Lester Aldridge

Information sheet

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Brokering a Care Package – Continuing Care for Children & Young Persons

Brokering a Care Package

If Continuing Care status is confirmed, the NHS has a legal duty to provide an appropriate care package to meet assessed needs in collaboration with the Local Authority.

Care and Support Planning

The first step as soon as eligibility is determined is the care planning process. Planning should consider factors such as how Continuing Care integrates with SEND provision, the skill mix of staff and the equipment required to meet need.

Care and support planning will require the child, young person and/or their family 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 collaboratively with the Local Authority, appropriate to meet need. The child or young person, and their family's wishes and preferred outcomes (i.e. what the care package should achieve) must be taken into account. Home-based care should be provided wherever possible.

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 a child or young person's education, health and social care needs.

What are Directly Commissioned Care Packages?

This means the NHS in collaboration with the Local Authority 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 and Local Authority's favoured type of care delivery. Often this occurs when the parent of a child or young person with a long term, complex condition, wishes to receive a package of care at home but the public bodies would prefer to commission residential care because it is more expensive to commission home-based care.
- Where a child or young person is already resident in a care facility that costs more than the CCG and Local Authority would expect to pay for care in the locality, the authorities may seek to move the child or young person to alternative, cheaper accommodation. Top-ups to care packages are not permitted.
- The extent of services to be provided as part of a Continuing Care 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 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 a child or young person's health needs. In practical terms, this means the child or young person's family becomes the commissioner for care (i.e. they are in control). This facilitates greater choice and allows for care to be far more personalised. It may also be possible to personalise the Local Authority aspects of a Continuing Care package in a similar way.

Who is entitled to a Personal Health Budget?

Anyone in receipt of Continuing Care has a right to be considered for a Personal Health Budget unless the young person or their family falls within an 'excluded category'. For example, a young person or family representative 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 child or young person's family agrees how the health body will spend NHS funding to deliver care in a personalised way.
2) The budget is managed on the child or young person'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 young person or their family 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 young person or family 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.

   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.
5) The draft care plan and indicative budget is discussed and negotiation takes place.
6) 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 required or simply because the view held is that it would not represent value for money as any additional benefits to the child or young person 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 child or young person's overall care. Generally, direct payments will not be used to pay for care services commissioned by the NHS where the child or young 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 residential care when it is considered considerably more expensive for a child or young person with a long-term, complex condition 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 care package. We can provide:

- An initial, free consultation to discuss the child or young person's needs, preferred model of support and what the best way to achieve the preferred care option may be.
- Advocacy at care and support planning meetings to ensure care needs and preferences are clearly articulated to the authorities. In addition, to ensure these are reflected in the agreed care plan.
- Detailed needs assessments prepared by independent clinical experts to evidence 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 need.
- Representation at annual reviews to ensure the provision remains adequate to meet need.

For more information please visit: www.lesteraldridge.com
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