

Health and Adult Social Care Scrutiny Committee – 21st November 2018

Report of the Director of Commissioning, Dudley Clinical Commissioning Group

Clinical Commissioning Group (CCG) Policy on NHS Continuing Healthcare

<u>Purpose</u>	
1.	To address the challenges raised by the Equality and HR Commission (EHRC) regarding the legality of the CCGs NHS Continuing Healthcare (CHC) policies for funding of Care provided in the home.
<u>Recommendations</u>	
2.	<p>It is recommended that:-</p> <ul style="list-style-type: none"> Scrutiny note and comment on the proposal and provide feedback for the CCG's Commissioning Development Committee on 19th December before a final decision is made.
<u>Background</u>	
3.	NHS Continuing Healthcare (CHC) is the name given to a package of care that is arranged and funded solely by the NHS for individuals who are not in hospital and who have complex and ongoing healthcare needs to such an extent that the patient can be described as having a "primary health need".
4.	In November 2017, Dudley and ten other CCGs received formal correspondence from the Equality and Human Rights Commission (EHRC) regarding the legality of their policies for funding packages of care provided in the home.
5.	This briefing note sets out the CCG's proposal for addressing this challenge.
<u>Existing Policy</u>	
6.	<p>Whilst an individual can qualify for CHC regardless of location, in the patient's own home the NHS pays for</p> <ul style="list-style-type: none"> healthcare (e.g. community nurse, specialist therapist or GP); personal care (e.g. personal carers, care workers). <p>In a care home, the NHS pays the care home fees (including board and accommodation).</p>

7.	The CCG's policy has always placed a financial threshold on packages of care at home based on the equivalent costs of a care home placement for that individual patient plus 20% (other CCGs apply 10%) in recognition that domiciliary care packages are normally more expensive than residential care placements due to issues of economies of scale.
8.	The EHRC has challenged this on the basis that it restricts an individual's right to choose where they are cared for, forcing them into residential care.
Public/Stakeholder Engagement	
9.	The draft policy has been published on the CCG website for a four week period (12th November to 10th December) with an opportunity for people to get in touch and ask questions.
10.	Patients who may be affected by the policy have been contacted separately either by letter and/or by telephone. Wider stakeholders have also been provided with an opportunity to comment and these include local MPs, elected members, Age Concern, Alheimers Society, Strategic Director for People, Health and Wellbeing Board, Healthwatch, Local Medical Committee, Local Pharmaceutical Committee and the CCG's GP practices.
11.	Feedback will be considered by the CCG's Commissioning Development Committee on 19 th December before a final decision is made.
<u>Finance</u>	
12.	There are no financial implications relating to this report
<u>Law</u>	
13.	Legal advice received by the CCG and the other CCGs involved in the EHRC challenge is that the policy is lawful but needs to make clear that:- <ul style="list-style-type: none"> • there may be exceptional circumstances where the 20% threshold might be breached (currently 2 Dudley patients); • the CCG has a duty to balance the use of resources for its entire population whilst striving for a degree of patient choice.
14.	The CCG's existing policy document has been redrafted to reflect this whilst retaining the 20% threshold.
<u>Equality Impact</u>	
15.	This report has no direct implications for the CCG's commitment to equality and diversity.
<u>Human Resources/Transformation</u>	
16.	There are no human resource implications in relation to this report



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Background Documents

Appendix 1 – Commissioning Development Committee Report
Appendix 2 – NHS Continuing Health Care: Choice and Resource Allocation Policy