

| | |
|------------------|----------------------------|
| Corporate | CHC Appeals Process |
|------------------|----------------------------|

| Version Number | Date Issued | Review Date |
|----------------|----------------|----------------|
| V1 | September 2016 | September 2017 |

| | |
|------------------------------|--|
| Prepared By: | CHC Lead. |
| Consultation Process: | Initial discussions with North Tyneside Local Authority. Consultation with Northumbria Nursing Assessment Team. Discussed with NHSE in order to ascertain compliance. Further consultation with NHSE regarding changes to process. |
| Formally Approved: | 23 January 2017 |

| | |
|-----------------------------|----------------------------|
| Policy Adopted From: | |
| Approval Given By: | Quality & Safety Committee |

Document History

| Version | Date | Significant Changes |
|---------|-----------|---|
| V1 | Sept 2016 | Changes to process in line with recommendations from NHSE |
| | | |
| | | |

Equality Impact Assessment

| Date | Issues |
|------|--------|
| | |

POLICY VALIDITY STATEMENT

This policy is due for review on the latest date shown above. After this date, policy and process documents may become invalid.

Policy users should ensure that they are consulting the currently valid version of the documentation.

Contents

| | |
|--|---|
| 1. Introduction..... | 3 |
| 2. Status | 3 |
| 3. Purpose and Scope | 3 |
| 4. Definitions..... | 4 |
| 5. Policy Development: Principles and Process..... | 5 |
| 6. Duties and Responsibilities..... | 6 |
| 7. Implementation | 6 |
| 8. Training Implications..... | 7 |
| 9. Related Documents | 7 |
| 10. Monitoring, Review and Archiving..... | 7 |
| 11. Equality Analysis..... | 8 |

1. Introduction

This appeals policy is created in accordance with guidance in paragraph 151 of The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (November 2012, revised), referred to as the National Framework within this document. The National Framework reflects the changes and structures created by the Health and Social Care Act 2012. Both documents came into effect from 1st April 2013.

The National Framework sets out the guidance, standards and responsibilities that Clinical Commissioning Groups (CCGs) must adhere to when determining eligibility for Continuing Healthcare (CHC). As part of this process, the CCG are obliged to set out a Local Resolution Process (LRP) – a clear pathway as to how individuals or their representatives (referred to as the applicant in this document), may challenge a decision on CHC eligibility if they are dissatisfied with the outcome. This is in line with the Framework and is compliant with procedures required prior to an Independent Review Panel (IRP) if this becomes necessary.

Within this policy and its appendices, the pathway and timelines of the LRP are set out. It is to be used when there is a period of care that has a valid Decision Support Tool (DST) and is inclusive of new CHC funding eligibility and reviews of CHC eligibility where the funding has changed. It is also for use if the applicant believes that due process and the National Framework have not been adhered to in the CCG reaching its decision on eligibility. It is not intended for time periods where no DST has been completed. These are dealt with in line with the retrospective claims process for NHS CHC previously unassessed periods of care (PUPOCs).

2. Status

This policy is a corporate policy.

3. Purpose and scope

The CCG has a duty to take reasonable steps to ensure that full consideration for CHC is undertaken where it appears that there may be a need for such funding. North Tyneside CCG commissions Northumbria Healthcare NHS Foundation Trust to provide this service on their behalf with active involvement from North Tyneside Local Authority (LA). Using a prescribed national tool, the DST and adhering to the National Framework, evidence is gathered via a multi-disciplinary team to ascertain if an individual has a Primary Health Need (PHN) and is eligible for CHC funding. The final decision on eligibility rests with the CCG.

This policy dictates the process to follow when an individual or their representative who holds legal authority to do so, wishes to challenge:

The CCG decision regarding eligibility for NHS CHC – where an individual or their representative is dissatisfied with the decision regarding eligibility for NHS CHC.

Or

The procedure followed by the CCG in reaching its decision as to the individual's eligibility for NHS CHC – where there has been a failure to follow National Guidance in reaching its decision as to determine the individuals eligibility for NHS CHC.

Where an individual does not have capacity to manage their affairs and this is appropriately documented, a representative may challenge the decision on the individuals' behalf. To do this, they may hold:

- A Lasting Power of Attorney registered with the Office of the Public Guardian.
- An Enduring Power of Attorney registered with the Office of the Public Guardian.
- A Court of Protection Order appointing them as Deputy.

If none of the above are held, each case will be considered on an individual basis taking into account the best interests of the person.

The responsibility of informing individuals and/or their representatives of the decision regarding CHC eligibility and their right to appeal lies with North Tyneside CCG. North Tyneside CCG commission North Tyneside LA to carry out this function on their behalf. The CHC outcome letter contains the information required should an individual or their representative wish to appeal a decision. A full copy of the DST is available should this be requested and this is stated in the original outcome letter.

An appeal can only be recorded and accepted once the recommendation of the multi-disciplinary team (MDT) has been ratified by North Tyneside CCG. ***The decision of the CCG will remain unchanged until such time as it is overturned.*** All challenges must be received by the CCG no later than 6 months from the date of the decision letter, preferably in written format. This is nationally seen as good practice however, where there are exceptional circumstances, North Tyneside CCG will consider these on an individual basis.

4. Definitions

The following terms are used in this document:

| | |
|--------------------------|---|
| (The National Framework) | The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care (November 2012, revised) |
| (CHC) | Continuing Healthcare |
| (MDT) | Multi-disciplinary Team |
| (DST) | Decision Support Tool |
| (CCG) | Clinical Commissioning Group |
| (LA) | Local Authority |
| (LRP) | Local Resolution Process |
| (LRM) | Local Resolution Meeting |
| (PHN) | Primary Health Need |

5. Local Resolution Process

All appeal requests regarding CHC eligibility must be in written format detailing why the applicant does not agree with the decision. The reasoning must be in line with the determinants in Part 3 – Purpose and Scope. The Nursing Assessment admin team on behalf of the CCG will acknowledge the appeal within 5 working days of receipt using the template letter as set out in Appendix 1. Enclosed with the letter will be the NHS CHC Appeal Form – Appendix 2, for completion by the applicant and a request for appropriate documentation if it is a representative appealing on behalf of an individual.

In order to expedite the appeal in a timely manner, there are timeframes for each part of the process. Detailed in the acknowledgement letter is the request that the form is returned within a 2 week time period. If the individual is deceased, the applicant will have to provide evidence to confirm they are entitled to benefit from the individuals estate.

Upon receipt of the completed documents, requests to G.P., hospital, care home, local authority and any other relevant organisation will be sent by the Nursing Assessment team to obtain records for the relevant time period. Good practice would dictate that an 8 to 12 week period prior to the appeal commencement date be gathered for comparison, assurance and evidence gathering. In order to ensure a timely process, a Local Resolution Meeting (LRM) is to be organised with the applicant, the Nursing Assessment Team and a representative of the CCG within 2 weeks of all documents being received. A monitoring process needs to be in place to inform the applicant of any delays to process for example – non receipt of documents from other organisations.

The LRM is the opportunity for the applicant to detail all concerns and issues which has led them to appeal including submission of any further information they believe has not been taken into consideration. Any points raised in the applicants appeal document or at the meeting must be fully addressed. The professionals involved must ensure the meeting is used to clarify the appeals process and the opinions/views of the applicant. They must also give a full explanation of the four key indicators, nature, complexity, intensity, unpredictability, and confirm understanding with the applicant. A detailed clarification of a Primary Health Need will also be required and why the individual has not met the eligibility criteria for CHC funding. Detailed notes should be taken for reference/accuracy and Appendix 3 (LRM Record) is to be completed as this will be the recorded minutes from the LRM.

Following on from the LRM, if there is no new information to consider and the process can be evidenced as robust, the Local Appeals Process will then be determined as concluded. In order to have this determination ratified, presentation at the CHC panel will follow. This will ensure full consideration has been given to the appeal in order to document and evidence a robust and transparent process. All documentation and rationale for the decision will be recorded and a copy sent to the applicant. The details of NHS England should also be included so that the applicant may request an Independent Review Panel if they wish to challenge the decision further.

If it is decided that the findings from the LRM evidence further information was not used at the original DST and is relevant to the outcome of the decision, the appeal will then be passed back to the original MDT members or if not possible, a new MDT for reconsideration. There may be cases where some of the time period does not evidence eligibility but it is evidenced for part of the period, this will be fully documented with the rationale on Appendix 3, (LRM Record).

In the case of due process not being followed, a reconvening of an MDT to complete the full DST process may be the outcome of the appeal. The CCG Representative and the Nurse Assessor/Clinical Lead will document a full rationale to support their outcome so that the case can then be progressed and further actions, where required, completed.

All appeal cases must be represented when completed to the CHC Eligibility Panel so that the CCG can determine and document their decision regarding the recommendation. The final decision of any appeal will be made by the CCG in liaison with LA colleagues as per the Terms of Reference for the CHC Eligibility Panel process. Following on from this, the Nursing Assessment admin team will contact the applicant by written form and confirm the outcome. All documentation is to be sent with the outcome letter and details of NHS England given so the applicant is aware of the next step if they disagree with the outcome or any part of it.

6. Duties and Responsibilities

| | |
|--------------------|---|
| Council of Members | The Council of Members has delegated responsibility to the Governing Body (GB) for setting the strategic context in which organisational process documents are developed, and for establishing a scheme of governance for the formal review and approval of such documents. |
| Chief Officer | The Chief Officer has overall responsibility for the strategic direction and operational management, including ensuring that CCG process documents comply with all legal, statutory and good practice guidance requirements. |
| Author | CCG CHC Lead or a member of the Quality and Patient Safety Team will review the policy on annual basis or where DoH updates become available which may impact on process. |
| Staff | All staff, including temporary and agency staff, are responsible for: <ul style="list-style-type: none"> • Compliance with relevant process documents. Failure to comply may result in disciplinary action being taken. • Co-operating with the development and implementation of policies and procedures and as part of their normal duties and responsibilities. • Identifying the need for a change in policy or procedure as a result of becoming aware of changes in practice, changes to statutory requirements, revised professional or clinical standards and local/national directives, and advising their line manager accordingly. • Identifying training needs in respect of policies and procedures and bringing them to the attention of their line |

| | |
|--|---|
| | <p>manager.</p> <ul style="list-style-type: none"> • Attending training / awareness sessions when provided |
|--|---|

7. Implementation

This policy will be available to all Staff for use in relation to CHC eligibility appeals.

All directors and managers are responsible for ensuring that relevant staff within their own directorates and departments have read and understood this document and are competent to carry out their duties in accordance with the procedures described.

8. Training Implications

It has been determined that there are no specific training requirements associated with this policy/procedure.

9. Related Documents

Other related policy documents

North Tyneside CCG CHC Policy on the Commissioning of Care.

Legislation and statutory requirements

The National Framework for NHS Continuing Healthcare and NHS-funded Nursing Care. November 2012 (Revised).

Who Pays? Determining Responsibility for Payments to Providers (August 2013).

10. Monitoring, Review and Archiving

Monitoring

The Governing Body will agree a method for monitoring the dissemination and implementation of this policy. Monitoring information will be recorded in the policy database.

Review

The Governing Body will ensure that this policy document is reviewed in accordance with the timescale specified at the time of approval. No policy or procedure will remain operational for a period exceeding three years without a review taking place.

Staff who become aware of any change which may affect a policy should advise their line manager as soon as possible. The Governing Body will then consider the need to review the policy or procedure outside of the agreed timescale for revision.

For ease of reference for reviewers or approval bodies, changes should be noted in the 'document history' table on the front page of this document.

NB: If the review consists of a change to an appendix or procedure document, approval may be given by the sponsor director and a revised document may be issued. Review to the main body of the policy must always follow the original approval process.

Archiving

The Governing Body will ensure that archived copies of superseded policy documents are retained in accordance with Records Management: NHS Code of Practice 2009.