



ELDER LAW AND ESTATE PLANNING

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Siblings arguing over paying for elderly father's care

Question: My father moved into my home a few months ago. He's 89 and has aphasia that makes speaking and understanding speech difficult. His doctor says therapy may improve his condition, but apparently this therapy is not covered by Medicare. I'm his health care surrogate and want him to have the therapy. My brother, who is his agent under his financial power of attorney, does not want to pay because he says that at dad's age, it's pointless. I think this is heartless. Can I force him to pay?

Answer: Aphasia per se does not necessarily render someone incompetent. If your father is still competent, this should be his decision. But if he is not, as your letter seems to suggest, have a heart-to-heart with your brother. There may be limitations on your dad's finances that you are not aware of. And it's possible your brother is not aware of the details of dad's medical condition. Could you bring in other family members, close friends, a social worker, a clergy person who could assist with the conversation? Or could you arrange a conference call with the physician who made the recommendation for therapy?

You might consider getting a geriatric care manager to do an assessment. However, they do charge a fee, so

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unless you're willing to pay, you'd have to get your brother to agree to release funds.

Retaining an elder law mediator is another option, although your brother would also have to agree to pay the fee for this. (In the interest of transparency, Attorney Joseph Karp is a Florida Supreme Court Certified Circuit Court Mediator.) Mediation will allow you and your brother to talk in a neutral environment and hopefully resolve the issue amicably.

Clients' legal issues always unfold in the context of family relationships. Caring for an ailing loved one can strain those relationships. Good luck to you and your family in resolving this issue.

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.