Getting Ready for 2013

NHS Continuing Healthcare, NHS funded Nursing Care and Personal Health Budgets

Knowledge transfer to Clinical Commissioning Groups
June 2012
Overview – Continuing Health Care

In each section, information on Continuing Health Care is given, followed by NHS links to Personal Health Budgets (PHBs).

Why is this an issue for CCGs?

NHS Continuing Healthcare (NHS CHC) is where the NHS funds health and social care if individuals are assessed as having a “primary health need”.

NHS funded Nursing Care (NHS FNC) is the funding provided by the NHS to care homes providing nursing care by a registered nurse for those assessed as being eligible.

CCGs will be legally responsible from 1st April 2013 for undertaking this assessment process which is prescribed by the Department of Health underpinned by legislation and must be consistently applied throughout England.

Failure to comply with these procedures for assessment has resulted in the NHS having to review cases retrospectively and subsequently pay care home costs going as far back as 1994.

NHS CHC is a legally complex area that sits at the interface between health and social care and continues to be the subject of scrutiny by the Parliamentary Ombudsman and court cases.

CCG responsibilities

- Assessment of a person’s needs and eligibility for NHS CHC and NHS FNC and subsequent review of these as set out in the National Framework for NHS CHC 2009
- Decision – making on eligibility; engaging families and managing disputes
- Commissioning of care and support package (including the possibility of a personal health budget)
- Case Management of complex cases and reviews of these plans
- Governance and system management to ensure legal compliance including monitoring eligibility levels, training and support to staff.
Overview – Personal Health Budgets

Why is this an issue for CCGs?

From April 2014, people who have been assessed as eligible for NHS CHC services will have the “right to ask” for a Personal Health Budget (PHB), (subject to the evaluation report on PHB pilots in October 2012). This includes all age ranges. This does not change the current assessment process. PHBs are already being, and continue to be, used in other areas such as long-term conditions management and mental health care.

A personal health budget is NHS money allocated to someone with a health need and used within the personal health planning process to enable shared decision making with health professionals.

Individuals making commissioning decisions about their care will impact on the historical strategic commissioning decisions and market provision potentially.

CCG responsibilities

Commissioners are responsible for ensuring that the governance (financial, safeguarding and clinical aspects) of PHBs are proportionate and that all budgets are spent in demonstrable ways of meeting the outcomes of the agreed personal care and support plans.

There are three types of personal health budget; notional, via third party and direct payments.

Currently only PHB pilots which have been formally authorised as part of the evaluated pilot scheme may make NHS direct payments.
Policy Context

**NHS CHC**
- Assessment of eligibility for NHS CHC is set in secondary legislation and directions and the National Framework and associated tools prescribe the way in which it should be carried out.

- Assessment processes must be consistent across England and the DH will retain the policy lead for NHS CHC as the legislation impacts on the NHS and social care.

- The NHSCB will hold CCGs to account for undertaking their statutory duties for NHS CHC and the National Framework and performance manage the system.

- The NHSCB have a role in co-ordinating independent reviews (IRPs) where individuals and their families wish to review a decision on eligibility and responding to PHSO as required.

**PHB**
- NHS Operating Framework 2012 states that anyone with identified NHS CHC needs will have a right to ask for a personal health budget from April 2014.

**What is the position that CCGs will inherit?**

**NHS CHC**
- CCGs will inherit all the current statutory responsibilities of PCTs to assess for NHS CHC and NHS FNC and then commission care packages for those eligible for NHS CHC and funding for NHS FNC.

- This will include current cases and consideration of retrospective cases including previously unassessed periods of care dating back to 1st April 2004.

- The Ombudsman’s office may investigate cases which could lead to the possibility of financial recompense.

- NHS CHC sits at the interface of health and social care provision and requires considerable collaborative working particularly as demand continues to rise in most areas.

**PHB**
- The continuation of existing pilots and the need to prepare for the “right to request” from August 2014.
Policy Context

The NHS Constitution highlights the importance of personalisation and choice in patient care.

What are the known policy changes facing CCGs after 2013?

NHS CHC
- No major changes to NHS CHC and NHS FNC policy is expected and the national threshold on eligibility remains.
- Standing Rules on NHS CHC for CCGs and Directions for local authorities will be in force.

PHB
- It is expected that the right to ask will be confirmed in the mandate for the NHS Commissioning Board.
- The required legislative changes to allow all NHS commissioning organisations to make direct payments are likely to be passed in Autumn 2013.
- Consideration of further extension of PHBs

Not all PCTs across the North of England have applied to become PHB pilots. Those areas which are not pilots (Calderdale and Kirklees in Yorkshire and the Humber) still need to prepare for the right to ask, although they will be unable to make direct payments within the NHS until further legislation is passed.

Performance issues

NHS CHC
- Access to NHS CHC has to be consistent across the country and the number of individuals in receipt of NHS CHC is monitored.
- Nationally variation in the number of people in receipt of NHS CHC has reduced significantly since the introduction of the national framework. The collection of national data is crucial in ensuring there is no return to a “post code lottery” on eligibility.
- The Ombudsman takes a close interest in cases and will feedback to the NHS issues to take on board for current cases and retrospective cases.

PHB
- Personal health budgets are still being piloted and evaluated.
**Into the Future**

**From April 2013 – key objectives**

*NHS CHC*

CCGs are legally compliant in the arrangements they have out in place (for example through their Commissioning Support Services) for the undertaking of their statutory duties for NHS CHC and NHS FNC in terms of:

- Assessment processes for NHS CHC
- Decision-making on eligibility
- Commissioning the care and support package
- Appropriate governance in place

To ensure that:

- individuals receive the appropriate and personalised care,
- arrangements are in place to manage financial risks
- successful legal challenges are reduced to a minimum

*PHB*

For Commissioners to put systems and processes in place to ensure that all types of personal health budget can be provided by April 2014.

**What position do CCGs need to be in by April 2013?**

*NHS CHC*

To have specified what the CSS is to provide so that the CCG can deliver on its statutory duties for NHS CHC and NHS FNC and have this in place from 1st April 2013. To be clear about what the CCG is providing itself.

To be assured that the teams delivering these functions have the appropriate clinical, legal and managerial skills in the following areas:

- for the assessment of individuals for NHS CHC
- decision making for NHS CHC
- commissioning of the care and support package
- case management
- governance and system management arrangements that ensure legal and policy compliance.

*PHB*

Understand the personalisation approach and potential impact on strategic commissioning. Ideally to be able to put a larger number of people through on personal health budgets to ‘test the systems’ on larger numbers prior to going live by April 2014. This includes direct payments where organisations are empowered to do so.
Links to Commissioning Support

*NHS CHC*

- Arrangements in place to deliver NHS CHC statutory requirements needed from April 2013.

- Specifications for commissioning support to cover
  - Assessment processes
  - Benchmarking data
  - On going training and development of all staff involved in the care pathway from discharge/referral from social care
  - Management of joint commissioning arrangements- with the LA and Health and Well Being Board
  - Commissioning of care packages including procuring and managing contracts with providers including the provision of PHBs
  - Legal, policy and advise
  - Managing family and patient relationships
  - Complaints, IRP and Ombudsman management

Links to NHSCB

*For NHS CHC, the NHSCB will:*

- hold CCGs to account for their statutory duties
- have a role in co-ordinating independent reviews where individuals and their families wish to review a decision on eligibility
- have oversight of the consistent application of the National Framework and the numbers eligible

Links to local authorities

- Individuals and their families are often referred from social care (and in the case of NHS FNC may be funded by social care for the majority of their care)
- Real transaction gains from aligning assessment processes – for NHS CHC and social care
- Links to hospital discharge processes
- Social care have a statutory role in the assessment processes
- Close commissioning opportunities as NHS and LA may be commissioning from the same providers- some QIPP opportunities
- An integrated approach to commissioning with local authorities and where feasible using local authority direct payment systems. Local Authorities already use a similar approach for all clients.
- Personal budgets are being introduced for children with special needs.
Work needed in 2012

What could be done on this area in 2012 to support CCGs to achieve authorisation?

*NHS CHC*

Sharing of draft commissioning support specifications for NHS CHC and NHS FNC

Developing CCGs as “informed customers” for NHS CHC commissioning support offers

Improve commissioning practice to deliver greater efficiencies in the commissioning of personalised care

What work is needed to ensure safe transition from PCT to CCG responsibility?

*NHS CHC (continued)*

Each PCT cluster has factored the management of current cases and any potential retrospective cases as well as individuals eligible for NHS FNC in their legacy plans from 1st April 2013 to ensure there is a consistent, effective and safe handover

*PHB*

Direct payment powers will need to be transferred from existing pilots/PCTs to CCGs by 1st April 2013.

Development programme for NHS CHC commissioners about personalisation and the systems and processes for PHBs

Continue to use the current personal health budget networks as a conduit for sharing learning

Marketplace development – raising awareness with providers about the changes and potential impact on their services
References

NHS Continuing Health Care

National Framework for NHS Continuing Healthcare and NHS Funded Nursing Care 2009
NHS Continuing Healthcare Checklist 2009
Decision Support Tool 2009
Fast Track Pathway Tool 2009
NHS Continuing Healthcare Practice Guidance 2010
NHS Continuing Healthcare Refunds Guidance 2010
NHS funded Nursing Care Practice Guide 2009
NHS Continuing Healthcare and NHS funded Nursing Care - public information leaflet
Who Pays? Establishing the responsible commissioner 2010

NHS Continuing Healthcare (Responsibilities) Directions 2007 and 2009

Delayed Discharges (Continuing Care) Directions 2009

Announcement in relation to the introduction of deadlines for Assessments of Eligibility for NHS Continuing Healthcare for cases during the period 1st April 2004-31March 2012 – Gateway ref 17344

Personal Health Budgets

High Quality Care For All: Primary and Community Services: Personal Health Budgets First Steps DH Jan 2009

National Health Service (Direct Payments) Regulations 2010

NHS FAQs on Direct Payments and NHS continuing healthcare
Yorkshire and Humber CD PHB Resources (also on DH PHB learning network)

A guide to setting personal health budgets for people who are eligible for NHS Continuing Healthcare 2012

Health Efficiency: Possible Impact of Personalisation in Healthcare (Alakeson and Duffy) 2011

Think Local Act Personal 2011
Contacts

For further advice please contact:

NHS Continuing Healthcare

North East and North West
Trish O’Gorman
trish.o’gorman@northwest.nhs.uk

Yorkshire and the Humber
George Ogden
gorge.ogden@yorksandhumber.nhs.uk

West Midlands
Corinne Taylor
Corinne.taylor@westmidlands.nhs.uk

East Midlands
Diane Hammans
Diane.Hammans@nhs.net

East of England
Chris Jarvis
Chris.Jarvis@eoe.nhs.uk

London
Karen Scarsbrook
Karen.Scarsbrook@london.nhs.uk

South West
Eileen Roberts
Eileen.roberts@southwest.nhs.uk

South Central
Sam Ward
Sam.ward@southcentral.nhs.uk

South East Coast
Angela Walker
Angela.walker@southeastcoast.nhs.uk