Health Investor article, Friday 1st March 2013

If the cap fits

The government has at last published its plans on care funding. But who will actually benefit from the changes, asks Catherine Llewellyn.

Ever since the Dilnot Commission's report on social care funding was published a year and half ago, the care sector has been waiting on tenterhooks.

Finally, a £75,000 cap on the amount elderly people in England have to pay for their social care before the government steps in, has been announced. Although this comes with the rather weighty disclaimer that this will not include so-called accommodation costs, such as food, heating and paying for the room for care home residents.

The means-test threshold has also changed: it has now been raised to £123,000 from a lowly £23,250. This means that people with an estate valued at below that level may not have to pay for care.

Those who qualify for help through means-testing are then assessed for need. Councils are obliged to provide care only if applicants meet a certain threshold. There are four thresholds – low, moderate, substantial and critical. It is up to councils to decide which standard they want to set depending on their finances. The cap and means-test threshold are expected to be put in place by 2017 at the earliest.

Health secretary Jeremy Hunt has said this will stop the "scandal" of people having to sell their homes to pay for their social care. The plans will be part-funded by freezing the inheritance tax threshold at £325,000 for individuals and £650,000 for couples for three years from 2015.

The cap is much higher than economist Andrew Dilnot had proposed. Dilnot, whose review into the future of social care recommended a basic care cap of between £25,000 and £50,000, said: "The cap that is being proposed is £75,000, we think in 2017 prices. That's the equivalent of £61,000 in our terms, so it is higher than we would have wanted – £11,000 higher than the top end of our range, and I regret that, but I recognise the public finances are in a pretty tricky state." Dilnot's recommendation would have cost the government £2 billion. The government's latest plans are expected to cost £1 billion a year.

The cap has been slammed by many in the sector and media for benefiting few people – namely wealthier families, and the poorest of families. Most ordinary families could still face losing their home to pay for care. In fact, Dot Gibson of the National Pensioners Convention, told the Daily Telegraph that the plans were "as credible as a Findus lasagne" and would help "just 10% of those needing care".

But the existence of a cap at all was welcomed by parts of the sector. Richard Humphries, assistant director for policy at thinktank The King's Fund, says: "For the first time, individual liabilities will be limited, protecting people against the worst aspects of the current care lottery." The limited liability model refers to the idea that the state should pick up the 'tail-risk' costs associated with needing care. The increase in the upper threshold for means-tested support to £123,000 is also a boost for those with "modest resources". "The combined effect of the cap and a higher means test threshold will see more people receive public funding", adds Humphries.

Meanwhile, Susan Thompson, partner at law firm DAC Beachcroft, believes the cap brings certainty to a market that has "suffered from uncertainty". Individuals will be able to secure answers to the key questions: "What services are out there for me; how much do they cost; and how am I going to pay for them?" says Thompson.

But Lawrence Tomlinson, founding chairman of Ideal Care Homes and the LNT Group, is concerned about the "additional uncertainties" the reforms will bring, and the longer term impact it will have on the sector. "The lack of detail in the policy statement on how this will operate creates great uncertainties for the sector in the short-term," Tomlinson told HealthInvestor. "Without the necessary details on how funding of this new system will be arranged, it is hard to pre-judge exactly what the impact will be, which in turn creates ambiguity for providers and investors who have to plan for the coming years," he adds.

Tomlinson warns that this could lead to a stalled market, with investors nervous of putting finance into the system, and providers being unable to make any capital investment to improve the quality of their stock.

Chris Horlick, managing director of care at care annuity provider Partnership, says that it's important to make people aware that it is not a complete cap on all care costs. "People, particularly self -funders who form the majority of people in the adult social care system, need greater clarity about what the cap will cover and what it will not," says Horlick.

Horlick explains that the cap will only apply to the "personal social care" element, which is usually a third of all residential care costs, and is subject to local authority rates. The cap does not cover general living expenses – which are estimated at around £7,000 to £10,000 a year.

Tomlinson adds that statements in newspaper reports such as "this is the maximum you will have to pay" should be retracted, as these are "simply not true". There are a number of assumptions in the proposals as well, such as the fact that you will not be able to self-top up, "which should be further clarified as presently this is not legal", says Tomlinson. With the increased means-test threshold, no local authority funded resident can self-top up, so this means people with up to £123,000 of capital could have to rely on third parties, such as friends and family, to top-up their fees if they choose to remain in higher quality provision.

Third party top-up fees themselves get no discussion in the proposals, but friends and families are currently being relied upon to pay top-ups on local authority funded residents. These third parties will not be helped by the reforms because what they are contributing towards are currently not considered as “eligible needs”.

The cap for those who reside in areas where the local authority has commissioned care provision at a higher fee will be reached at a quicker rate than for an individual living in an area where the local authority commissions the same care needs at a lower price. This in turn of course means more top-ups are required in the former areas. Tomlinson argues that the government needs to be much more transparent with its language.

With such important details still not clarified, it’s obviously important that people get relevant information. Horlick suggests this must include specialist care fees advice which will help to prevent people from depleting all their assets prematurely and falling back on the state. After all, a quarter of self funders fall into this trap, according to research from the Local Government Information Unit.

A spokesman from thinktank The Nuffield Trust says by accepting Dilnot’s principles, the government has now set the stage for a “long term awareness building campaign”. But this won’t happen overnight, he adds.

Care providers, too, face similar challenges. DAC Beachcroft’s Thompson says providers will need to be more open and transparent about the elements that make up their charges. And, for local authorities, simplifying a potentially complex bundle of costs will be “essential”.

As well as challenges, the cap may also create opportunities for some firms. Horlick says the introduction of a limit, along with greater awareness of how social care is funded, may encourage the financial sector to look at developing more products to help people to pay for their care needs.

The current issues have naturally opened up to wider debate surrounding the desperate need to increase current social care funding. Chai Patel, chairman for HC-One, argues that a “fundamental review of the economic model” is still necessary. “The overall underfunding of care remains the bigger issue and we hope this news is the first step of many steps to reforms,” says Patel. Humphries adds that by the time the cap is implemented in 2017, it will be seven years since the government said that it understood the urgency of reforming social care.

But some think the reform may have a reverse affect. “It’s hard to say at this point, but I think this is going to end up being a very expensive reform,” says Tomlinson.

“The government could end up in a financially untenable position for the sector in which they are committed to expensive yet unproductive reforms. The government needs to give some serious thought to whether on their own, these are the reforms in funding that the social care sector really needs.