

SUBMISSION MADE IN RESPONSE TO THE

LIVING LONGER LIVING BETTER AGED CARE LEGISLATION

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RESPONSE TO LEGISLATION:

The Living Longer Living Better Aged Care Legislation provides for two fundamental shifts in the way that the elderly will be cared for in the future. The first is a shift away from residential care to home care as the projected numbers requiring care will outweigh the resources available from a public system. The second shift is from a government funded system to a user pay system based on the means of care recipients. Those who have the means to pay for the care will be asked to do so while those who have no means will receive basic services to meet their needs.

This second shift is also a shift in how people are treated, based upon their circumstances.

However, the current legislation before the committee has a major flaw in that it is asking one group of elderly people to be treated differently, even though they have the same means.

The example below is how the legislation will work for two groups of people, those who stay at home and those who enter residential care. Both have the same means (assets, income, etc), but one is being stripped of their assets in what could best be described as a PRE DEATH TAX.

From both the consumer and the provider point of view the legislation is seriously flawed in the way it treats two equals.

AN EXAMPLE OF THE TREATMENT OF TWO ELDERLY PEOPLE UNDER THE LIVING LONGER LEGISLATION:

Two neighbours. Mrs Jones and Mrs Smith live next to each other and they are 85 years of age. They are both assessed as needing high care.

Mrs Jones has a big family network and is supported well by her family. She is a clear thinker but the body is giving out.

Mrs Smith has little family support as her children live interstate. She is confused and finds it hard to live at home and is fearful of being alone.

Mrs Jones is offered an EACH package at home while Mrs Smith needs support in a residential facility.

Both Mrs Jones and Mrs Smith have \$ 200,000 in the bank which was left to each of them by their deceased husbands (life insurance monies). Each of their houses have been valued at \$ 350,000.

Mrs Smith enters a residential care facility, sells her house and pays a bond of \$ 350,000, which is then left there and available to her family at a later stage.

Mrs Jones stays at home and keeps the home and it is available for her family later.

Each of them earn \$8,000 per annum in income from interest on their \$200,000.

Now for the inequity:

Mrs Jones only has to pay part of this income towards her care co-contribution under the new system.

However, Mrs Smith will pay a care co-contribution from the income and she will also pay part of her assets towards a care co-contribution. Therefore, part of the \$ 200,000 of Mrs Smith's money will be taken to pay for her care. Mrs Jones will pay nothing of her \$ 200,000.

Both are getting the same service (one at home and the other in a residential care facility). Both are paying for their accommodation, one in their home and the other in the form of a bond.

The question is - why is Mrs Smith paying part of her other assets towards her care (nothing to do with paying for accommodation) while Mrs Jones pays nothing of her assets?

THE RESPONSE FROM THE DEPARTMENT REPRESENTATIVES:

This matter has been raised with Department of Health and Ageing Officers on a number of occasions and their response is that Mrs Smith is not paying a care co-contribution, but rather this extra money is paying for her accommodation (even though the extra Mrs Smith is paying in care co-contribution will be deducted from the care funds the Government are paying to her provider). This response has not changed from the time it was raised.

However, it is clear that the care-contribution paid by Mrs Smith from her assets is not for her accommodation as she has already paid a bond of \$ 350,000 to cover the cost of her accommodation.

The legislation is therefore inequitable in the treatment of these two care recipients. The legislation is also unclear in how the funds will be divided between these two areas – accommodation and care co-contribution, as the formulas do not provide detail calculations of when to determine if any payment is for accommodation or care.

The Department Website shows the following charges for those in residential care, but this does not include care recipients in home care:

“For people with income or assets above these thresholds, the maximum means tested contribution is (thresholds in 2012 prices):

- 50 per cent of income above the income threshold Plus
- 17.5 per cent of the value of assets between \$40,500 and \$144,500 Plus
- 1 per cent of the value of assets between \$144,500 and \$353,500 Plus
- 2 per cent of the value of assets above \$353,500.

The maximum means tested contribution is distributed first toward the resident's accommodation payment until the **full cost of accommodation is paid and then toward their care fee. The care fee cannot exceed the cost of care.**

An annual cap of \$25,000 on care fees will protect residents with higher than average care fees. A lifetime cap of \$60,000 will protect all care recipients who receive care for a longer than average period of time. Contributions that residents may have made as recipients of Home Care packages will be taken into account in calculating lifetime care expenditure”.

In the case of Mrs Smith she will be paying an extra \$ 18,755 per annum from her \$200,000 worth of assets. While Mrs Jones will pay nothing from her \$200,000.

The above section from the DOHA website “highlighted” indicates that any monies left after paying for accommodation will go towards care. However, as Mrs Smith has already paid her accommodation bond, then she will have fully covered her accommodation and the \$18,755 per annum will go towards her cost of care. She will also pay a percentage of her \$8,000 per annum interest income making a contribution of around \$ 23,000 per annum.

Mrs Jones, on the other hand will be paying approximately \$ 4-5 k per annum towards her care at Home.

Both are the same but are treated very differently.

RECOMMENDATION:

The definition of “Death Tax” is - a tax on the estate of the deceased person.

In Australia we currently don’t have a Death Tax, but this new reform is trying to introduce a form of Tax on assets before the person is deceased. The formula and its application is a form of asset stripping an elderly person who is unable to care for themselves through no fault of their own.

The solution:

The legislation is badly written, unclear and needs to be clearly defined so that an equitable for of care co-contribution is applied.

There are three solutions to overcome this inequity:

- 1 Apply the total Means test to both Residential and Home Care so there is equity between people.
- 2 Eliminate what is a tax on a person’s estate, just prior to their death.
- 3 Better define the legislation so that it is clear what is being paid and what for.