

NHS Continuing Healthcare

Guidance for Strategic Health Authorities and Primary Care Trusts on the time limits for individuals to request a review of an eligibility decision for NHS Continuing Healthcare Funding

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Guidance for Strategic Health Authorities and Primary Care Trusts on the time limits for individuals to request a review of an eligibility decision for NHS Continuing Healthcare Funding

Summary:

For current cases from 1st April 2012, the following time limits will be introduced:

- for an individual or their representative to seek review of a decision with regard to eligibility for NHS CHC funding by the local PCT or responsible NHS body at a local level; this time limit should be no later than **6 months** from the date that the notification of the eligibility decision is given to the individual;
- a time frame for the responsible NHS body to deal with a request for a local review. This should be within **3 months** of receipt of the request;
- a time limit for requesting an Independent Review through the SHA or responsible NHS body. This time limit should be no later than **6 months** following notification of the responsible body's decision; and
- a time frame for the Independent Review to be conducted, which should be within **3 months** of the request¹.

Core Principles

The introduction of timeframes is based on the following core principles:

- these timeframes will not be applied retrospectively - they will apply only to eligibility decisions notified after the date of introduction;
- individuals will be clearly informed of these timeframes. Guidance should be provided locally on how individuals should be informed of their rights to seek a review of an eligibility decision and the timeframes that will apply; and
- there may be situations where there is good reason for accepting requests outside the timeframes.

¹ Page 41 of the National Framework for NHS CHC (July 2009) 'Dispute Resolution', sets out the process for individuals and the responsible body's with regards to local and independent reviews.

Details of the processes and time limits

1. Notification of the appeals/review process

1.1 At the point at which the individual/representative is notified of the eligibility decision, the responsible body² should notify them of the arrangements in place for dealing with reviews of eligibility in the event that:

- a local decision regarding eligibility for NHS CHC funding has been made; and
- the individual or someone acting on their behalf, disagrees with this decision.

This should include detail on the time limits that will apply to any such review as set out below.

2. Time limit for requesting a review of the decision made by the responsible body

2.1 Where an individual/an individual's representative is dissatisfied with the responsible body's decision regarding eligibility for NHS CHC funding, a request for a review should be made in writing **no later than 6 months** from the date that the notification of the eligibility decision is given to the individual/ representative.

2.2 The time limit in paragraph 2.1 shall not apply if the responsible body is satisfied that:

- (a) the individual/ the individual's representative had good reasons for not registering a request for a review within that time limit; and
- (b) notwithstanding the delay, it is still possible for the responsible body to access all relevant information and records which informed the original assessment and decision.

2.3 The responsible body should acknowledge receipt of the request for a review, in writing, **within 5 working days** of receiving it. This communication should also outline to the individual/ an individual's representative the process that will be followed.

3. Process for dealing with a local review of an eligibility decision

3.1 The responsible body is expected to investigate and make a decision in relation to any review **within 3 months** of receipt of the request. However, in some situations there may be good reason for extending this timeframe, for example³:

- 3.1.1 evidence (such as assessments or care records) essential for reaching a decision on eligibility have been requested from a third party and there has been delay in receiving these records from them;

² Until 31st March 2013, the responsible body will be the PCT making the decision. From 1st April 2013, subject to the passage of the Health and Social Care Bill, the responsible body will be the authorised clinical commissioning group.

³ These examples are for illustrative purposes and are not exhaustive.

3.1.2 the individual or their representative have been asked for specific information or evidence or for participation in the process and there has been a delay in receiving a response from them;

3.1.3 there has been a delay in convening a multidisciplinary team due to the lack of availability of a non-PCT practitioner whose attendance is key to determining eligibility and it is not practicable for them to give their input by alternative means such as written communication or by telephone.

3.2 The responsible body should notify the outcome of the review in writing as soon as practicable, but **no later than 3 months after** the date of the request (subject to paragraph 3.1 above). This communication should also inform the individual or their representative of the process for requesting an independent review should they be dissatisfied with the outcome of the local review.

3.3 If the responsible body does not send the response in accordance with paragraph 3.1 within the relevant period, the responsible body must:

3.3.1 notify the individual or their representative in writing explaining the reason for the delay; and

3.3.2 send the individual or their representative a response in writing in accordance with paragraph 3.1 as soon as reasonably practicable after the relevant period.

4. Independent Review

4.1 Following the outcome of the local review of eligibility, a request for an independent review⁴ of the decision made by the responsible body can be made to the relevant body⁵ by the individual/representative no later than 6 months following notification of the responsible body's decision (paragraph 3.2 above).

4.2 An independent review panel (IRP) should be arranged by the responsible body and completed **within 3 months** of the request for this review, unless there is good reason for extending this timescale:

4.2.1 the IRP should not proceed if it is discovered that the individual or their representative has not previously received a comprehensive assessment of needs and a determination of their eligibility for NHS continuing healthcare by the responsible body paragraphs (1) and (2) above;

4.2.2 the individual or their representative requests a delay in the process due to unforeseen circumstances;

4.2.3 there has been a delay in convening a IRP due to the lack of availability of Lay Chair and other Panel members; and

⁴ The National Framework for NHS Continuing Healthcare and NHS-funded Nursing care (Annex E: Independent Review Panel Procedures) July 2009.

⁵ Until 31st March 2013, the responsible body will be the Strategic Health Authority. From 1st April 2013, subject to the passage of the Health and Social Care Bill, the responsible body will be the NHS Commissioning Board.

4.2.4 there is a delay in the responsible body (paragraph (3) above) providing all correspondence considered as part of the local resolution process.

4.3 The responsible body should as soon as practicably possible after the review (**and no later than 6 weeks**) notify the individual in writing of the outcome of the independent review.

4.4 Communication of the outcome of the independent review should also include information on the process for contacting the Parliamentary Health Service Ombudsman if the individual, or someone acting on their behalf, remains unhappy with the decision. The individual or their representative will be entitled to contact the Parliamentary and Health Service Ombudsman **within 12 months** of the date of notification of the outcome of the independent review.