

Norfolk, Suffolk and Cambridgeshire Strategic Health Authority

Health Service Ombudsman's Report - NHS Funding for Long Term Care

Some frequently asked questions:

What is Continuing Care?

Continuing Care (or 'long term care') is a general term that describes the care which people need over an extended period of time, as the result of disability, accident or illness to address both physical and mental health needs. It may require services from the NHS and/or social care. It can be provided in a range of settings, from an NHS hospital, to a nursing home or residential home, and people's own homes

What is NHS Funded Continuing Care?

NHS Funded Continuing Health Care is the term used to describe a package of care arranged and wholly funded by the NHS.

Who qualifies for NHS Funded Continuing Care?

To receive NHS Funded Continuing Care, a person must be assessed as meeting the eligibility criteria produced by the Strategic Health Authority. People who meet the eligibility criteria will have complex, unpredictable or deteriorating conditions.

What is the level of financial support available?

100% of a package of care arranged and funded solely by the NHS. It does not include the provision by local councils of any social services.

Why is the NHS reviewing cases where people have previously been denied NHS funded continuing health care?

In February 2003 the Health Service Ombudsman produced a report - NHS Funding for Long Term Care. The Report is concerned with four investigations in different Health Authorities, which have taken place over the last 18 months, following complaints about arrangements for long term NHS care for older and disabled people. The complaints concerned were largely justified. Authorities were using over restrictive local criteria that were not properly in line with Department of Health guidance nor with a crucial judgement by the Court of Appeal in 1999, (the Coughlan Judgement). The complaints also raised other concerns about how the system for assessing eligibility for NHS funding has been working.

The Health Service Ombudsman has asked Strategic Health Authorities and Primary Care Trusts to review the criteria used by the NHS and the way those criteria are applied, since 1996 in deciding whether people were eligible for

free care in a nursing homes. In carrying out that review the Ombudsman drew our attention to the need to take into account the Coughlan Judgement, guidance issued by the Department of Health and her own findings. She went on to say that we should make efforts to remedy any consequent financial injustice.

Which cases would qualify for a review?

Anyone is eligible to request a review, irrespective of whether the person is still alive. However, the only ones which are likely to be successful are those which meet the eligibility criteria and thus have care needs which are complex, unpredictable or deteriorating and require continuing and regular specialist clinical supervision by doctors, nurses or other professional staff.

What is the process involved in this and, if successful, who is responsible for the payment?

Your case will be sent to the relevant Primary Care Trust (this is determined by where the person lived immediately before moving into a care home), for more detailed investigation. In broad terms, the steps involved in dealing with a case will be:

- To seek out health, **social care** and **nursing home records**.
- To establish whether an assessment for NHS funded continuing care was carried out at the time of admission to a care home.
- If the claimant is currently receiving care, a health assessment will be carried out. If appropriate a full continuing care assessment will then be undertaken.
- The case will then be considered by a Clinical Assessment Panel. The panel will consider all relevant information to determine whether the individual would have been eligible for NHS funded continuing care if the current criteria had been used. You will have an opportunity to submit, in writing, your own views about the needs of the individual at the time of the original decision. The Panel will consist of an experienced nurse and social worker, a continuing care lead and a geriatrician, or appropriate clinician. None of the panel will have been involved in any decisions relating to the individual's care previously.
- The Review Panel will make its recommendation to the relevant Primary Care Trust and you will be informed of the decision.

If I make a successful claim, how will the payment be calculated?

There are a number of possible outcomes where a case is identified as meeting the eligibility criteria. Payment will be:

- **From a specific date in the past**
- **Between specific dates in the past**
- **A combination of the above**

Where the Clinical Assessment Panel judges that the individual is currently eligible for NHS funded continuing care, the Primary Care Trust will begin to meet the cost immediately.

Where the Clinical Assessment Panel judges that the individual is eligible for retrospective payment of NHS funded continuing care this will:

- **Meet the costs of a placement or domiciliary package that were incurred during the period(s) stated, for which evidence of payment will be required.**
- **Pay interest based on the Retail Price Index.**

Can I stop paying by bills whilst the claim is being processed?

No.

Until the investigation has been completed, it is not possible to say whether your claim will be successful. Every effort is being made to process claims as quickly as possible. You will be informed by the Primary Care Trust, of the Clinical Assessment Panel's decision, as soon as it is known.

If I am unhappy with a decision, can I appeal?

Yes.

If you are unhappy with the process that has been followed you can request that the case be reviewed by a Continuing Care Review Panel consisting of an independent chairperson, a Primary Care Trust non-executive director and a local councillor.

If you remain dissatisfied with the outcome of the consideration of your case you can use the NHS complaints procedure and request an Independent Review Panel. (Further details will be available from the Primary Care Trust).

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