

## NHS Continuing Healthcare for Adults – Brokering a Care Package

### Brokering a Care Package

If NHS Continuing Healthcare status is confirmed, or there is agreement for a jointly funded care package, the CCG has a legal duty to provide an appropriate care package to meet needs.

### Care and Support Planning

The first step as soon as eligibility is determined is the planning process.

Care and support planning will require the adult and/or their representative to choose either:

1. A directly commissioned care package; or
2. A Personal Health Budget (which may include a direct payment).

The CCG must provide a care package, which the CCG deems appropriate to meet need. The individual's wishes (such as whether they wish to receive care at home or in a care facility) and preferred outcomes (i.e. what the care package should achieve) must be taken into account.

An integrated approach should be taken. The Decision Support Tool should be used to create a single, integrated and personalised care plan. The care plan should take account of and address all of an adult's education, health and social care needs.

### What are Directly Commissioned Care Packages?

This means the NHS organises and pays for a package of care directly once a care plan has been agreed. Whilst this is the approach favoured by many sadly problems and disputes can arise with regard to the provision of care. Typical problems include:

- The care model can be more expensive than the CCG's favoured type of care delivery. Often this occurs when an individual with a long term, complex condition, wishes to receive a package of care at home because the cost may be significantly higher than care provided in a facility. The CCG may suggest that the individual therefore moves into a residential care home setting.
- Where the individual is already resident in a care home that costs more than the CCG would expect to pay for care in the locality, a CCG may seek to move the individual to alternative, cheaper accommodation. Top-ups to care packages are not permitted.
- The extent of services to be provided by a CCG as part of an NHS Continuing Healthcare funded package are often in dispute. Services included within a care plan may not match the actual care provided.
- There can be delays in the implementation of a care package where a jointly funded package has been awarded because of cost sharing disputes between authorities.

- There can be difficulty with the consistency of care because of imposed changes to commissioning arrangements at short notice, which may result in gaps in provision.
- There may be unreasonable over-reliance on family members to deliver care as part of a package.

### What is a Personal Health Budget?

The alternative to a directly commissioned care package is a Personal Health Budget. This is where an amount of money is provided by the NHS to purchase the care required to meet an individual's health and wellbeing needs. In practical terms, this means the individual becomes the commissioner for his or her own care (i.e. they are in control). This facilitates greater choice and allows for care to be far more personalised.

### Who is entitled to a Personal Health Budget?

Anyone in receipt of NHS Continuing Healthcare has a right to be considered for a Personal Health Budget unless the person falls within an 'excluded category'. For example, a person on a drug or alcohol rehabilitation programme is excluded.

### How can a Personal Health Budget be managed?

A Personal Health Budget can be managed in three different ways:

1. A notional budget whereby the person agrees how the health body will spend NHS funding to deliver care in a personalised way.
2. The budget is managed on the individual's behalf by an independent third party whom spends the NHS funding on agreed provision.
3. A cash payment is made to the individual, known as a 'direct payment' whereby the individual manages and spends the NHS funding independently to deliver care which meets assessed need. There are strict rules to determine if someone is 'capable' of managing a direct payment.

### The parties to a Direct Payment

A direct payment will require the following parties:

- A Representative. This person takes legal responsibility for the direct payment arrangements where the individual lacks capacity to manage their own affairs.
- A Nominated person to receive the direct payment.
- A Care-coordinator, responsible for assessing needs & monitoring the direct payment.
- A Support organisation, named in the care plan as a service, which provides advice around issues such as employers duties.

## The Decision-Making Process

Getting agreement from a health body to a Personal Health Budget is a complex and lengthy process. The process in brief is as follows:

1. The individual or their representative requests a Personal Health Budget.
2. The health body makes a 'capability decision'.
3. The health body nominates a care co-ordinator and then prepares the care plan.
4. The cost of delivering the care plan is calculated and a budget is proposed. This is often referred to as the 'indicative budget' stage.
5. The amount of money to be paid must be sufficient to provide for the full cost of each of the services specified in the care plan.
6. The draft care plan and indicative budget is discussed and negotiation takes place.
7. Once the care plan and budget has been agreed, the health body will make a 'final decision' as to whether to proceed with the Personal Health Budget. Directly commissioned services will stop once the budget is agreed and in place.

### When will a Personal Health Budget not be appropriate?

A CCG is entitled to determine that in 'exceptional circumstances' a Personal Health Budget is an 'impracticable' or 'inappropriate' way to secure NHS funded care. This could be due to the specialised clinical care being required or simply because the view held is that it would not represent value for money as any additional benefits to the adult would not outweigh the extra cost.

For example, for those in receipt of residential or nursing care, it would need to be demonstrated that providing NHS care via a direct payment will add value to the person's overall care. Generally, direct payments will not be used to pay for care services commissioned by the NHS where that person will continue to access care provision in the same way. To improve the personalisation of care, it may be best in this common scenario to request a 'notional budget'.

### What issues commonly arise?

Brokering a care package is complex and sadly can result in disputes. Issues that commonly arise include where:

- The proposal includes the employment of family members to provide care to be funded by the NHS.
- There are arguments on whether to support a direct payment for a home care package or alternatively to commission a care home placement when it is considered considerably more expensive for individuals with long-term, complex conditions to receive specialised care at home.
- There are arguments on the amount of the proposed budget. There is a need to ensure that the budget is fixed at a level, which is sufficient to meet assessed needs.

## Annual Reviews

Once a Directly Commissioned Care Package or Personal Health Budget is in place, an initial review should be completed after 3 months, and annually thereafter. Alternatively, the CCG should review whenever it becomes aware there has been a significant change in need.

### How can Lester Aldridge assist?

At Lester Aldridge we have experience of supporting clients during the brokerage of a Personal Health Budget. Our aim is to ensure that any budget provided will enable you to have greater choice, flexibility and control over the health care and support you receive. We can provide:

- An initial, free assessment to discuss your needs, preferred model of support and what the best way to achieve your preferred care option may be.
- Advocacy at care and support planning meetings to ensure your care needs and preferences are clearly articulated to the CCG. In addition, to ensure these are reflected in the agreed care plan.
- Detailed needs assessments prepared by independent clinical experts to evidence your care needs and what a care package must include, to provide a benchmark for negotiation with the CCG.
- On-going support to negotiate with the CCG and address points of dispute.
- Advice at each key stage on the merits of accepting care package or personal health budget proposals to ensure they are sufficient to meet your needs.
- Representation at annual reviews to ensure the provision remains adequate to meet need.