

## Understanding Pennsylvania's Filial Support Law

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Many children with aging parents believe they have no financial responsibility for the cost of their parents' care. They are very much mistaken. Pennsylvania, along with most states, has laws that obligate adult children to pay for an indigent parent's long-term care. For reference, view [23 Pa.C.S. 4603](#). In fact, Pennsylvania's courts have issued some of the harshest decisions regarding filial liability in the country.

Filial liability does not require a finding of fault against an adult child. The child does not have to commit any wrongdoing or cause the problems that leave a parent unable to pay for his or her own care. It is enough simply to *be* the adult child of an indigent parent. Likewise, parents of adult children who are indigent can be forced to provide financial support for their children.

What does this mean exactly? Nursing homes use Pennsylvania's filial support law to seek judgments against children when a parent cannot pay for care using the parent's assets and the parent cannot qualify for medical assistance, i.e. Medicaid benefits. However, filial support claims are not limited to nursing homes. They can be asserted by any creditor, including another family member providing care to a parent when the family member wants financial contribution from the parent's children.

There are only a few exceptions to filial support claims. Chief among them is a finding of abandonment by the indigent parent during the child's childhood that lasted for at least 10 years during the child's minority. Thus, family estrangement during adulthood is not a defense. If a child can prove that he or she lacks sufficient financial ability to support the indigent parent, a claim for filial support can be reduced or avoided altogether. However, it can be hard to prove an inability to pay, and there are no clear standards applied by the courts for determining financial inability to support a parent.

The best way to avoid a filial support claim is to make sure your parent qualifies for Medicaid. If Medicaid benefits are available, they are considered payment in full for the parent's care. Consequently, no money is needed from the adult child because the parent's bills are covered in full by Medicaid benefits.

What jeopardizes Medicaid eligibility more than anything else? Gifts by the parent within five years of applying for Medicaid. Even if you do not receive the gift, a gift to anyone, including a tax-exempt public charity, can create Medicaid ineligibility for the parent/donor. So as your parents age, keep an eye out for gifts. Seek professional advice about when and how much to give away to avoid becoming the respondent in a filial support claim. The elder law attorneys at Barley Snyder are well-versed with Pennsylvania's filial support laws and know how to create strategies for avoiding filial support claims.

Without proper planning, a moment of generosity can become a legal nightmare for a parent's children and we can help avoid these nightmares. If you have any questions pertaining to the state's filial support laws,

please contact any member of Barley Snyder's [Elder Law practice.](#)