But when their capital now comes down under the capital threshold, they can actually apply for the 12 week disregard retrospectively.

**LEWIS:** Okay.

**AUGER:** As soon as that criteria's met, they can ...

**LEWIS:** Okay, well we'll have details on our website, [bbc.co.uk/moneybox](http://bbc.co.uk/moneybox), and there'll be links to the various experts on the panel and you'll be able to contact them directly if you want to. And I should also say that in a few days time there'll be a transcript for the whole programme on our website, so all those complicated bits that perhaps you didn't have time to write down, you'll be able to read exactly what they said. Thank you David and also thanks for the email from Barbara. I hope that helped. We're now going to Beverley who's in London. Beverley, your question?

**BEVERLEY:** Yes, thank you for taking my question. I have a close friend who's in a care home and his local council is paying, but it's not really meeting his needs. They're supposed to provide what they describe as palliative care, but he's often left on his own in his room and often the family have to go there and help you know like tidying up the room and cleaning the bathroom and making sure that you know he's adequately fed and so on. So I was wondering is there any way we can claim the money that's paid to the care home to treat him at home - i.e. have a live-in carer or carers? But you know having said that, his home does need renovating and I understand that he's only entitled to something like four hours per day you know care. He is not all that compos mentis, so he can't make any decisions for himself and he's considered to be in a vulnerable category. So I don't know you know what we can do to make life better for him.

**LEWIS:** Jean French?

**FRENCH:** This is quite complicated, but some suggestions. I mean, first of all, I think making a complaint about the care home. Doing that in a constructive way in order to make it clear what's not happening and what should be happening and trying to work towards that would be something I would look into. I mean there is the possibility I think of one could talk with the local council about direct payments, so rather than receiving the service in the form of the care home provision, they could ask whether an amount of money could be paid to them and they could then employ individuals to come in and do what they felt was needed. Now obviously that doesn't solve the problem of where the person would live, but you know that might be something that you could start exploring.

**AUGER:** Did you say that he was assessed as needing four hours care a day?

**BEVERLEY:** No ...

**AUGER:** Oh sorry.

**BEVERLY:** ... the council will only offer four hours care.

**AUGER:** So they're saying that's the maximum care package at home they would put in?

**BEVERLEY:** Yes, that's the care package nowadays. In the past you know you could have somebody live in 24/7 and you'd have like two or three people you know come in and help you and the council would pay for it because I've had it arranged for someone else, but this was years ago in a different borough. But it seems like nowadays because of cuts, you can only have you know like four hours, so the family have to provide you know the rest.

**AUGER:** I'd need to check this out to be sure, but my understanding is that you can have care at home. The local authority may limit that to what they would fund for a care home, so you may have to find the difference another way, but I'd certainly need to check that out before I could give you a definite answer.

**LEWIS:** And what about the quality of this home? I mean it's called a care home, but it doesn't sound as if Beverley's relative is getting much care there ...

**AUGER:** It doesn't sound very caring.

**LEWIS:** ... f relatives are having to go in to clean the bathroom and make sure they're fed and everything. It sounds pretty terrible.

**ROBERTS:** It's a little bit worrying, Paul. It's a little bit worrying that ...

**LEWIS:** Jeanette?

**ROBERTS:** ... that this is going on actually, and I would be inclined firstly to have a chat with the local authority social services because it may well be that this care home needs to be subject to safeguarding just to make sure that they are reaching the required standards for that care home. That may also involve approaching CQC

(which is the Care Quality Commission) who are almost the Ofsted of care homes, to see whether they would come in and monitor the situation. But going back to your question about coming home, did you say that he doesn't have capacity?

**LEWIS:** Mental capacity she means. Can he make his own decisions?

**ROBERTS:** Sorry, mental capacity.

**BEVERLEY:** Yes, he hasn't really got the mental capacity to make any decisions for himself.

**ROBERTS:** Okay.

**BEVERLEY:** But he hasn't got a mortgage, you know the home is cleared, but it's to you know organise all of that.

**ROBERTS:** You wouldn't be able to take him from the care home to his home at the moment without there being what's called a "best interest meeting" because if he's deemed not to have the mental capacity to make that decision, by taking him from the care home you may actually find yourself breaching human rights legislation and also committing the offence of an assault. So you have to be very careful not to sort of think about taking him home. You need to look at asking the local authority to look at a best interest meeting to see what's in his best interests.

**LEWIS:** And could that be moving him to a better home, briefly Jeanette?

**ROBERTS:** Absolutely, a better home. But also looking at the possibility of going home as well if there are carers that are there that could be put in place.

**LEWIS:** Okay. Can we bring that to a close now. Beverley, thanks for your call. I hope that was helpful. I'm cutting it off because we've got a couple more people I'd like to squeeze in if we could. Francis in Walsall, could you be fairly brief in your question?

**FRANCIS:** Hello, good afternoon. Yes my father has been in a nursing home since 2005. In 2010 he was given CHC funding, but we're still topping up substantially and I want to know if that's legal.

**LEWIS:** Right, you're topping it up. When you say CHC funding?

**FRANCIS:** Continuing Healthcare Funding.

**LEWIS:** Right, I thought if you got Continuing Healthcare, they paid everything.

**FRANCIS:** This is my issue, yes.

**LEWIS:** Frances, there are nods around the table here.

**AUGER:** It's not really my subject. I think the ...

**LEWIS:** Let's ask Jeanette. Jeanette?

**ROBERTS:** How much exactly are you topping up and for what reason are you ...

**FRANCIS:** (*over*) A substantial amount. Over £400 a week.

**ROBERTS:** Wow!

**FRANCIS:** The PCT Is paying £666. My father's paying £450.

**ROBERTS:** Okay. I mean I don't know the reasoning behind it, but certainly the Primary Care Trust and the NHS has a duty to preserve the public purse, and what they will do is they will provide appropriate accommodation and appropriate care as part of the continuing care package, but what they won't do is supply, provide for you know the best room in the care home or you know a sea view. And it sounds like perhaps they're using that as an excuse not to fully fund.

**LEWIS:** And Jeanette, briefly, if Francis obviously thinks this is wrong, how can he get it checked or appealed?

**ROBERTS:** Well you can write to the Primary Care Trust and ask them to review the level of funding. Normally the local Primary Care Trust, the local panel can agree a level of funding, and it sounds like that's what they've done in the first instance. But they can go to what's sometimes called in some areas a county panel, which can agree and authorise a higher amount of funding for the care.

**LEWIS:** Okay. I think that may be your best course there, Francis. Thanks very much

for your call. I hope you get somewhere with that. It is an unusual question, I think, from my recollection. Andrew is next in Brixton. Andrew, if you could also be brief, we'll squeeze in a couple of answers.

**ANDREW:** Okay, thanks very much. I'm ringing on behalf of a lady who's approaching retirement age of about 61 in a couple of years. She'll have a pension of about £10,000. She's looking to go into sheltered accommodation soon because she has arthritis. Now her major asset is a house worth £140,000 and she's got about £20,000 on top of that. She's got an only daughter. She'd like to gift the house to her daughter, so that she is left with something - the daughter, I mean. The question is would gifting the house within a year or two of going into sheltered accommodation scupper any rules, involve breaking any rules relating to gifting in these circumstances?

**LEWIS:** Dave Robinson?

**ROBINSON:** Potentially yes. There's a sort of collection of legislation, various rules, bits of local authority practice taken collectively known as intentional deprivation of capital, and basically what that means is if someone deals with their assets in order to take them beyond a means assessment, then the local authority can see through that. It sounds to me like this lady has already got some health issues by virtue of the fact she's looking actually for sheltered accommodation and you mentioned she does have arthritis. The laws in very quick summary say that if action is taken at a time when someone is in reasonable health, then it's unreasonable for the local authority to seek to prove intentional deprivation of capital. So it's possibly a course of action she could take. She may take that course of action obviously for other reasons. She may want to give the house to her child in order to create an inheritance. That has been a valid argument in the past. It sounds slightly tenuous, but again I don't know the specifics of the situation.

**LEWIS:** So there are dangers. And I think we must leave it at that because we've just about run out of time, I'm afraid. Thanks Andrew, but dangers in doing it, I think. My thanks to Dave Robinson, accountant Dave Robinson; Jeanette Roberts, solicitor; Jean French from Carers UK and Frances Auger of First Stop Advice. Thanks for all your calls and emails. There's more about paying for care on our website,

[bbc.co.uk/moneybox](http://bbc.co.uk/moneybox). You can listen again, read my newsletter, and in a couple of days read a transcript of the programme. I'm back at noon on Saturday with Money Box. Vincent Duggleby's back next week to take your calls on Money Box Live on annuities.