

## Previously Unassessed Periods of Care: Exceptionality Criteria

### 1.0 Purpose

1.1 This guidance relates to assessments for eligibility for an episode of continuing healthcare where:

- the patient believes they may have been eligible for continuing healthcare in the past; and
- the patient had not been assessed for eligibility for that period; and
- the patient has requested an assessment for eligibility for that period.

1.2 This guidance sets out the criteria Sheffield Clinical Commissioning Group (CCG) will use when considering whether there are exceptional grounds to allow an assessment, which is requested after the deadline, has passed.

### 2.0 Background

2.1 On 15 March 2012 the Department of Health made an announcement regarding eligibility for continuing healthcare and previously unassessed periods of care. The announcement introduced a single national process, to determine whether an assessment should be carried out for previously unassessed periods of care. It also introduced set timescales for people to notify the NHS that they should have been assessed for eligibility for NHS CHC funding with respect to that care.

2.2 The Department of Health required Primary Care Trusts to ensure that this process was followed. This responsibility passed to CCGs on 1 April 2013.

2.3 The Department of Health also requires CCGs to establish the criteria by which late applications will be considered. This guidance sets out criteria that Sheffield CCG will use to determine whether such exceptional circumstances apply.

2.4 The Department of Health has issued guidance on dealing with requests for assessments of previously un-assessed periods of care. This includes details of who is authorised to request an assessment on behalf of another, including where they lack capacity to make the request themselves, or where they are deceased. The same authorisation is required where a request for a late assessment is made on behalf of another person.

### 3.0 Deadlines

3.1 The Department of Health has set out deadlines by which requests for CHC retrospective reviews must be requested, as follows:-

<u>Period of care</u>	<u>Deadline for request for retrospective review</u>
1 April 2004 to 31 March 2011	30 September 2012
1 April 2011 to 31 March 2012	31 March 2013

3.2 The deadline for requests for assessments for periods prior to 1 April 2004 was November 2007.

3.3 The deadline for requests for assessments for previously unassessed periods of care after 31 March 2012 is 12 months from the date an episode of care occurred.

3.4 A request for assessment made after these Department of Health deadlines must be accompanied by evidence of “exceptional circumstances”. Where such evidence is not provided, a Commissioning Support Unit (CSU) may request it on behalf of the CCG. The CSU will consider all the evidence provided by the applicant and any records it already holds in relation to assessments for CHC when coming to its decision.

#### **4.0 Exceptional Circumstances**

4.1 The CSU will consider whether there are exceptional circumstances and if a request for an assessment should be considered outside of the deadlines. Each case will be considered on its individual merits.

4.2 An Investigating Officer will make a recommendation to the Operational Lead for the CCG concerned, as to whether a request for assessment after the relevant deadline should be accepted. The Operational Lead may take advice from the CCG as to whether to agree to such a request.

4.3 In order to determine whether exceptional circumstances exist, the CSU will consider all relevant factors, including:

4.3.1 if the individual lacked the capacity to understand the meaning of the deadline and the steps they needed to take to request an assessment:-

- did they have anyone appointed to manage their affairs (e.g. an Attorney registered with the Office of the Public Guardian or a Court of Protection appointed Deputy)?
- If so, were there circumstances that meant such an Attorney or Deputy could not reasonably have been expected to know about the deadline (e.g. they were out of the country for the entire period or they were themselves incapacitated)?

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- Was there any other individual who could reasonably have been expected to know about the deadline and its consequences for the individual?
  - Would it be in the best interests of the individual to apply for an assessment?
- 4.3.2 if the individual had the capacity to understand the meaning of the deadline and the steps they needed to take to request an assessment:-
- were there circumstances that meant the individual could not reasonably have been expected to know about the deadline (eg they were out of the country for the entire period or they were otherwise incapacitated)?
- 4.3.3 was there an error on the part of any NHS body in processing an application, which was received prior to the relevant deadline?
- 4.3.4 at the time when it is contended that the individual should have been assessed for eligibility for CHC, was there evidence that was known, or should reasonably have been known to the relevant CCG or its predecessor Primary Care Trust, that the individual did have a primary health need?

## 5.0 Sharing Information and Authority to Act

5.1 In March 2013 the Department of Health issued two guidance notes, which concern sharing patient information, regarding continuing healthcare. NHS Sheffield will follow the advice in these documents when applying these exceptionality criteria.

5.2 The first of these concerns sharing information for the purposes of continuing healthcare in general. A copy of this Guidance Note is attached at Appendix 1. NHS Sheffield will only share information in accordance with this guidance, which includes patients who are deceased. This includes sharing any Third Party information.

5.3 The second Guidance Note relates specifically to unassessed periods of care. It concerns sharing information in respect of deceased patients. NHS Sheffield will only share information regarding deceased patients in accordance with this guidance. This includes sharing any Third Party information. A copy of this is attached at Appendix 2.

## 6.0 Governance

6.1 This guidance is issued to support Sheffield CCG to meet its commitments under the Standing Rules for continuing healthcare.

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6.2 The guidance will take effect once authorised by the Chief Nurse for Sheffield CCG.

6.3 The responsibilities of Sheffield CCG under this guidance may be discharged on its behalf by a Commissioning Support Unit

6.4 This guidance will be due for review on 31 May 2014.

### Document Control

Version	Author	Date	Status	Comment
0.1	EH	Feb 2013	Draft	Initial draft PCT & CSU for comment
0.2	KS	April 2013	Draft	Draft following legal advice, circulated internally for comment
0.3	EH	May 2013	Draft	To Chief Nurse, for comment
0.4	EH	May 2013	Draft	Amendment following DH guidance on authority to act and sharing information
0.5	EH	22 May 2013	Approved	Some typographical changes made.