Can I Challenge the Withdrawal of NHS Continuing Healthcare funding?

Securing a package of NHS funded care (i.e. non-means tested, free) or NHS Continuing Healthcare does not mean that the NHS will fully fund the cost of meeting all of an individual's or a loved one's needs for care, support and accommodation indefinitely.

Where an individual has been found eligible for NHS Continuing Healthcare, the National Framework provides an initial review that should be completed within 3 months of the eligible decision being made. After the initial 3 month review, reviews should be undertaken on at least an annual basis or as and when a person's needs have changed.

The National Framework's guidance is clear that these reviews should primarily focus on whether the care plan or arrangements remain appropriate to meet the individual's needs, and furthermore it is expected that in the majority of cases there will be no need to reassess for eligibility.

Despite this very clear guidance, we often find that reviews are used to commission full re-assessments of eligibility to justify removing a person's fully funded NHS care or NHS Continuing Healthcare funded status. Rest assured, the withdrawal of NHS funded care can be challenged.

Every Clinical Commissioning Group (CCG) should have a Local Resolution Process, which entitles you to request the CCG re-considers its decision. The process should be conducted by someone from the CCG, independent of the original decision-making process. Often you will be invited to attend a Local Resolution Meeting (or LRM) to discuss the reasons why you disagree with the CCG's decision.

If the CCG does not overturn its decision at the end of the process and agrees that the decision to withdraw funding was correct, it is not the end of the road. You are at liberty to challenge the outcome of the LRM by requesting that NHS England considers convening an Independent Review Panel (IRP)..

If NHS England agrees that a review of the CCG's decision is necessary, a group of individuals from CCGs and Local Authorities (unconnected to the original CCG) will form a panel. The IRP will be made up of Chair, a clinical advisor, and health and social professionals. The benefit of an appeal to NHS England is that you are taking the review out of the hands of the original decision-making body, and placing the case in front of an independent

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body of professionals.

At Lester Aldridge, our community care solicitors can provide more detail regarding the process for challenging NHS Continuing Healthcare decisions.

If you would like to discuss how to challenge the withdrawal of NHS funded care, please contact our community care law solicitors by calling 02380 827483 or by emailing communitycare@la-law.com.

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