

# COMMUNITY CARE

## NEWSLETTER

### What's happening with NHS continuing care?



Many nursing home managers in the Sheffield area have found that residents who previously qualified for free NHS care have been reassessed as ineligible, despite there being no material change in their condition. Moreover those who might once have been expected to qualify no longer do. This is not a coincidence.

#### **PCT overspend**

In 2010/2011 Sheffield Primary Care Trust (PCT) found that its spending on NHS continuing care (CHC) was well above the weighted national average.

An external review of the CHC service was commissioned and NHS Sheffield introduced changes intended to address its overspend. It was clear that the PCT intended to reduce eligibility per head of the population.

Subsequently, NHS Sheffield PCT was abolished and replaced by a Clinical Commissioning Group (CCG). The CHC service has been reorganised within West and South Yorkshire and Bassetlaw Commissioning Support Unit which supplies services to CCG's across the region. It remains to be seen what effect health service reorganisation has upon CHC decision making but it should increase consistency.

### The Effect of Changes

From a financial perspective, the NHS Sheffield PCT changes were successful. Figures contained in the Finance Report presented to the Sheffield CCG governing body meeting on 2nd May 2013 stated that with regard to CHC there was a continuing underspend. However recent indications are that CHC spend has been rising again.

The most recent CHC statistics published by the Health & Social Care

Information Centre, published January 2014, show that for the first quarter of 2013/14, Sheffield CHC numbers had dropped to almost exactly the weighted national average.

But the same statistics show that in the first two quarters of 2013/14, the rate by which Sheffield NHS accepted new patients as eligible was running at 60% of the weighted national average.

### Public Concern

Concern has been expressed about some of the resulting eligibility decisions. The objective of rebalancing placements across health and social care clearly had implications for the way in which the National Framework for NHS Continuing Healthcare was applied. So it is important for all concerned to be clear how the test of eligibility works.

Unfortunately the Framework can appear complex and off putting. When residents and relatives look to care home staff for an explanation of the process, what are they to say? The multi disciplinary team (MDT) may consult with staff over the needs of the patient. What is it that the MDT is deciding?

### What is the correct test of eligibility for NHS continuing care?

The strict legal test which determines whether a resident has a primary health need is set out in regulations published in 2012. It is important to understand that the legal test works by setting the limit of the social services duty to provide care. Thereafter it is NHS policy that where the social services duty ends, the NHS duty begins. The CCG is not deciding what the NHS will provide, but what social services can provide. For

care home staff, residents and their relatives, perhaps the best way of understanding this is referred to in the NHS Continuing Care Practice Guidance paragraph 3.5 which states that a person qualifies for NHS continuing care "if having taken account of all their needs it can be said that the main aspects or majority part of the care they require is focussed on addressing and/or preventing health needs."

## What is a Health Need?

Applying this test requires that health needs are distinguished from other care. The Practice Guidance explains that "a social care need is one that is focussed on providing assistance with the activities of daily living, maintaining independence, social interaction, enabling the individual to play a fuller part in society, protecting them in vulnerable situations, helping them to manage complex relationships..."

A healthcare need "is one related to the treatment, control or prevention of a disease, illness, injury or disability and the care or aftercare of a person with these needs (whether or not the tasks have to be carried out by a health professional)."

In practice, if as a result of illness, injury or disability, a person needs assistance with an issue covered in the 12 health domains of the Decision Support Tool, that is a health need.

## A Rule of Thumb

It has been held by the House of Lords that the social services duty to provide residential care support is one of "looking after" a resident in accommodation.

Much clarity can be brought to the CHC process by simply asking the question, "what is really going on here, are we providing this resident with a home, helping them to manage, maximising their independence and social engagement, or are we mainly applying our training and skills as carers to manage health problems consequent upon illness injury or disability?" If it is the latter then the resident should be eligible for NHS continuing care.

## The Wrigleys Service

Wrigleys community care department has real concerns about the manner in which the National Framework has been applied in cases referred to us by clients, both in respect of original decisions, and appeals. We encourage care home staff, residents and their families to discuss these issues with us.



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