



Information sheet No. 34

Maintenance obligation of children towards parents in need of care (help with care)

If the costs for nursing care exceed the income of a person in need of nursing care, he or she can get what is known as help with care from the social welfare office. As soon as the social welfare office contributes to the costs of care or assumes these costs, an assessment will be made as to whether the children of the parent in need of care are in a position to contribute to these costs (maintenance obligation).

However, children subject to maintenance obligations must, in principle, first provide maintenance for their spouses and their minor children. Children up to and including the age of 21 who live in the household and are in full-time school education are also given priority (§1609 German Civil Code (BGB) in conjunction with § 1603 Paragraph 2 BGB). Accordingly, a maintenance obligation towards parents in need of care can only be considered if financial means are still available after taking these family members into account, without endangering the reasonable livelihood of the person liable for maintenance.

Maintenance obligations exist only in a straight line, that is to say in relation to parents and their children (§ 1601 BGB). An indirect claim for maintenance exists against a son-in-law or daughter-in-law. Their income is only indirectly taken into account when determining the family income. This ruling only applies to married couples. Partners living together as partners are not affected by the indirect maintenance obligation.

If the social welfare office provides help with care, the **amount deductible** of a dependent child with their own income is:

1,800.00 € per month net, as the minimum requirement for their own needs.

This includes a rent of 480.00 € including heating bills. If the actual rent including heating is above this flat rate, this should be communicated to the social welfare office, since this higher expenditure can then reduce the maintenance obligation.

+ **1,440.00 €** for the spouse, including 380.00 € for rent with heating bills.

+ the respective amount from the Düsseldorf table for each dependent child (the total maintenance requirement of an adult child with their own household), e.g. a student, equals 735.00 EUR monthly).

+ 5% of the gross income for people who are self-employed, 23.5% of the gross income for the provision of an additional pension.

Occupation-related expenses are to be deducted, whereby a flat rate of 5% (minimum of 50 € and maximum of 150 € per month) of the net income can be estimated without proof. If the expenses exceed this lump sum, detailed evidence must be provided.



In addition, special expenses and other financial burdens of the persons obliged to pay maintenance, such as credits, debts, additional costs due to illness, work-related expenses can be claimed. If the income exceeds the amount deductible that has been calculated, 50% of the difference is usually required as maintenance payment.

Assets

In principle, children must also use their assets to provide maintenance for their parents. According to case law, there are no fixed asset limits. The assets to be used are calculated by the social services taking into account the individual circumstances of each case. A self-occupied property does not have to be sold or the assets saved to provide for one's own old age do not have to be used where this is appropriate. As a rule, funeral savings may also not be touched.

Tax deductibility

Anyone who pays maintenance for their parents can claim this under "extraordinary burdens" in their annual tax return.

Disposability and proportionality

The social welfare offices shall assess whether the persons affected (persons in need of long-term care) themselves or the persons liable to pay maintenance should be expected to sell assets such as residential property not inhabited by them or other property, valuables, entitlements or rights or to encumber residential property. The principle of proportionality applies here. Nobody may have the basis of their existence or the ability to build up an existence or a pension taken away from them. Therefore, special deductibles and exemption limits apply here.

If the social security office determines that the person liable for maintenance is able to pay, it will issue a written request for payment. This can be appealed against. In addition, it is possible to seek direct contact with the social welfare office if there are any inconsistencies

The staff at the care support centre will be happy to help you.

Free service number 0800 59 500 59

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