

**BROOKS
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Expectation of Inheritance In Return for Providing Services to a Loved One → *Beware!*

A recent Massachusetts Court case sums up a problem all too often encountered. Throughout time, family members have provided services and even spent their own money on behalf of an elder loved one, with the expectation that upon the elder's death, they would be rewarded for their many services and/or expenses from the elder's estate. However, such may not be the case.

In a recent Massachusetts case, *Cheney v. Flood* (84 Mass. App. Ct. 1134, Feb. 7, 2014), a Massachusetts Appeals Court upholds a trial court's findings that the expectation of an inheritance by Ms. Cheney from her stepfather's estate does not rise to the level of an "entitlement." The facts were not in dispute. Ms. Cheney and her family performed many services for her stepfather and she thought she should receive a share of his estate when he died. After his death, it was discovered that he had left her nothing. Ms. Cheney then sued the estate and claimed that she was entitled to recover on the basis of *quantum meruit* for the reasonable value of services she and her family performed for her stepfather during the last years of his life. "*Quantum meruit*" is a Latin term which essentially means fair and reasonable payment for services performed. This argument is usually used when there is a lack of a contract that would otherwise detail how a person is to be paid.

The trial judge dismissed Ms. Cheney's *quantum meruit* claim because she failed to allege that she performed services for her stepfather with the expectation that she would be paid. Apparently nothing had been discussed about what services she and her family would perform for her stepfather's benefit and what she or they may be paid. Ms. Cheney appealed the trial court summary judgment decision against her, arguing that while there was no express agreement between her and her stepfather, she had always hoped that he would pay her through his estate. The problem with this argument is that there is no legal basis for payment absent an underlying contract or agreement between the parties. The appellate court rules that Ms. Cheney's hope or expectation, even though well-founded, is not the equivalent to having either legal detriment or reliance entitling her to reasonable value for services under the legal concept of *quantum meruit*.

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Free Workshops

June 10, 2014

Hampton Inn with
Luke Buehler
6:30 to 8:30 p.m.

June 17, 2014

Inn at Holiday Valley
with Laura Dealy
6:30 to 8:30 p.m.

July 8, 2014

Bartlett County Club
with Jeff Reisner
6:30 to 8:30 p.m.

July 22, 2014

Gowanda Comm. Alliance
with Andersen Cuddihy, Inc.
6:30 to 8:30 p.m.

Expectation of Inheritance Cont'd.

Let us take this a step further and apply it in a Medicaid context. What if Ms. Cheney's stepfather had indicated to her in some fashion that she would be well rewarded once he passed on, suggesting that she would inherit from his estate. This would probably have satisfied her, as it would with most children. What would happen if the stepfather had to reside in a nursing home and apply for Medicaid? Absent a prior well-thought out Medicaid plan, or an emergency crisis Medicaid plan, his resources would have to be spent down to almost nothing. What would then be left to compensate Ms. Cheney for her and her family's services? Very possibly, nothing.

We at Brooks & Brooks work with our clients to design and implement plans which will ensure that children who help their parents will receive their inheritance, or be paid for their services on an ongoing basis at the time they are rendered, instead of the "hope" that everything will work out the way they think.

**Federal Income Taxes
Who Pays What?**

The Internal Revenue Service has released its data on individual income taxes for the calendar year 2011. The data continues to reflect the fact that one-half of all taxpayers pay nearly all income taxes. Interestingly, the improving economy and higher incomes pushed taxpayers into higher brackets, resulting in an increase in average income tax rates for all income tax groups except the top 0.1%. The following is a summary of the share of income taxes paid by rank of taxpayers:

Top 1%	35.1%
1% to 5%	21.4%
Top 5%	56.5%
5% to 10%	11.8%
Top 10% Total	68.3%

10% to 25%	17.4%
Top 25% Total	85.6%
25% to 50%	11.5%
Top 50% Total	97.1%
Bottom 50% Total	2.89%

If a taxpayer's adjusted gross income was greater than \$34,823, then the taxpayer is in the top 50% category. Adjusted gross income over \$70,492 puts a taxpayer in the top 25%.

To give a little perspective in dollar amounts, the bottom 50% of taxpayers paid approximately \$30 billion in taxes in 2011. In contrast, the top 50% paid \$1.01 trillion in income taxes. All together, 100% of us paid over \$1.3 trillion in income taxes in 2011. That's "Trillion" with a capital "T". And that is just in one year! And further, that is only federal income taxes. To that we must add state and local income taxes. No matter how you slice it, that is a lot of money paid each year. Let us also not forget that the federal government spends **more** than this every year, which accounts for our \$17 trillion plus deficit.

I contend that for a nation to try to tax itself into prosperity is like a man standing in a bucket and trying to lift himself up by the handle.

Winston Churchill