The trials and tribulations of NHS Continuing Healthcare

The Daily Telegraph recently reported again on the trials and tribulations of accessing NHS Continuing Healthcare.

The question is, what is NHS Continuing Healthcare, what does it actually mean, and how can NHS funding be accessed?

What is NHS Continuing Healthcare?

NHS Continuing Healthcare is a non-means tested complete package of ongoing care that is arranged and funded solely by the NHS where an adult, (aged 18+), has been assessed and found to have a '*primary health need*' as a result of an injury, illness or disability. It applies not only to those in later life, but also equally to adults living with a disability who have health needs.

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What is the impact of NHS Continuing Healthcare funding?

In practical terms, eligibility for NHS Continuing Healthcare means the NHS is responsible for care provision and meeting all of the associated costs. NHS Continuing Healthcare can be provided in any setting (i.e. at home or in a care facility) and may cover the cost of accommodation (such as residency in a care home) if this is necessary to meet assessed care needs.

How is NHS Continuing Healthcare assessed?

Once an individual has passed the screening assessment, known as the Checklist Assessment, the existence of a '*primary health need*' is determined by an evidence-based assessment process.

A Multi-Disciplinary Team meeting ("MDT") made up of health and social care professionals, the individual (subject to mental capacity) and family representatives, must be convened to collectively complete a Decision Support Tool ("DST").

The DST is divided into 12 broad areas of need, known as domains. The MDT use descriptors to determine whether an individual's need in each domain is of either Priority, Severe, High, Moderate, Low or No level of need. Certain characteristics known as the key indicators, namely nature, intensity, complexity, and unpredictability, and their impact on the care required to manage needs are used to determine whether the quality or quantity of care required is more than the lawful remit of a Local Authority.

The MDT will issue an eligibility recommendation, which may require approval by a Panel.

If a CCG refuses to award eligibility, a decision can be challenged by way of an appeal to the CCG and/or to NHS England.

The trials and tribulations of accessing NHS Continuing Healthcare

Recent NHS England data suggests securing NHS Continuing Healthcare remains very difficult.

A mere 24% of eligibility assessments in the fourth quarter of 2018-2019 resulted in NHS Continuing Healthcare funding.

This does not include retrospective claims, or those found eligible as a result of the Local Resolution or Independent Review Panel appeals processes.

Of further concern is the NHS England data which suggests that despite the revised National Framework[1]which

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attempted to clarify assessment principles and processes to improve access to funding, NHS Continuing Healthcare funding may be a postcode lottery.

The case study referred to by the Daily Telegraph of the Admiral who had to battle with the CCG for over 2 years to secure NHS Continuing Healthcare funding for his mother with Alzheimer's is sadly an all too common story. In our experience, it often takes between 6-12 months to challenge a refusal to award funding in accordance with the CCG's Local Resolution procedure. Often an appeal to the CCG is required before NHS England will consider the dispute.

If Local Resolution does not result in the CCG overturning its refusal, it often takes a further 12-24 months to challenge the continued refusal by way of an Independent Review Panel hearing convened by NHS England.

Annual Reviews

Securing NHS Continuing Healthcare funded status is however not the end of the difficulties many face.

Some may not be aware that NHS Continuing Healthcare funding is subject to an Annual Review.

Statistics demonstrate that the Annual Review stage is increasingly being used to withdraw funding, particularly in the case of patients with progressive conditions.

The Community Care Team's Top Tips

To secure NHS Continuing Healthcare funding first and foremost requires patience and an acceptance that it may well be a long process. It is best to think of the NHS Continuing Healthcare journey as a marathon, not a sprint.

Success requires:

- A detailed working knowledge of the revised National Framework for NHS Continuing Healthcare.
- The ability to clearly and coherently advocate family views.
- A forensic analysis of all the available evidence to facilitate the presentation of evidenced-based arguments which apply the evidence to the assessment criteria in a structured way.
- Preparation of written submissions in support of eligibility assessments and appeals.
- If you do not succeed after the initial eligibility assessment, it is helpful to prepare detailed written submissions which evidence any procedural failings (i.e. where the CCG has failed to comply with

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the revised National Framework) and the reasons why the evidence suggests eligibility should have been awarded.

Need advice?

If you are struggling to secure funding and need further advice, please contact our friendly Community Care team.

[1]The purpose of the revised National Framework which became effective on 1 October 2018 was to attempt to clarify the difference between a healthcare and social care need, and strengthen universal assessment principles and processes to be applied nationally.

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