

Report for the Joint Clinical Commissioning Committee

JCMB Meeting:	September 2014 (revised September 2015)
Service Portfolio upon which report impacts:	NHS Continuing Healthcare
Subject:	NHS Continuing Healthcare Choice and Equity Policy
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Summary:	North, Central and South Manchester Clinical Commissioning Groups (CCGs) have developed this policy to support a consistent process that provides a framework in which North, Central and South Manchester CCGs can provide a transparent, fair and equitable process for approving and determining cost to meet an individual patient's need
Supporting Papers	The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (DH 2007, revised 2009, 2012)
Action Required of the Board:	The JCMB to approve the NHS Continuing Healthcare Choice and Equity Policy
CIRCULATION NOTE	This report includes sensitive information and cannot be circulated outside of the JCCC meeting without prior approval from the Chair.

Contents

		Page
1	Introduction	3
2	The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (DH 2007, revised 2009, 2012)	3
3	Context	3-4
4	The Provision of Services for People who are Eligible for NHS Continuing Healthcare	4-5
5	Continuing Healthcare Funded Care Home Placements	5-6
6	Continuing Healthcare Funded Packages of Care At Home	5-7
7	Personal Health Budgets	7-8
8	Exceptional Circumstances	8
9	Capacity	9
10	Agreement to fund	8
11	Review of NHS funded continuing healthcare eligibility and care provision	8-9
12	Right to Appeal	9
13	Policy Review	9

NHS CONTINUING HEALTHCARE CHOICE AND EQUITY POLICY

1. Introduction

1.1 This policy describes the way in which North, Central and South Manchester CCGs will provide care for people who have been assessed as eligible for fully funded NHS Continuing Healthcare. The policy describes the way in which North, Central and South Manchester CCGs will commission and provide care in a manner which reflects the choice and preferences of individuals but balances the need for North, Central and South Manchester CCGs to commission care that is safe and effective and makes the best use of available resources.

1.2 In developing this policy, North, Central and South Manchester CCGs have had regard to the guidance set out in the National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care (DH 2007, revised 2009, 2012).

1.3 The National Framework states that CCGs should take a strategic as well as an individual approach to fulfilling their NHS continuing healthcare commissioning responsibilities. The National Framework advises CCGs to consider commissioning NHS funded care from a wide range of providers, in order to secure high quality services that offer value for money. As part of their joint commissioning responsibility, CCGs and Local Authorities should also work in partnership, and share information (where reasonable) to enable them to commission the most appropriate packages of care for their population. The CCGs will follow this guidance when commissioning care packages for their populations.

2. The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (DH 2007, revised 2009, 2012)

2.1 The National Framework says:

“Where an individual is eligible for NHS continuing healthcare, the CCG is responsible for care planning, commissioning services and for case management. It is the responsibility of the CCG to plan strategically, specify outcomes and procure services, to manage demand and provider performance for all services that are required to meet the needs of all individuals who qualify for NHS continuing healthcare, and for the healthcare part of a joint care package. The services commissioned must include on-going case management for all those entitled to NHS continuing healthcare, as well as for the NHS elements of joint packages, including review and/or reassessment of the individual’s needs.”(paragraph 108).

“Where a person qualifies for NHS Continuing Healthcare, the package to be provided is that which the CCG assesses is appropriate for the individual’s needs. Although the CCG is not bound by the views of the Local Authority (LA) on what services the individual needs, the LA assessment under Section 47 of the National Health Service and Community Care Act 1990, or its contribution to a joint assessment, will be important in identifying the individual’s needs and, in some cases, the options available for meeting them” (paragraph 167).

3. Context

3.1 “NHS Continuing Healthcare” means a package of continuing care arranged and funded solely by the NHS where the individual has been found to have a ‘primary health need’ as set out in the National Framework. The actual services provided as part of that package should be seen in the wider context of best practice and service development for each client group.

Eligibility places no limits on the settings in which the package of support can be offered or on the type of service delivery.

4. The Provision of Services for People who are Eligible for NHS Continuing Healthcare

4.1 NHS North, Central and South Manchester CCGs have developed this policy in light of the need to balance personal choice and safety with the need to effectively use finite resources. It is also necessary to have a policy which supports consistent and equitable decision making about the provision of care regardless of the person's age, condition or disability. These decisions need to provide transparency and fairness in the allocation of resources.

4.2 Application of this policy will ensure that decisions about care will:

- be person centred
- be robust, fair, consistent and transparent
- be based on the objective assessment of the individual's clinical need, safety and best interests
- have regard to the safety and appropriateness of care to the individual and staff involved in the delivery
- involve the individual and their family/representative;
- take into account the need for NHS North, Central and South Manchester CCGs to allocate its financial resources in the most cost effective way
- support choice to the greatest extent possible in view of the above factors

4.3 NHS North, Central and South Manchester CCGs have a duty to provide care to an individual with continuing healthcare needs in order to meet those assessed needs. An individual or their family/representative cannot make a financial contribution to the cost of NHS continuing healthcare identified by NHS North, Central and South Manchester CCGs as required to meet the individual's needs. However, an individual has the right to decline NHS services and make their own private arrangements.

4.4 Access to NHS services depends upon clinical need, not ability to pay. NHS North, Central and South Manchester CCGs will not charge a fee or require a co-payment from any NHS patient in relation to their **assessed needs**. The principle that NHS services remain free at the point of delivery has not changed and remains the statutory position under the NHS Act 2006. NHS North, Central and South Manchester CCGs are not currently able to allow individuals to top up payments into the package of care assessed as meeting the needs of the individual under NHS Continuing Healthcare, and covered by the fee negotiated with the service provider (e.g. the care home) as part of the contract.

4.5 However, where service providers offer additional or other services which go beyond the individual's needs as assessed under the NHS Continuing Healthcare Framework, the individual may choose to use their own personal funds to take advantage of these additional or other services.

4.6 Where an individual advises that they wish to purchase additional private care or services the CCG will discuss the matter with the individual to seek to identify the reasons for this. If the individual advises that they have concerns that the existing care package is not sufficient or not appropriate to meet their needs the CCG will offer to review the care package in order to identify whether a different package would more appropriately meet the individual's assessed needs.

4.7 The decision to purchase additional private care services will always be a voluntary one for the individual concerned. The CCG will not require the individual to purchase additional private care services as a condition of providing or continuing to provide NHS funded services to them.

4.8 Unless it is possible to separately identify and deliver the NHS funded elements of a service it will not usually be permissible for individuals to pay for higher cost services and/or accommodation.

4.9 In instances where more than one clinically effective care option is available (e.g. a nursing home placement and a domiciliary care package at home) the total cost of each care package will be identified and assessed for their overall cost effectiveness as part of the decision making process.

4.10 Any assessment of a care option will include the psychological and social care needs of the individual and the impact on the home and family life, as well as the individual's care needs.

4.11 The setting in which CHC is provided will be decided by the CCG. However, the decision will be made with due regard to the matters set out above.

5. Continuing Healthcare Funded Care Home Placements

5.1 Where an individual has been assessed as requiring placement within a care home, NHS North, Central and South Manchester CCGs operates a preferred provider list and the expectation is that individuals requiring placement will have their needs met in one of these homes. NHS North, Central and South Manchester CCGs will endeavour to provide a reasonable choice of placements and discuss the placements with the individual and their family.

5.2 The individual may wish to move into a home outside of the preferred provider list or their family/representative may wish to place the individual in a home outside of the preferred provider list. As long as the fee for the bed is comparable to the fee agreed with the preferred provider and NHS North, Central and South Manchester CCGs are satisfied that the home can meet the individual's assessed care needs NHS North, Central and South Manchester CCGs will consider this option.

5.3 Where an individual is in an out of area placement and becomes entitled to NHS continuing healthcare the CCG will take into account the market rates and the locality of the placement as well as the likely effect of any move upon the individual's physical and mental well-being.

5.4 If the fee is higher than the fee charged by a care home on the preferred provider list NHS North, Central and South Manchester CCGs would require clarification as to whether the higher fees included additional or other services which went beyond that identified within the NHS Continuing Healthcare package and, if so, NHS North, Central and South Manchester CCGs would consider funding the costs of care which related to the NHS Continuing Healthcare,

allowing the individual to contract separately with the care home for the additional or other services.

5.5 If the provider refuses to provide appropriate clarification as to the basis upon which their fees are charged, NHS North, Central and South Manchester CCGs are unlikely to purchase the care at this home and the individual will be advised that they will need to consider choosing a home from the preferred provider list.

6. Continuing Healthcare Funded Packages of Care At Home

6.1 NHS North, Central and South Manchester CCGs do not have the resources or facilities to provide a hospital at home service. However, the CCGs will consider all requests for home care in accordance with the principles set out in the National Framework.

6.2 NHS North, Central and South Manchester CCGs will take account of the following issues before agreeing to commission a care package at home:

- the matters set out in paragraph 4 above and, in addition
- whether care can be delivered safely and without undue risk to the individual. Safety will be determined by a written assessment of risk undertaken by an appropriately qualified professional in consultation with the individual and/or their family. The risk assessment will include the availability of equipment, the appropriateness of the physical environment, potential adaptations and the availability of appropriately trained care staff and/or other staff to deliver the care at the intensity and frequency required. Risks posed to carers or other members of the household (including children) will also be taken into account
- the acceptance by NHS North, Central and South Manchester CCGs and each person involved in the individual's care of any identified risks in providing care and the individual's acceptance of the risks and potential consequences of receiving care at home. Where an identified risk can be minimised through actions by the individual or their family and carers, those individuals agree (and confirm their agreement in writing) to comply with the steps required to minimise such identified risk
- the individual's GP agrees to provide primary care medical support and the local provider of community services to deliver the necessary support
- the suitability and availability of alternative care options
- the cost of providing the care at home in the context of cost effectiveness
- the willingness and ability of family, friends or informal carers to support elements of care where this is part of the care plan and the agreement of those persons to the care plan

6.3 Many individuals wish to be cared for in their own homes rather than in a care home, especially in the terminal stages of an illness. Where an individual or their family expresses such a desire, NHS North, Central and South Manchester CCGs will support this choice wherever possible taking into account the factors set out in paragraphs 4 and 6 of this policy.

6.4 When an individual is discharged into the community from hospital, NHS North, Central and South Manchester CCGs as Responsible Commissioner takes on the responsibility for the care where the person is eligible for NHS Continuing Healthcare.

6.5 As a very general guide, NHS North, Central and South Manchester CCGs will be prepared to support a clinically safe and sustainable package of care which keeps an individual in their own home provided the anticipated cost of providing the care is not more than 10% higher than the anticipated cost of a care package delivered in an alternative appropriate location such as a care home. However, the cost of the package will be balanced against all other relevant factors in the individual's case.

6.6 Each assessment will consider the appropriateness of a home based package of care, taking into account the range of factors in paragraphs 4 and 6 above.

6.7 The authorisation for the commissioning and funding of packages of care at home lies with NHS North, Central and South Manchester CCGs. There will be a process for the authorisation of eligibility and the authorisation of care packages and placements.

6.8 Once a package of care at home has been agreed by NHS North, Central and South Manchester CCGs the individual may be given a notional weekly personal health budget (PHB), which is the cost of the care package. Individuals and their families will be able to have some flexibility in the delivery of the care (for example, times) as long as the individual's assessed care needs are being met. If the weekly cost of the care increases, apart from a single period of up to two weeks to cover either an acute episode or for end of life care to prevent a hospital admission, the care package will be reviewed and other options (for example a nursing home placement) will be explored following consideration of the issues outlined in paragraph 6.2.

6.9 NHS rules allow NHS Commissioners to offer eligible individuals the opportunity to have their own PHB in certain situations. Eligible individuals and those supporting them, will know exactly how much funding is available for their care and they will be able to agree the best way to spend it to meet their assessed needs and to achieve agreed outcomes.

7. How Personal Health Budgets work

7.1 The budget set for an individual will depend on their clinical need and may be available for both care within an individual's home and where care is provided within a residential setting.

7.2 Where a PHB is being agreed with an eligible individual, a support plan will be put into place which will include:

- issues of importance to the individual
- changes to be achieved
- support to be provided to the individual and how this will be managed
- how the budget will be used
- how the individual will remain in control
- how the individual will make it all happen

8. Exceptional Circumstances

8.1 The CHC team will seek to take account of the wishes expressed by persons and their families when making decisions as to the location(s) of care packages and residential

placements to be offered to satisfy the obligations of the CCG to provide continuing healthcare.

8.2 The CCGs accept that many persons with complex medical conditions wish to remain in their own homes and to continue to live with their families, with a package of support provided to the person in their own homes. Where a person or their family expresses such a desire it will be investigated to determine whether it is clinically feasible and cost effective to provide a sustainable package of continuing care for a person in their own home.

8.3 The CCGs will consider paying a higher than usual cost for an individual's care where the need indicates a higher cost accommodation or services for an identified clinical reason, Consideration will be given as to whether it would be appropriate for the CCG to meet this additional cost.

9. Capacity

9.1 If an individual does not have the mental capacity to make a decision about choice of care setting where they will receive care then NHS North, Central and South Manchester CCGs will commission the most clinically and cost effective, safe care available based on an assessment of the person's best interests, having regard to the factors set out in paragraphs 4.2 and 6.2 above.

9.2 Any decision in best interests will be made in consultation with any appointed advocate, Attorney under a Lasting Power of Attorney or a Court Appointed Deputy or the Court of Protection directly, family member or other person who should be consulted under the terms of the Mental Capacity Act 2005.

10. Agreement to Fund

10.1 The authorisation for the commissioning and funding of packages of care lies with the CCG's. There will be a process for the authorisation of eligibility and the authorisation of care packages and placements.

11. Review of NHS funded continuing healthcare eligibility and care provision

11.1 The National Framework states that all individuals should be reviewed no later than three months following the initial assessment and then annually as a minimum requirement to ensure that the package of care is still meeting the individual's needs.

11.2 On review, the individual's condition may have improved or stabilised to such an extent that they no longer meet the criteria for NHS funded Continuing Healthcare. Consequently, the patient may become the responsibility of the LA who will assess their needs against Fair Access to Care Criteria (FACC). This means the individual may be charged for their care. Transition to LA responsibility will be managed under the Review Procedure agreed by NHS North, Central and South Manchester CCGs and the LA.

11.3 Where the individual remains eligible for NHS Continuing Healthcare, the review may result in either an increase or decrease in care based on the assessed need of the individual at that time. Where care is provided at home the factors in paragraph 6.2 will again be considered and an alternative care option may be agreed if this is appropriate.

12. Right of Appeal

12.1 The appeal process set out in the National Framework and NHS Manchester's local appeal policy is applicable, if the individual wishes to dispute a decision about their eligibility for NHS funded Continuing Healthcare. If the individual wishes to challenge the package of care provided by NHS North, Central and South Manchester CCGs, any complaint should be made via the NHS Complaints Procedure.

13. Policy Review

13.1 This policy will be reviewed no later than 2 years after it has been approved or at any point within this time to reflect changes of NHS North, Central and South Manchester's circumstances/arrangements or changes in legislation/guidance.