BY
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Nursing Homes Support Scheme

Noel Mulvihill discusses the Fair Deal (Nursing Home Support Scheme), the first financial scheme introduced in this country where an individual is directly funded towards the cost of long stay care.

This allows the person to choose any registered long stay facility in the country, supporting the concept of "The money follows the patient"

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Introduction

The Nursing Homes Support Scheme (often referred to as the 'fair deal scheme') was introduced on 27th October 2009 - it is a Scheme of financial support for people who need long-term nursing home care. It replaced the Subvention Scheme which had been in existence since 1993.

Under the Nursing Homes Support Scheme, people make a contribution towards the cost of their care and the State pays the balance.

The purpose of the Scheme is to provide financial support for people assessed as needing long-term nursing home care. It aims to render long-term care affordable and ensure that no-one has to sell their home during their lifetime to pay for their care. In order to apply for the scheme a person must be ordinarily resident in the State.

Care Needs Assessment

The Care Needs Assessment identifies whether or not the person needs long-term nursing home care. The assessment, which is carried out by appropriate healthcare professionals, considers whether the person can be supported to continue living at home or whether long-term nursing home care is more appropriate.

The results of the Care Needs Assessment is submitted to the HSE who will then decide whether or not long-term nursing home care is the most appropriate option.

A person must be assessed as needing nursing home care in order to be eligible for either State Support or the Nursing Home Loan. The Nursing Home Loan (this is termed "Ancillary State Support" in the legislation), where approved, means that the HSE will pay the money directly to the nursing home on behalf of the applicant. This will then be collected from the estate after death.

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Financial Assessment

The Financial Assessment examines the person's income and assets in order to work out what his/her contribution to care will be. The HSE then pays the balance of the cost of care.

Income and assets

Income includes any earnings, pension income, social welfare benefits/allowances, rental income, income from holding an office or directorship, income from fees, commissions, dividends or interest, or any income which the person has deprived themselves of in the 5 years leading up to their application. The IFA is currently lobbying for this to be reduced to 3 years for farm assets.

Broadly speaking, an asset is any material property or wealth, including property or wealth outside of the State. Within the legislation, assets are divided into two distinct categories, namely Cash Assets and Non-Cash Assets.

- **Cash assets** include savings, stocks, shares and securities.
- **Non-Cash assets** include all forms of property other than cash assets, for example a person's principal residence or land.

In both cases, the assessment will also look at assets which the person may have deprived themselves of in the 5 years leading up to the application.

If the person is a member of a couple, the assessment will be based on half of the couple's combined income and assets.

Contribution to Care

Having assessed a person's income and assets, the Financial Assessment calculates the person's contribution to care. The person contributes 80% (proposed to be reduced to 70% in Budget 2018)of his/her assessable income and 7.5% of the value of any assets per annum (5% of assets if the application was made prior to the 25th July 2013). However, the first €36,000 of the person's assets, or €72,000 for a couple, will not be counted at all in the financial assessment.

Where a person's assets include land and property in the State, the 7.5% contribution based on such assets may be deferred and collected from your estate. This is an optional Nursing Home Loan element of the scheme which is legally referred to as "Ancillary State Support".

A person's principal residence will only be included in the financial assessment for the first 3 years of their time in care. This is known as the 22.5% or 'three year' cap (15% if application was made prior to the 25th July 2013). It means that a person pays a 7.5% contribution based on their principal residence for a maximum of three years regardless of the time he/she spends in nursing home care. After 3 years, even if the person is still getting long-term nursing home care, the person will not pay any further contribution based on the principal residence. This 'three year' cap applies regardless of whether the person chooses to opt for the loan or not.

In the case of a couple, the contribution based on the principal residence is capped at 11.25% (7.5% if the application was made prior to the 25th July 2013) where one member of the couple remains in the home while the other enters long term nursing home care, i.e. the 'three year' cap applies. Where a person opts for the nursing home loan in respect of the principal residence, their spouse or partner can also apply to have the repayment of the loan deferred for their lifetime.

All other assets are taken into account for as long as the person is in care.

The 'three year' cap also extends to farms and businesses in circumstances where:

(i) the person has suffered a sudden illness or disability which causes them to need long-term nursing home care, and
(ii) the person or their partner was actively engaged in the daily management of the farm or business up until the time of the sudden illness or disability, and
(iii) a family successor certifies that he or she will continue the management of the farm or business.

This measure is intended to ensure the financial sustainability of family farms and businesses in cases where a person suffered a sudden illness and did not have an opportunity to put appropriate succession arrangements in place.

There are important safeguards built in to the Financial Assessment which are worth noting:

- Nobody will pay more than the actual cost of care.
- A person will keep a personal allowance of 20% of their income or 20% of the maximum rate of the State Pension (Non-Contributory), whichever is the greater.
- If a person has a spouse/partner remaining at home, he/she will be left with 50% of the couple's income or the maximum rate of the State Pension (Non-Contributory), whichever is the greater.
- If both members of a couple enter nursing home care, they each retain at least 20% of their income, or 20% of the maximum rate of the State Pension (Non-Contributory), whichever is the greater.

Nursing Home Loan ("Ancillary State Support")

As outlined above, where a person's assets include land and property in the State, the contribution based on such assets may be deferred. This means that the person does not have to find the money to pay the contribution during their lifetime. Instead, if approved, the HSE will pay the money to the nursing home on their behalf and it will be collected after their death or if the property is sold.

In order to apply for the Nursing Home Loan a person must provide written consent to having a Charging Order registered against their asset. If the person is part of a couple, their spouse/partner must also request the payment of the loan and they must both consent to having the Charging Order registered against their interest in the asset. The Charging Order is a simple type of mortgage which secures the money loaned by the HSE. Subject to the person's consent, the HSE is responsible for making the Charging Order, registering it against their asset and making Nursing Home Loan payments to the nursing home on their behalf.
This is an optional benefit of the scheme. It is effectively a loan advanced by the State which can be repaid at any time but will ultimately fall due for repayment upon a person's death. A person may choose to apply for this element of the scheme at the date of initial application or at any stage while resident in the nursing home.

Repayment of the Nursing Home Loan

The purpose of the Nursing Home Loan is to ensure that a person doesn't have to sell assets such as their home during their lifetime. If the person opts for the Nursing Home Loan, it will become repayable:

- after the person's death,
- if the person sells or transfers their property (if this occurs before your death),
- if the person or their partner are deemed to be bankrupt, or
- if the HSE determines that it has been given false/misleading information relating to an application for the loan.

However, where the loan becomes repayable on a person's death, the repayment of monies based on the principal residence only can be further deferred or postponed in certain cases. This is called 'Further Deferral'.

Further Deferral

There are some people who may qualify for a further deferral of the repayment of the loan. This means that the money provided under the Nursing Home Loan will not have to be repaid during their lifetime. These are:

a) A person's spouse or partner,
b) A person's child (or their spouse/partner's child) if they are under the age of 21 years or if their assets do not exceed the asset disregard
c) A person's sibling if their assets do not exceed the asset disregard,
d) A relative in receipt of a disability or similar allowance, blind person's pension, or the State pension (non-contributory), or whose income doesn't exceed the State pension (contributory),
e) A relative who is in receipt of a foreign pension or allowance similar to those outlined in (d) above,
f) A relative who owns a building to which the principal residence is attached (e.g. 'a granny flat'), or
g) Any person who cared for an applicant prior to the latter entering the nursing home (this is defined by reference to relevant social welfare payments).

The individuals at (b)-(g) above are termed "connected persons" and they must also satisfy the following conditions:

- The asset in question must be their only residence, and
- They must have lived there for not less than 3 years preceding the original application for the Nursing Home Loan, and
- They must not have an interest in any other property.

Repayment of Loan to the Revenue Commissioners (Revenue)

When the Nursing Home Loan falls due for repayment, the HSE writes to the person responsible for the repayment ("relevant accountable person"). It notifies them that the loan must now be repaid and advise them of the amount due. In doing this, the HSE applies the Consumer Price Index to the loan to take account of the time value of money (i.e. inflation or deflation) since the loan was made.

The relevant accountable person is responsible for the repayment and may be a different person depending on the circumstances. For example, if a person sells or transfers their property during their lifetime, the person and their spouse/partner are the relevant accountable persons. On the other hand, where the loan is repayable after a person's death, the person's personal representative is the relevant accountable person. A person who inherits the property or any part of it can also be held accountable for repayment of the loan.

Money owed under the Nursing Home Loan must be repaid to the Revenue Commissioners. It should be repaid as soon as possible after notice is received from the HSE. Once payment is made within the legal time limits, interest will not be levied by the Revenue Commissioners.