

## **THE FORGOTTEN RESIDENTS: CAN THEY AFFORD LONG-TERM CARE?**

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### **Introduction**

Contrary to popular belief, not every Ontario resident can afford long-term care.

The payment scheme for residents of long-term care facilities (nursing homes and homes for the aged) is based upon a number of assumptions. It assumes that the resident is 65 years old or older, and in receipt of the minimum income guaranteed by the Old Age Security (OAS), the Guaranteed Income Supplement (GIS), and GAINS, and that the resident's spouse is eligible for the same. It also assumes that if the resident has a spouse living in the community, the spouse has the same level of income as the resident. If these assumptions are correct, the payment scheme permits all such residents to pay the cost of being a resident without payment imposing an unreasonable financial burden. The payment scheme also takes into account those who are single with no dependents and in receipt of Ontario Works (OW) or Ontario Disability Support Plan (ODSP) payments.

Unfortunately, in some cases, the assumptions of the payment scheme are incorrect. Where the assumptions are incorrect, paying for long-term care poses a very serious problem for the resident and the resident's family.

### **FEES**

Fees for accommodation in a long-term care facility (LTCF) are strictly controlled by the regulations under the *Homes for the Aged and Rest Homes Act*, the *Nursing Homes Act*, and the *Charitable Institutions Act*.

The regulations presuppose that the resident is 65 or older, and that the only dependent they might have is a spouse, who is also 65 years old or older. Unfortunately, this is not always the case. Many residents are under the age of 65 and, in fact, a resident might be as young as 18 years old. Persons afflicted with chronic illnesses, such as Parkinson's disease, early onset Alzheimer's disease and multiple sclerosis, to name a few, may find themselves living in a LTCF at an age much below 65, due to the scarcity of group homes and other alternative housing arrangements. These residents may have

spouses and other dependents living in the community who are also not 65 years old or older.

Accommodation fees in LTCFs are set annually. Residents in ward accommodation may apply for a rate reduction based upon income. Those in receipt of OAS, GIS and GAINS only (as well as those receiving OW or ODSP payments) will have their accommodation rate reduced to ensure that they have at least \$112.00 per month for personal use after paying for accommodation.

If the resident has a spouse in the community and they are both receiving OAS, an application may be made for “involuntary separation” under the *Old Age Security Act* to entitle them to be treated as singles for the purpose of OAS, GIS and GAINS.

An application may also be made to the Ministry of Health and Long-Term Care (the “Ministry”) for an “exceptional circumstances” reduction to reduce the accommodation fee by an additional \$152.08 where one spouse remains in the community. This amount must be given to the spouse living in the community, or the reduction will be terminated. Other than this, any reduction is based solely on the income of the resident, with no recognition of the existence of dependents or any debts. This may create a financial crisis when spouses are not over 65 and in receipt of the maximum pension or when there are children.

## **THE POLICY**

Income is not part of the eligibility criteria for admission to LTCFs and cannot be used as a reason to deny an application (despite the fact that some facilities continue to income test). There is no asset testing and the intent is that assets, including savings, do not have to be depleted to pay fees in a LTCF.

The *Long-Term Care Facility Program Manual* prepared by the Ministry sets out the policies which LTCFs must follow, including policies regarding rate reductions. Under the section entitled “Exceptional Circumstances Reduction”, the policy states as follows:

The regulation ensures that:

...

2. Spouses (including those spouses who reside in the same room in a LTCF) will not be forced to legally separate in order to improve their financial position.
3. Relief is provided to eligible spouses in the community.

(from *Long-Term Care Facility Policy Manual: Implementation Copy*, Ministry of Health and Long-Term Care, as amended, 0607-07, at page 1)

Unfortunately, the regulations regarding rates do not support this policy, leading to undue hardship, stress and poverty in cases where they do not meet the above-noted income assumptions. Admission may, in fact, not take place as families cannot get information prior to admission as to how their situation will be dealt with by the Ministry. Applications for ODSP may not be appropriate until after admission and take many months to review and approve. Many individuals do not enter LTCFs because they feel they cannot afford to, endangering their own health as well as the well-being of their families.

## **THE PROBLEM**

The situation of a 58 year old wife and a 65 year old husband who requires admission to a LTCF illustrates the problems created under the current payment scheme. The husband has an income of \$1,500.00 per month from CPP, OAS, GIS and company pensions. The wife worked in the home all her life raising her children and caring for her ill husband. They live in rural Ontario, and own a home with mortgage payments of \$600 per month. They also own a car and have other household expenses. The wife has moderate health problems but is not disabled. The husband is admitted to a LTCF. The husband does not qualify for a rate reduction as his income is more than \$1308.89 plus \$112.00 per month. The rate is reduced by \$152.08 because the resident has a spouse in the community. This results in the husband having \$112.00 per month comfort allowance, and the wife having \$233.19 for all her expenses.

An application for involuntary separation is not a solution as this would mean they are treated as single individuals and the husband's GIS would be reduced. (The wife is not eligible for anything in any event, including spousal allowance, as she is not yet 60.) The wife is not disabled and would not qualify for ODSP. (If she met the disability criteria, she should be eligible for ODSP as the spouse in the facility should be deemed as no longer part of the family unit.)

Involuntary separation status would also not help if the wife was between age 60 and 64 and in receipt of the spouse's allowance. The maximum rate per month is \$752.44 (less than a single over 65) and if treated as single, she would lose her entitlement completely.

In this case, the wife is not eligible for OW as the family income of \$1500.00 per month is too high. There is no such thing as involuntary separation for the purpose of OW. Spouses are often advised that they have to "legally separate" from their husband to be eligible for OW benefits. (If she were eligible, a lien might be put on her home, she may have to sell the car, use all her savings and participate in Workfare.)

If the wife is unable to find work, she is pushed into poverty and possibly bankruptcy. If she has to sell her car, she may have to move, may not be able to visit her husband, shop for groceries, etc. She may have nowhere to live, given high rent costs and the scarcity of low-income housing.

Interestingly, if the wife was admitted into a LTCF, the exceptional circumstances reduction would reduce her fees to \$0.00 as she has no income. Unfortunately, this application is often not completed and the facility may try to require the spouse to be responsible for the payments. There is no requirement for a party other than the resident to pay the fees and no agreement should be signed to the contrary.

What can be done to solve the problem faced by the couple in this example?

## **THE SOLUTION**

The answer is to amend the payment scheme regulation so that it is the same as that for chronic care facilities. On January 1, 1997, the regulations to the *Health Insurance Act* were amended regarding fees in chronic care facilities and for those awaiting placement in chronic care or LTCFs ("ALC" patients).

The changes harmonized the rate for ward accommodation in chronic care and LTCFs. Effective July 1, 2000 the rate for ward accommodation is the same as that in LTCFs, \$1,308.89 per month, with a reduction to \$890.89 for those receiving only OAS, GIS and GAINS and a potential further reduction of \$154.08 for a spouse residing in the community. However, the chronic care regulations differ in that they recognize that residents and their spouses might be under age 65, and that there may be dependent children. An exemption based upon the income of the individual and his or her dependents is available, as follows:

### **NEW EXEMPTION LEVELS BASED ON**

#### **MONTHLY FAMILY INCOMES**

<b>Family Size</b>	<b>Full Exemption</b>	<b>Partial Exemption</b>	<b>No Exemption</b>
One Dependent	\$3016 or less	\$3,017 - \$6,942	\$6,943 or more
Two Dependents	\$3,448 or less	\$3,449 - \$7,374	\$7,375 or more
Three Dependents	\$3,841 or less	\$3,842 - \$7,767	\$7,768 or more
Four or More	\$4,192 or less	\$4,193 - \$8,118	\$8,119 or more

(as of July 1, 2000 from Appendix 1 to Memorandum to Chief Executive Officers & All Public and Private Chronic Care Units/Hospitals, from John King, Assistant Deputy Minister, Ministry of Health and Long-Term Care, Re: Hospital Chronic Care Co-payment Information, dated May 16, 2000)

In our example, the husband in a chronic care facility would pay \$0.00, while his fee in a LTCF would be \$1,154.81

It is also interesting to note that in the Hospital Chronic Care Co-Payment Questions and Answers, a further deduction is contemplated as follows:

19Q. What can be done if the patient, because of legitimate financial difficulties, is unable to afford the assessed co-payment?

19A. Hospitals should deal with cases where extenuating circumstances of financial problems make it difficult to pay the co-payment, and they can use discretion in how the patient's assessed co-payment is resolved. The Chief Executive Officer or his/her designate should make this decision.

(from *Hospital Chronic Care Co-Payment Questions and Answers*, Ministry of Health & Long-Term Care, Health Care Programs – Hospitals, July 1, 2000 at page 19).

While the Ministry of Health and Long-Term Care has similar authority regarding LTCF rates, this is not readily apparent in the regulations or other materials and most people are unaware they can make such a request. Even when such requests are granted, however, they are rarely as generous as the system available in chronic care.

## **CONCLUSION**

We owe it to this forgotten segment of the population to advocate for changes to the regulations to ensure that there are no barriers to admission to LTCFs based upon income. These residents and their families should not be left to face undue hardship and stress at an already difficult time. While we understand that the government intends to replace the many pieces of long-term care facility legislation with one comprehensive act in the future, we do not know when that will take place or what changes will be made. Given the seriousness of the problem, it is important that we bring this issue to the attention of the government and request immediate changes. However, until those amendments are made, when these situations arise, every effort should be made to advocate with the Regional Director to ensure that accommodation rates are reduced for residents of long-term care facilities in the same manner as would be available if they were residents of chronic care facilities.