Quick Guide to NHS Continuing Healthcare Funding
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How can Farley Dwek help families with their entitlement to NHS Continuing Healthcare Funding?

We are specialists in Care Funding and offer our clients expert legal and clinical assistance to ensure that their entitlement to NHS Continuing Healthcare Funding is properly assessed by the NHS, both in terms of

a) clients currently in a care home or about to move into a care home, and  
b) those who have already paid wrongly and unfairly for their care in a home.

We have produced a popular FREE Guide providing details of how the individuals can ensure that their entitlement to NHS Continuing Healthcare Funding is properly assessed themselves – along with this FREE Quick Guide.

But the process is complicated and often daunting, so we also provide our specialist legal and clinical service to clients, helping them through the process – and we do this on a No Win No Fee basis.

We currently represent hundreds of families either currently seeking to ensure their entitlement to NHS Continuing Healthcare Funding is being properly assessed, or recovering fees on behalf of families who have already unfairly paid for their care.

The average amount recovered so far is almost £60,000 per case.

So far, Farley Dwek is acting for families recovering in excess of £15m worth of repayments, but the underlying issue is very much more widespread.
So why is it important for families to understand their eligibility for NHS Continuing Healthcare Funding?

- The general public needs clarification about the distinction between Healthcare needs and Social Care needs and their impact on the fees people pay.

- Healthcare is provided by the NHS and is FREE to everyone at the point of use, whereas social care is provided by a Local Authority (through Social Services) and is means tested, which means some people have to pay for social care.

- So, it is vitally important that people have their Healthcare needs assessed first.

- If a family member has a “Primary Health Need” then their care should be paid for in FULL by the NHS.

- However, thousands of elderly and vulnerable people are not having their health needs properly assessed by the NHS and are being forced to pay for their healthcare unnecessarily – we think this is a national issue – which should be brought into the public consciousness so that people can understand their “rights”.

- The NHS has already admitted that thousands of people have been wrongly assessed and have paid care home costs that should have been funded by local Primary Care Trusts (PCT’s).

- Although the NHS has an established assessment and appeals scheme to issue repayments, awareness of the scheme is naturally low and complexity of the process is high, which is why people use our legal and clinical services to support them through the process.
3 Care Funding - Facts

• The UK average annual fee in 2012 for a single room in a private residential home is £27,872 (£536 per week). For a nursing home, it is £38,376 (£738 per week).

• The average amount a family spends of care home fees is £48,708 over the average residency period of 66 weeks.

• In the last quarter of 2013, the NHS confirmed that ONLY 58,000 people in the UK received NHS Continuing Care Funding. This is currently just 14% of people in the system.

• We estimate there are well over 100,000 people who are unaware that they should receive NHS Continuing Healthcare Funding (and many more who can reclaim fees already spent since March 2012).

• This means there is up to £4.8bn of privately paid care home fees which are entitled to assessment on behalf of UK families.

• Research in 2013 by NFU Mutual indicated that one million homes were sold to pay for care home fees. We feel a large proportion of these sales could have been avoided if families were aware of the NHS Continuing Healthcare funding process.

• Many clients feel aggrieved that their parents have paid their taxes and National Insurance contributions all their lives and then are misguided on the funding process when it is most needed.

• It is common for clients to say to us “we feel our inheritance has been stolen by the care home fees”.

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So what is NHS Continuing Healthcare Funding and how does it work?

- As we’ve said, healthcare is provided by the NHS and is FREE to everyone at the point of use.
- Social care is provided by the Local Authority (through Social Services) and is means tested, which means some people may have to pay for social care.
- Healthcare needs are related to the treatment, control or prevention of a disease, illness, injury or disability and the aftercare of a person with these needs.
- Social care needs are those associated with the daily activities of living – dressing, washing, eating, etc.
- So, in simple terms, if an individual has a primary healthcare need, the NHS should provide and pay for their care – all of it – 100% - including their care or residential home fees – and this is done through what is known as NHS Continuing Healthcare Funding.
- No one should make any assumptions that they do not have primary healthcare needs, or allow anyone (either in the NHS or in Local Authority/Social Services) to tell them that this is the case, without the NHS having first conducted a Continuing Healthcare Assessment.
- However, very often, staff within the NHS do not advise people of their “right” to an NHS Continuing Healthcare Assessment.
- But everyone has a “right” to an Assessment for NHS Continuing Healthcare Funding, where they reasonably believe that they have a primary healthcare need and this must be done before passing them to the Local Authority to deal with their social care needs.
- Assessments for NHS Continuing Healthcare Assessment are done in two stages. The first stage is called a Checklist Assessment and the second stage a Full Assessment.

(i) **The Checklist Assessment**

- The Checklist looks at 11 criteria called Care Domains, which are:
  - Behaviour*
  - Cognition
  - Physical/Emotional needs
  - Communication
  - Mobility
  - Nutrition
  - Continence
  - Skin Integrity
  - Breathing*
  - Drugs/Mediation/Symptom Control*
  - Altered states of consciousness*

- The Assessment considers an individuals healthcare requirements in each of these domains and is scored according to the severity of their needs in each area.  
- The Assessment produces a “checklist score” and depending on that score an individual may progress through to the Full Assessment stage.
• Or the “checklist score” may mean that they fall short, but they should also be given information about the Appeal process as well.

• The Full Assessment which uses what’s known as the Decision Support Tool should happen within 28 days of the Checklist Assessment taking place.

(i) Full Assessment

• The Full Assessment is done via a Review Meeting, when members of a Multi Disciplinary Team (MDT) assess an individual’s healthcare needs.

• The Full Assessment, whilst similar to the Checklist Assessment, uses a different scoring system. The individual’s needs are assessed as either N= No needs L = Low needs M = Moderate needs P = Priority needs or S = Severe needs.

• Whilst the scoring system isn’t scientific by any means, generally speaking an individual should qualify for NHS Continuing Healthcare Funding if they score Severe in any of the key healthcare domains, or as Priority in two or more other domains.

• Once the Full Assessment has been completed, a report is sent to the Clinical Commissioning Group who make the final decision on whether the individual qualifies for NHS Continuing Healthcare Funding or not. It is not the MDT who makes the decision, although they will make a recommendation.

• If the individual’s Full Assessment is successful they will qualify for NHS Continuing Healthcare Funding and it is then the responsibility of the NHS to pay for 100% of their care.

• The NHS will undertake another Full Assessment after three months and again annually, at which point funding may be withdrawn.
Funding Assessment
Advisory Service

- Farley Dwek operates a Funding Assessment Advisory Service on a No Win No Fee basis.
- After the first year there is no charge and if the assessment for NHS Continuing Healthcare Funding is not successful, you pay nothing.
- In addition we give all our clients a Fairness Promise which means that we also provide a rebate of our fees, if our client passes away in the first year after funding is granted or is re-assessed.
- There are obvious advantages to having expert legal representation throughout the process and in simple terms we will act as your advocate throughout the process.
- This means that our clients have access to our specialist legal knowledge of the Assessment process at all times. They also have access to our specialist clinical advice, as we employ a team of experienced nurses to support our clients.
- Whilst we understand the legal requirements, our experienced team of nurses understand the clinical basis of the Assessment process. They will act as our clients’ advocates, under our legal guidance, throughout the process.
- Before the initial Check List Assessment, our nurses spend time understanding your healthcare needs and our nurses are there at both the Checklist Assessment and subsequent Full Assessment (if required) to fight your corner.
- Our nurses have all worked for years in the NHS in the field of elderly healthcare. They know how to communicate effectively with members of the MDT and they know the Assessment process inside out. Having our Nurses on your side, coupled with the expertise of our solicitors, means that our clients have the best chance of achieving a successful outcome.

If you would like to know more about how our Advisory Service works, please do not hesitate to call us today on 0800 011 4136 or 0161 272 5222 or visit our website www.farleydwek.com
Farley Dwek also operates a Care Home Fees Recovery Service on a No Win, No Fee basis, to recover wrongly paid care home fees.

If we cannot successfully recover any fees, then our clients pay nothing.

There are thousands of families whose relatives have passed away having incorrectly funded the costs of their care. In many cases relatives homes have been sold unnecessarily and their life savings diminished.

In these circumstances all is not lost. Our Care Home Fees Recovery Service seeks to recover the costs of care already unfairly paid.

The service works in a similar way to the Full Assessment process. The main difference is that the Assessment is carried out on a retrospective basis, using evidence from GP, Hospital and Care Home records to determine whether an individual either should have been either entitled to NHS Continuing Healthcare Funding and wasn't properly assessed, or was incorrectly assessed as not being entitled to NHS Continuing Healthcare Funding.

The Government has now imposed deadlines beyond which refunds of incorrectly paid care costs cannot be reclaimed. Any retrospective claims can now only be made for care costs paid after 31st March 2012. Care costs paid before that date cannot be reclaimed.

However, if you have made a claim before 31st March 2012, which has been unsuccessful in terms of its assessment, you can still challenge that assessment, for payments made for care dating back to 2004.

Again, we use our team of expert solicitors and nurses to give our clients the best possible opportunity to recover unfairly paid Care Costs.

If you would like to know more about how our Reclaims Service works, please do not hesitate to call us today on 0800 011 4136 or 0161 272 5222 or visit our website www.farleydwek.com
What happens if you are not eligible for NHS Continuing Healthcare Funding?

If you are not eligible for NHS Continuing Healthcare Funding you will be passed over to Social Services, who will deal with your social care needs, whether that’s in a Care Home environment or at home, but you will be means tested and may have to pay for your care.

There are ways to legally reduce the cost of social care and you can find more information in our more detailed FREE Care Funding Guide and on our website.

If you would like to know more about how our Advisory or Reclaims Service works, please do not hesitate to call us today on 0800 011 4136 or 0161 272 5222 or visit our website www.farleydwek.com

About Farley Dwek

Farley Dwek was formed in 2007 by experienced litigation solicitors Jonathan Dwek and Andrew Farley who met while working at the same law firm in the mid 1990’s. The firm now employs a range of specialist legal practitioners operating in a variety of markets.

We established the Care Funding Team in 2010 and made a substantial investment in acquiring cases. In 2012, the firm invested in a comprehensive PR and marketing campaign which continues to generate cases.

We have formed a senior team of staff, including specialist nurses, who handle these cases and see them through to completion. The team is currently managing hundreds of live cases and we now have a nationally recognised reputation for helping clients through a complicated, emotional process.

We also offer FREE Guides to help clients to understand the issues and processes. A large number of people download these Guides and often seek our advice once they understand the relative complexity of the process.