

Key Points:

- Replaces previous version dated November 2001
- Change to front page layout
- Change of Font Style

Hospital discharge arrangements and NHS continuing health care services

This factsheet is aimed at people over 60 and living in Scotland, for anyone living in England, Wales and Northern Ireland, a similar Factsheet 37, *Hospital discharge arrangements* is available by telephoning 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ.

This factsheet describes the continuing health care services which may be available to older people from the National Health Service. People who are receiving treatment in hospital may need these services before or after they are discharged; but people living in their own homes, in sheltered housing or in care homes may also be able to receive some NHS

continuing health care services. This factsheet explains which services might be available, how to find out about and get services, and what arrangements should be made for people being discharged from hospital.

You should note that this factsheet does not describe *all* the services which older people may receive from the NHS, but looks instead at particular NHS services for people who have continuing physical and mental health needs.

Although this factsheet is long, it is designed to answer the vast majority of enquiries from older people. We hope that it helps to simplify what can appear to be a complicated system of support.

Contents

1.	Background information.....	3
1.1	The guidance	4
1.2	Making overall decisions about services.....	6
1.3	Local criteria.....	6
1.4	Which is 'my' local NHS Board?	6
1.5	Finding out about local services and criteria.....	7
1.6	Getting NHS continuing health care services	7
2.	Hospital discharge arrangements.....	8
2.1	Information which you should receive	9
2.2	Discharge from hospital to your own home; to sheltered housing; or to live with a relative.....	10
2.3	NHS patients who need intensive support after discharge.....	12
2.4	Deciding about intensive support after discharge from hospital	12
2.5	If you are away from 'your' local NHS Board.....	13
2.6	Who pays for NHS continuing health care services?	13
2.7	What is NHS continuing inpatient care?	13
2.8	What is rehabilitation and recovery?	15
2.9	What if I'm assessed as <i>not</i> needing continuing health care services?.....	16
2.10	Circumstances when people pay towards care services.....	17
2.11	Before you are discharged	18
2.12	Choice of Accommodation – Discharge from Hospital	18
2.13	Right to refuse discharge to a care home.....	20
2.14	Right to a review of decisions - initial stage.....	20
2.15	Second Stage Review	21
3.	If you are not in hospital.....	22
3.1	Getting NHS continuing health care services if you are <i>not</i> in hospital	22
3.2	If someone's care needs change	22
4.	Other NHS continuing health care services.....	23
4.1	Palliative health care	23
4.2	Respite health care.....	23
4.3	Specialist transport	24
4.4	Services for people in all types of accommodation	24
5.	Disputes and complaints.....	25
5.1	What to do if there are disputes.....	25
5.2	Making a complaint to the NHS	25
6.	Further information.....	26
7.	Further information from Age Concern	28

Introduction

This section sets out some of the background information you may need to know in order to find out about and get NHS continuing health care services. The factsheet contains references, in the form of footnotes, to Government Circulars and other publications which may be helpful for you to know.

1. Background information

In October 2001 the Scottish Executive introduced some changes to the way Health Boards operate and they are now known as local NHS Boards. The NHS in Scotland is divided into separate local NHS Board areas. Each local NHS Board is responsible for the performance of the local NHS system as a whole including GPs, dentistry and hospital treatment. It meets this responsibility by arranging services with NHS Hospital Trusts and NHS Primary Care Trusts, and with other bodies (including voluntary and private sector providers) on behalf of people who live in the local area.

These purchasing arrangements may not apply for all health services in some local NHS Board areas. Some health services may be arranged by a local Health Care Cooperative (LHCC) – a system introduced in 1999 to replace GP fundholding. The primary care trusts have responsibility for family health care, community hospitals, mental health services and local health care co-operatives. Health boards remain responsible for planning and commissioning of hospital and community health services.

In 2003 '*Partnerships for Care: Scotland's White Paper*' was published, setting out plans for NHS Trusts to be dissolved. The functions, staff and assets are to be transferred to new operating divisions of NHS Boards. The intention is to create fewer divisions between primary and secondary health care and social care. Local Healthcare Co-operatives will become 'community health partnerships' and are expected to have closer links with local authority social work services

Local NHS Boards are responsible for co-ordinating continuing health care services. These are particular services needed by some people (including some older people) because of their continuing mental or physical ill health. They include rehabilitation, specialist equipment, and NHS continuing inpatient care.

An individual's eligibility to receive NHS health care services is based upon clinical need. For some continuing health care services, the NHS works out whether it considers that you should receive a service by comparing your health care needs with eligibility criteria. These are broad national standards to describe the sorts of health needs which the services are designed to meet. In making a decision, a person's health care needs are assessed to see if these needs meet any of the criteria set by the local NHS Board for any of the NHS continuing health care services. NHS continuing health care services are free at the point of use - so you will not be asked to pay.

Local NHS Boards are separate from local authorities (sometimes called 'the council'). The council provides different services such as housing, education, refuse collection and social work services. Local social work departments provide or organise a range of services such as meals on wheels, day centres or places in care homes (these are generally called 'care homes'). Unlike NHS continuing health care services, you may be asked to pay towards the cost of services arranged or provided for you by social work departments. Local authorities and local NHS Boards sometimes cover the same geographical areas. Some local NHS Boards cover larger areas - so you may find that your local NHS Board covers several local authority areas: You can find out the name of your local NHS Board by telephoning the NHS Freephone Information Line on 0800 22 44 88 between 9am and 8pm, Monday to Friday. Information can also be found on the internet at <http://www.show.scot.nhs.uk>.

1.1 The guidance

Since April 1996, each local NHS Board has had to set and publish its policies, plans and criteria for meeting the continuing health care needs of people living in its area.

These requirements, and the responsibilities which the NHS should currently meet in providing continuing health care services, are set out in Government guidance *NHS Responsibility for Continuing Health Care*¹. This guidance covers Scotland; similar guidance for England and Wales has been issued separately.

¹NHS responsibility for Continuing Health Care, Scottish Executive Circular NHS MEL (1996) 22. Copies of all Scottish Executive literature mentioned in this factsheet are available from ISB Scotland, Library, Trinity Park House, South Trinity Road, Edinburgh EH5 3SQ quoting the Circular reference numbers or the title of publications.

The guidance sets out the arrangements which local NHS Boards NHS Trusts must have in place to ensure that NHS continuing health care services are available to meet the health needs of their area.

The guidance also sets out the range of continuing health care services for which the NHS has responsibility to ensure availability².

These include the following services:

- assessment and supervision;
- mental health care;
- rehabilitation and recovery;
- palliative health care;
- continuing inpatient care under specialist medical and nursing supervision;
- care in hospital, or hospice, or in a care home or other appropriate facility;
- short term health care (which can bring beneficial respite relief for carers);
- specialist health care support to people in care homes or the community;
- community health services, including day care where appropriate, for people at home or in care homes;
- primary health care eg GP services;
- specialist transport services.

The guidance also sets out how an NHS patient's discharge from hospital should be handled. This is supplemented by later guidance³.

² see footnote 1

³ Scottish Office Circular No. SWSG10/1998: Community Care Needs Of Frail Older People: Integrating Professional Assessments And Care Arrangements (<http://www.scotland.gov.uk/library/swsg/index-f/c216.htm>) And Scottish Executive Health Department Circular No. CCD 8/2003: Choice of Accommodation – Discharge from Hospital

1.2 Making overall decisions about services

When local NHS Boards agree and set their priorities and criteria for deciding who receives which services, they should take into account local circumstances and needs. They should work with local authorities and all GPs in drawing up local responses to assessed needs. It is the policies which *your* local NHS Board sets which will determine what continuing health care services are available in your area, and who will be able to receive these. However, each local NHS Board's policies must reflect the requirements for services set out in the guidance (see section 1.2 above).

The policies should clearly state:

- the national criteria that are used for deciding about individuals' needs for NHS-funded continuing health care⁴;
- the range, type, location and level of services which will be arranged and funded by the NHS.

1.3 Local criteria

Once criteria have been set for any NHS continuing health care services, decisions can be made about whether an individual meets the criteria for any of these services. Decisions are made following an assessment of the sorts of health care needs the individual may have.

There can be differences in the type, range and amount of services offered in different parts of the country. However in terms of criteria for continued inpatient care they should not be a reduction of the national arrangements set out in the guidance. Local authorities set their own criteria for services which they arrange or provide. Local NHS Boards and local authorities agree about the services which will be available for people in their area - these agreements can also affect the type, range and amount of services offered by the local NHS Board.

1.4 Which is 'my' local NHS Board?

Your local NHS Board is the one which covers the area in which you 'usually' live. Sometimes where you 'usually live' is called 'ordinary residence' or 'usual residence'.

⁴ see footnote 1, section 1.2

If you live in a care home, then the home's address is your 'usual residence'. If you have recently moved to live permanently in a different part of the country, your new address will count as your 'usual residence'.

If someone is unable or incapable of giving their address, their 'usual residence' can be established by asking the next of kin for the person's home address; or if someone is homeless, then the local NHS Board which covers the area where they are taken ill becomes responsible. See section 2.5, about being in hospital away from your local NHS Board area.

1.5 Finding out about local services and criteria

There are several ways you can find out about your local NHS Board's policies and services in your area. Your local NHS Board should have a public enquiry point for you to contact, as should local NHS Trusts. Your GP should also know about the local policies. Detailed information about contacts and services are available on the internet. The web address www.show.scot.nhs gives access to websites for local NHS Boards and NHS Trusts. Alternatively, your local Health Council may be able to help - you can find their number under 'Health Council' in your telephone directory, or from your local Citizens Advice Bureau. Health Councils act as independent watchdogs of NHS services.

If you are in hospital, the hospital staff should be able to give you the information - see section 2.1.

If you find there are difficulties in getting the information, you may want to complain about this to the local NHS Board - see section 5.2.

1.6 Getting NHS continuing health care services

In order to receive NHS continuing health care services, you need to meet any criteria which your local NHS Board has set for particular services. There are a number of ways in which you can approach the NHS to ask for services. Many people will do so when they are in hospital - see section 2. But if you are *not* in hospital, there are other ways to getting NHS continuing health care services - see section 3.

2. Hospital discharge arrangements

Until you are formally discharged from hospital, your care will be the responsibility of a named doctor. This will normally be your consultant but the consultant might delegate this responsibility to another doctor. All consultants (or, in some community hospitals, GPs) are responsible for the medical care of their patients.

They are responsible, in consultation with other key staff (especially nurses) working with them, for deciding when an NHS patient no longer needs inpatient care and can be appropriately and safely discharged from hospital.

Until you are clinically fit, you cannot be discharged. However, well before this decision is made, steps should be taken to assess any continuing health and social care needs you may have. The hospital should have a proper discharge procedure in place and be able to give you information about it.

The Patient's Charter for Scotland aims to improve the quality of health service delivery to patients. The Charter sets out patients' rights in the NHS and the standards of service they can expect to receive, for example in relation to waiting times. The Patient's Charter states that 'The Charter Standard is that before you are discharged from hospital a decision should be made about any continuing health or social care needs you may have. Your hospital will agree arrangements for meeting these needs with agencies such as community nursing services and the local social work department before you are discharged. You and, with your agreement, your carers will be consulted and informed at all stages'.

Local NHS Boards and social work departments must operate according to guidelines issued by the Scottish Executive.⁵ This guidance states the basic requirements to be met before any patient is discharged from hospital. People should not leave hospital until the essential services have been arranged for them. There must be close collaboration between all the practitioners concerned to ensure this. Those involved will include the Consultant, hospital nursing staff and the GP. Other practitioners involved may include social workers, occupational therapists and physiotherapists.

⁵ see footnote 1, section 1.2 and footnote 3

There should be a clinical assessment by the doctor in charge of the person's care to confirm that the person does not need to be cared for in hospital.⁶

The Single Shared Assessment

It is very important that any stay in hospital has a planned discharge so that you do not go home without the services you need. These services may be provided by either your local authority or by the health board, or both. Single shared assessment describes the system that determines a person's needs for care and health services. Historically, local authorities and health services were not required or were not able to share information and resources and the boundaries between health and care could cause problems for people using services. The *Community Care and Health (Scotland) Act (2002)* enables health and care services to finance, manage and deliver services jointly. The single shared assessment system means that individuals only need to provide information about their situation to one member of staff, such as a social worker or health visitor. Authorised staff to organise the health and social care can then access this information and housing services that individual requires.

You, your family and your carer should be involved in the assessment and you should be kept fully informed of the decision about the type of care you will receive. A written care plan should be agreed so that you know what will happen after you leave hospital.

2.1 Information which you should receive

You, your family and any carers should be kept fully informed about how procedures for hospital discharge and any assessment for services will work. You should receive all the relevant information (in writing or in other formats appropriate to your needs) you require to make decisions about continuing care. See also section 2.11.

You should receive information from:

- **hospitals:** how hospital discharge procedures will operate and what will happen if you need continuing care;

⁶ NHS Circular MEL(1996)22, Appendix para.20

- **hospitals, and local authority social work departments:** information needed by you, your family and any carers so you can all make key decisions about continuing care;
- **local authority social work staff:** details of the likely cost to you of any option which you are asked to consider (including where possible and appropriate the availability of social security benefits and housing benefit);
- **hospital and local authority social work staff:** details of any continuing care which is arranged for you (your 'care plan'). This should include a statement of which aspects of care will be arranged and funded by the NHS;
- **local authority social work staff:** details of any direct payments schemes which the authority operates which allow you to purchase services yourself rather than receive services arranged by the local authority (see Factsheet 24s for details).

2.2 Discharge from hospital to your own home; to sheltered housing; or to live with a relative

It may be that after treatment in hospital (and after any rehabilitation and recovery services - see section 2.8) you can be discharged back to live in your own home, or to sheltered accommodation, or perhaps to live with a relative. In these cases, you may need services arranged either by your local NHS Board or local authority, or possibly both. Such services may include home care, equipment or aids, or a personal alarm.

Before discharge, your care needs should be assessed and a decision made about the type and amount - if any - of services, equipment and adaptations you will receive once you have left hospital. The needs assessment may be co-ordinated by a social worker based at the hospital or in the area where you live. The person co-ordinating the assessment may be called a 'care manager' (see section 2.1 Single shared assessment). It is their job to make sure that you, and any family carers who are involved, fully understand the assessment and care planning process and are informed and involved at every stage. If you have health needs, hospital staff may also be involved in the assessment.

Housing departments should be involved if you have a housing need - for example, an adaptation such as a stair lift; or because you are assessed as needing to move into sheltered housing. This involvement should normally happen with your agreement.

Sometimes, a home visit is arranged as part of the needs assessment. This involves you and a professional - perhaps a hospital occupational therapist - spending a short time in your home to check that you can manage once you return home to live, perhaps with the help of aids or equipment such as a walking frame.

The decision about services should be given to you in writing, and should set out which help (if any) will come from the local authority, and which (if any) will be provided by the NHS. This is important because you may be asked to pay towards services from the local authority (see section 2.10), but not for continuing health care services from the NHS (see section 2.6). If you have a carer, then his or her needs should also be looked at by the local authority social work department when they are considering your care needs. If you and your carer are happy for the carer to provide some help (for example, shopping or cleaning), then the decision about services (the 'care plan') should show what sort of help the carer agrees to provide. Under the legislation carers have the legal right to ask the social work department for a carer's assessment, regardless of whether the cared for person is being assessed. The carer's assessment should look at your ability and willingness to continue caring. The person carrying out the assessment should not assume you want to continue providing the amount of care you do now. Local authorities have a duty to tell carers they know of about their entitlement to assessment Age Concern Factsheet 41s, *Local authority assessment for community care services*, has more information.

In some areas, there are Hospital After-care or Home from Hospital schemes which are aimed at helping people through the first few days or weeks at home after discharge from hospital. You should be able to find out more information from the hospital social worker, social work department, your GP or from the local Age Concern organisation. See also section 6.1.

If there are problems with the services, or difficulties getting any help, you can use the NHS complaints procedure to complain about services which you receive - or feel you should receive - from the health service. See section 5.2, below. Your local Health Council may also be able to advise. If your complaint is about local authority services, or you have not received the information whilst in hospital which the local social work department should give you (see section 2.1, above), you can use the local authority's complaints procedure.

Further information about services at home is available in Age Concern Factsheet 6, *Finding help at home*; Age Concern Factsheet 13s, *Older home owners: financial help with repairs and adaptations*; and Factsheet 8s, *Looking for rented housing* (including sheltered housing to rent) may also be useful.

2.3 NHS patients who need intensive support after discharge

Some people may, however, need more intensive support after their acute hospital treatment has finished. This could involve the person moving to live in a care home; needing an intensive package of health and social care at home, or being eligible for NHS continuing inpatient care.

If you are an NHS hospital patient who needs intensive support after your acute hospital treatment has finished, you should have a multi-disciplinary assessment of your needs before you are discharged (as described in 2.2 above). This should include the involvement of local authority social work staff (such as a hospital social worker), health staff (such as a consultant), your own GP and, if appropriate, housing authorities and providers. Other health staff who have been working with you should be involved. The assessment should be co-ordinated between key professional staff from health and social work. Your views and wishes, and those of your family and any carer (if you have one), should be taken into account.

Once the assessment has been completed, and you have been fully consulted, a decision can be taken on the sorts of services - if any - you should receive; and whether these services should be arranged and funded by the NHS, or by your local authority, or yourself, or a combination of the three.

2.4 Deciding about intensive support after discharge from hospital

The decision about the most appropriate type of health care for you will be taken by the consultant (or GP in some community hospitals). This decision is made in consultation with other key staff - especially nurses - who have been involved with your care and have taken part in the multi-disciplinary assessment.

A decision will then be made on whether you need:

- continuing inpatient care arranged and funded by the NHS (see section 2.7);

- a period of rehabilitation or recovery arranged or funded by the NHS (see section 2.8);
- you should be informed about the reasons for the decision;
- see section 2.9 if the decision is that you do *not* meet the criteria for these services.

2.5 If you are away from ‘your’ local NHS Board

Sometimes it may not be clear which local NHS Board has responsibility for providing or funding NHS continuing health care services for you. In particular, this can happen if you are taken ill and go into an NHS hospital whilst you are away from your usual home - perhaps on holiday; visiting family and friends elsewhere in the country; or staying at a second or holiday home; or if you needed to go for planned treatment to a specialist NHS unit or hospital in a different local NHS Board area.

In these circumstances, it is your usual home address (or the address of your main residence) which counts, not your holiday or temporary address. This is important because you may be in a different local NHS Board area when your assessment for continuing health care services takes place. It will therefore be important that any decision is based on the criteria for the local NHS Board where you *usually* live, not where you are now.

2.6 Who pays for NHS continuing health care services?

The short answer to this is that the NHS pays - there is no charge to you if the local NHS Board provides continuing health care services for you. However, if you are receiving NHS continuing inpatient care (see section 2.7) then your state benefits, such as the State Retirement Pension and Attendance Allowance, may reduce or cease over time. Your Housing Benefit will also be affected. But any other income which you receive and your capital are not affected. This is explained further in Age Concern Factsheet 34, *Attendance Allowance and Disability Living Allowance*, and in Age Concern’s annual publication, *Your Rights* (see section 6.2).

2.7 What is NHS continuing inpatient care?

NHS continuing inpatient care is the term used when the care you receive (usually in hospital or a care home) is funded in full by the NHS. If you are in hospital because you have had acute treatment (either for a planned operation, or as a result of an emergency admission - for example,

following a fall), NHS continuing inpatient care is care you receive *after* this acute treatment has finished. You will not receive NHS continuing inpatient care unless you meet the criteria for the service. (See 1.1).

All local NHS Boards must arrange and fund an adequate level of service to meet the needs of people who because of the nature, complexity or intensity of their health care needs will require continuing inpatient care arranged and funded by the NHS in hospital or in a care home. NHS continuing inpatient care can be provided either on a short or long-term basis. The NHS can provide this either through a place in an NHS hospital; or in an NHS care home; or by the NHS having a contract with a private or voluntary sector care home for your care.

NHS continuing inpatient care should be provided for people in one of the three following sets of circumstances:

1. Patients who require the on-going and regular (in the majority of cases this might be weekly or more frequent) supervision of a consultant, specialist nurse or other NHS member of the multi-disciplinary team because of the complexity or intensity of their medical, nursing care or other clinical care or because of the need for frequent not easily predictable interventions; *or*
2. Patients who require routinely the use of specialist health care equipment or treatments which require the supervision of specialist NHS staff; *or*
3. Patients with a rapidly degenerating or unstable condition which means that they will require specialist medical or nursing supervision.

In addition, there is a fourth set of circumstances when NHS continuing inpatient care should be provided:

4. Patients whose acute treatment or inpatient palliative care in hospital or hospice has finished, but who are likely to die in the very near future, should be able to choose to remain in NHS funded accommodation; or where practicable 'and after an appropriate and sensitive assessment of their needs, to return home with the appropriate support.'⁷ Health and local authorities should jointly monitor this area to ensure that inappropriate discharges from the NHS do not take place.

⁷ see footnote 1, section 1.2.

There is no further definition in the guidance of what is meant by 'likely to die in the very near future', which means that different doctors may take different views of this. Some currently offer care to patients who are expected to live for no longer than a set period of time - this can range from a few weeks to some months. This is a matter for the clinician in charge in each case. See section 4.1 about palliative health care. See also section 2.11, before you are discharged from hospital; and section 2.13, about refusing discharge from hospital.

2.8 What is rehabilitation and recovery?

Rehabilitation covers a variety of services - such as speech therapy (for example, to help with speech or swallowing functions); physiotherapy (for example, to help with mobility) or occupational therapy (for example, to see how aids and adaptations can assist). A period of **recovery** after acute hospital treatment may also be needed, to include regaining confidence about going back home.

Your local NHS Board's criteria should reflect the fact that older people may need to receive these services for longer than younger people, if they are to reach their full potential for recovery and to regain confidence⁸. The criteria should also guard against the risk of someone being discharged from hospital prematurely, both in terms of poorer experiences for patients and increased levels of readmissions to hospitals.⁹

Some local NHS Boards have established other accommodation where people can go for further rehabilitation and recovery after their acute hospital treatment has finished. In some areas, this is in hospital wards; in others, short-term places in care homes, or intensive support at home. The purpose of these services is to give the person more time to reach their full potential for recovery after treatment, and to ensure that the assessment of their care needs takes place at the most appropriate time - not too early, before their full potential can be reached.

There are concerns that, in parts of the country where there are insufficient rehabilitation and recovery services, people are being inappropriately placed in care homes when - with additional rehabilitation and/or recovery services - they could have returned to their own homes, or moved to sheltered housing with some support.

⁸ see footnote 1, section 1.2.

⁹ see footnote 1, section 1.2.

2.9 What if I'm assessed as *not* needing continuing health care services?

If the decision is that you do *not* meet your local NHS Board's criteria for either NHS continuing inpatient care or rehabilitation and recovery, then your **local authority social work department** will take the lead on working with hospital and community staff to consider the type of care you need.

They will decide in light of your care assessment what services, if any, should be provided or arranged. You should note that even if your social work department takes the lead in making these decisions, you may still be eligible to receive some NHS continuing health care services - see section 4.

There are two main ways that your care needs may be met:

- a place in a care home arranged and funded by your local authority, or arranged and funded by you and/or your family (since 2002, all people over the age of 65 who are assessed as needing care in a care home are eligible to receive a payment for personal and nursing care). Please see Factsheet 10s, *Local authority charging procedures for care homes (including free personal care)*; or
- a package of health and social care to allow you to return home or to move to alternatively arranged accommodation - for example, to live with a member of your family, or to move into sheltered housing. This package may also involve both the local NHS Board and local authority arranging some services.

You should note that you may be asked to pay from your income and capital for any services arranged or provided by **social work departments** - see section 2.10. However, you should not be asked to pay for any **NHS continuing health care services** provided for you - see section 2.6.

The decision to discharge you from hospital will still be taken by the consultant (or GP in some community hospitals). The decision will be that, once you no longer need acute hospital treatment, you can be appropriately discharged from hospital with either of the above options for care.

See also section 3.2, if your care needs change; and section 2.11, before you are discharged.

2.10 Circumstances when people pay towards care services

The cost of personal and nursing care will be met by the Government (up to a certain limit), regardless of your income if you are assessed as needing care in a care home. If you need personal care at home the local authority cannot charge for this care

Some services that are arranged or provided for you by the local authority **social work department** may require you to pay towards the cost of this help. If the services are defined as 'social' care (services such as help with cleaning, shopping etc, or meals on wheels) then it is up to each local authority how much - if anything - it asks you to pay. This is described in Age Concern Factsheet 6, *Finding help at home*. But if the local authority arranges for you to permanently enter a care home, then you *must* be means-tested for this care from your income and capital according to nationally set rules. These rules are explained in Age Concern Factsheet 10s, *Local authority charging procedures for care homes (including free personal care)*.

However, most people who have been living in a voluntary or private sector care home since before April 1993 and pay towards this care come under a different means-test system, which is administered by local Benefits Agency offices on behalf of the Department of Social Security (DSS). People who come under this system are said to have 'preserved rights' to Income Support

In this factsheet, we talk about 'people who pay towards the cost' of their care in a care home. This means people who pay most of the fees of the care home themselves because they have made private arrangements; people whose care has been arranged and means-tested by the local authority; and people who come under the 'preserved rights' system outlined above.

Basically, the decision about whether your care home care is funded in full by the NHS or whether you pay towards the cost, depends on whether or not you meet the national criteria for NHS continuing inpatient care (see section 2.7).

If you do *not* meet these criteria, but you need care in a care home, then you will be means-tested by the social work department for - and pay towards the costs of - this care.

Alternatively, you may make private arrangements to pay the care home fees in full yourself. Most older people currently in care homes pay towards the cost of this care.

However, even where you do pay towards the costs of your care in a care home, you will still be eligible for some NHS continuing health care services - see sections 4.5 and 4.7. See also section 3.2.

2.11 Before you are discharged

Before you are discharged, you should receive a written (or other recorded form) continuing care plan which outlines the services being offered. It should also contain the name of the person (usually from the multi-disciplinary team which has carried out the assessment of your needs) with whom you, your family or any carer(s) can discuss the results of the assessment. The care plan should set out which elements of care will be provided by the NHS, and which by the social work department.

It may be that you, your family and any carer(s) are happy with the care which is being suggested for you. If you will be moving to live in a care home, section 2.12 may be helpful.

However, if you are not happy with the decision, see section 5. If you disagree with the decision that you do not meet the criteria for NHS continuing inpatient care, sections 2.13 - 2.15 may be helpful.

2.12 Choice of Accommodation – Discharge from Hospital

The *Social Work (Scotland) Act 1968 (Choice of Accommodation) Directions 1993* make it a duty of local authorities to arrange places for people who are assessed as needing care in a care home. The Directions provide that if an individual expresses a preference for particular accommodation, the local authority has to arrange it provided:

- the accommodation is suitable to the persons' needs as assessed by the local authority;
- it will not cost the authority more than it would usually expect to pay;
- the accommodation will be available within a reasonable period; and
- the person in charge of the accommodation is willing to provide the accommodation subject to the authority's usual terms and conditions.

The Scottish Executive has issued Guidance (Circular No. CCD 8/2003) that clarifies the meaning of 'reasonable period' and of the way the Directions should be implemented.

It explains that indefinite occupation of a hospital bed by a patient who is ready for discharge, while awaiting his/her choice of care home, is not appropriate. It explains that patients should be asked to make choices of care homes, and interim accommodation should be secured if none of these choices becomes available within the planned discharge planning period. The patient has the right to move to the care home of choice at a later date, should a place be available.

Discharge from hospital arrangements should normally take no longer than six weeks to put in place from the moment when it is decided that the person is clinically fit for discharge.

Where a person is assessed as needing care in a care home, they should be encouraged to identify at least three suitable care homes that are acceptable as future accommodation. These should be ranked in order of preference. Refusal to make a choice should not lead to the patient remaining in hospital indefinitely. The focus, however, should be on reaching an amicable solution with patients and their family or carers. If a person's preferred choice has no vacant places, the local authority should examine availability in any appropriate care home that has a place available. The person should then be assisted to move into this interim choice care home until a place in one of their chosen care homes is available. Where people make an interim move into a care home the local authority should ensure the person's name remains on the waiting list for the preferred choice care homes for at least a year, and if the person decides to stay in the interim choice care home the local authority should try to arrange this.

Further information about choosing a home is contained in Age Concern Factsheet 29, *Finding care home accommodation*; information about 'third party' payments is in Age Concern Factsheet 10s, *Local authority charging procedures for care homes (including free personal care)*. A booklet from the Scottish Executive *Moving into a care home*, may also be helpful - see section 6.

If you or your family make **private** arrangements to enter a home, you can also choose which home you move into. However, the conditions set out above will also apply if you subsequently need local authority financial support.

2.13 Right to refuse discharge to a care home

If you have been assessed as *not* meeting the criteria for NHS continuing inpatient care, you do not have the right to occupy an NHS bed indefinitely. However, you *do* have the right to refuse to be discharged from NHS care to a care home (except for a small number of patients placed under the *Mental Health Scotland Act 1984*).

However, if you refuse to enter a home but *cannot* insist on staying in hospital, the question then arises of what happens next - ie where you might move to live, and what sort of care you would receive.

In such cases, the local authority social work department should work with hospital and community based staff, and you, your family and any carer(s) to explore alternative options. If these options are rejected, 'it may be necessary for the hospital, in consultation with the health authority, social work department and, where necessary, housing authority, to implement discharge to the patient's home or alternative accommodation, with a package of health and social care within the options and resources available'¹⁰. (You should note that you may be asked to pay towards services arranged or provided by the social work department - see section 2.10).

However, if you are an NHS hospital patient and you disagree with the decision that you do not meet the criteria for NHS funded continuing inpatient care, you can appeal against this decision. Information about the review procedure should be made available to you whilst you are still in hospital.

2.14 Right to a review of decisions - initial stage

You, your family, or any carer(s) have the right to appeal against the doctor's decision that you are not eligible for continuing inpatient care.¹¹

¹⁰ See footnote 1, section 1.2

¹¹ See footnote 1, section 1.2.

The hospital should provide you with information about how to appeal and staff should be able to provide help and advice. Information on independent advocacy services should also be provided. An advocate is someone who can speak on your behalf (an 'advocate' in this sense is nothing to do with the law).

You should also be given the name, address and telephone number of the staff member responsible for dealing with the appeal process.

Once you have been notified of the clinician's recommendation on your future care, you (or your relative, carer or advocate) have 10 days to request a review of this decision from the Director of Public Health of the local NHS Board. This review should be completed within 14 days of the request.

This right to a review only extends to those NHS patients who believe that the eligibility criteria for NHS continuing inpatient care have been incorrectly applied in their case. This appeal process is separate from the other NHS complaints procedures. There is nothing to stop you using both procedures at the same time.

2.15 Second Stage Review

If you are not satisfied with the result of the first stage review you have the right to request, within 10 days, a second opinion from an independent consultant from another local NHS Board area. You can (after seeking guidance from your local health council or GP) select any local NHS Board area in Scotland from which a consultant would be nominated to arbitrate on the appropriateness of the decision to discharge from NHS continuing care. This consultant will then review the clinical decision. You should then receive a decision within 25 days of the second stage appeal submission. This second opinion will be final, at least until your care needs change significantly. You should not be discharged until the appeal decision is known. Of course if the decision is to reverse the original recommendation you will not be discharged unless there is a change in your condition.

3. If you are not in hospital

3.1 Getting NHS continuing health care services if you are *not* in hospital

If you are *not* in hospital you can still ask for your health needs to be assessed for *any* of the NHS continuing health care services listed in section 1.2. This includes NHS continuing inpatient care (section 2.7), rehabilitation and recovery (section 2.8) as well as the services listed in section 4, below. There are two main ways you can approach the NHS to ask for continuing health care services.

Firstly, you can contact your **GP**. Because your health needs may be considered against your local NHS Board's criteria for the different continuing health care services, it is possible that your GP will involve a consultant on your behalf in order for these decisions to be made. Your GP may be able to arrange some community health services for you - such as district nursing or physiotherapy for people living in their own homes. If you have difficulties in getting services this way, your local Health Council may be able to assist. Information about continuing health care services in your area can be obtained from your local Health Care Cooperative (information also published on the internet at www.show.scot.nhs.uk/lhcc).

Secondly, if your care needs are assessed - or reassessed - by your local authority **social work department**, and your assessment shows you have health needs, social work should get in touch with your local NHS Board. In general, unless they are particularly concerned that you may be in a situation of risk, then social work must not contact your local NHS Board on your behalf without your agreement.

3.2 If someone's care needs change

There may be times when your condition changes - perhaps because there is a deterioration in your health. This could mean that, although initially you did not meet the local NHS Board's criteria for any NHS continuing care services, you may meet the criteria at a later date.

If this were the case, you could ask for a new assessment of your health care needs according to the continuing health care criteria. If it was found, following a new assessment, that you now meet the criteria for NHS-funded care (either as an inpatient, or to receive particular services), then that NHS care should be put in place.

But you should note that the decision to provide or fund NHS continuing health care services would only apply from the date you met the criteria under the new assessment.

4. Other NHS continuing health care services

As well as NHS continuing inpatient care (section 2.7) and rehabilitation and recovery services (section 2.8), there are a range of other NHS continuing health care services which are described below. As with all NHS continuing health care services, you will only receive these if your health needs are assessed as meeting any criteria your local NHS Board has set for a particular service.

4.1 Palliative health care

Palliative health care is the term used to describe care by a multi-professional team for people (and their families) whose life-threatening disease no longer responds to treatment. Palliative care is concerned with ensuring the best quality of life for the person and their family - this includes controlling pain and other physical symptoms of the disease or illness and, for example, providing emotional support during and beyond the duration of the illness. Palliative care services include Macmillan nurses employed by NHS Community Trusts; home care nurses, doctors or other health professionals from voluntary or NHS hospices (or from Specialist Palliative Care Units); Marie Curie nurses, and a wide range of other voluntary and statutory services.

Palliative health care can be provided in a variety of settings - eg in a hospice, in someone's own home, in a care home, or in an NHS hospital.

4.2 Respite health care

Respite care describes a period of care for people who usually have someone who helps to look after them - for example, a spouse or other relative. It is provided to give the carer and the cared-for person a break. Sometimes this happens when the carer is taken ill. Respite care can be provided by either the local NHS Board or the local authority. For most people, it will be the **local authority** who provides respite care, and you may be asked to pay towards this care (see section 2.10).

Local NHS Boards should arrange and fund an adequate level of **respite health care**, in particular for those people who:

- have intensive or complex health care needs and require specialist medical or nursing supervision or assessment during a period of respite care; *or*
- during a period of respite care require or could benefit from active rehabilitation; *or*
- require day hospice care;
- are receiving a package of palliative care in their own homes but where they or their carer need a period of respite care.

Local NHS Boards must have agreements with local authorities over who provides respite care, and under which circumstances.

When the local NHS Board provides respite health care, careful attention should be paid to the wishes of patients and their carers.

4.3 Specialist transport

On the basis of patients' needs, this should include:

- transport to and from hospital or hospice;
- transport where an emergency admission is being made to a care home;
- non-emergency transport for people in care homes, or in their own homes, to and from health care facilities.

Arrangements for ambulances and other specialist NHS transport should be included in the local NHS Board's and local Health Care Cooperative's policies.

4.4 Services for people in all types of accommodation

People living in their own homes, in sheltered housing or in care homes may still require some regular access to specialist medical, nursing or other community health services, including:

- occasional continuing specialist medical advice or treatment;
- specialist palliative care;

- specialist nursing care such as continence advice, stoma care, diabetic advice or community health services such as physiotherapy, speech or language therapy and chiropody;
- specialist medical or nursing equipment (eg specialist feeding equipment) not available on prescription and normally only available through hospitals;
- incontinence supplies and basic general nursing equipment where these are prescribed by a GP.

Access to specialist medical and nursing services should be available on exactly the same basis for people living in care homes, as for people living in care homes, or in their own homes.

If you do qualify for any NHS continuing health care services then these should be clearly set out in your needs assessment and any care plan which is drawn up for you. Services which the NHS will provide should be clearly identified so that you do not pay for them. If you live in a care home and pay accommodation costs, the NHS can either provide the services directly, or contract with the home to provide the additional services. Where the NHS takes on these responsibilities, these services will be free.

5. Disputes and complaints

5.1 What to do if there are disputes

Disputes can arise if you are told that you do *not* meet their criteria for any of the continuing health care services, but you believe that you *do* meet the criteria.

In such cases, you could complain to the local NHS Board using the NHS complaints system. Ultimately you may be able to complain to the Public Services Ombudsman for Scotland. See also sections 2.13 - 2.15. You can also complain if you feel that your local NHS Board's criteria for any continuing health care service are too restrictive, and these restrictions are preventing you from being eligible to receive the care. See section 5.2 below.

5.2 Making a complaint to the NHS

Information about the NHS complaints procedure should be available from your local NHS Trust or local NHS Board.

The local Health Council may also have information about this and be able to help. In addition, a free leaflet setting out how the NHS complaints procedure works is available by telephoning the NHS Helpline on 0800 22 44 88 (free call).

The normal expectation is that you first pursue the complaint at a local level, with the hospital, surgery or clinic involved. The hospital, surgery or clinic should be able to give you a leaflet, telling you how to make your complaint known.

It is expected that most complaints will be settled at this local level. However, if this is not so in your case, you can ask the NHS Trust or local NHS Board for a review of your complaint by an independent panel (please note that this is a different procedure from that outlined in sections 2.13 - 2.15). You should note that not all requests for reviews of complaints will be granted.

If you are still unhappy after these local stages, you can contact the Health Service Ombudsman for Scotland. For example, if you feel it took too long to deal with your complaint locally; or you were unreasonably refused a panel review; or you did not get a satisfactory answer to your complaint. However, unless there are special reasons, the Public Services Ombudsman can only consider complaints within one year from the date that you became aware of the events which are now the subject of your complaint.

Changes to the Ombudsman's powers from 1 April 1996 mean that s/he now has powers to investigate complaints about the care and treatment you have received from doctors, nurses or other trained health professionals. However, the Ombudsman can only consider these new complaints if the care and treatment was given on or after 1 April 1996.

6. Further information

Alzheimer's Scotland Action on Dementia, 22 Drumsheugh Gardens, Edinburgh, EH3 7RN, tel: 0131 243 1453, freephone helpline: 0800 317817, email: Alzheimer@alzscot.org (for carers and people with dementia).

British Red Cross Society, 9 Grosvenor Crescent, London, SW1X 7EJ, tel: 020 7235 5454. Services mainly provided by volunteers and available from local centres, including: Home from Hospital schemes, transport and equipment loan.

Carers Scotland, 91 Mitchell Street Glasgow G1 3LN, tel: 0141 221 9141, carers line: 0808 808 7777 (free call), email: info@carerscotland.org.

The Continence Foundation, 307 Hatton Square, 16 Baldwins Gardens, London EC1N 7RT, provides general information and advice and produces a number of free leaflets. It also runs the **Continence Information Helpline**, tel: 020 7831 9831, 9.00am - 6.00pm weekdays.

Hospice Information Service, St Christopher's Hospice, 51-59 Lawrie Park Road, Sydenham, London, SE26 6DZ, tel: 020 8778 9252. Information available on hospices/palliative care services in the UK and overseas. Annual directory of hospices in the UK and Republic of Ireland, available on receipt of a large (9" x 11") self-addressed envelope with 64p stamp.

Patients Association, PO Box 935, Harrow, Middlesex HA1 3YJ, helpline: 020 8423 8999 (Monday to Thursday 10am - 4pm), general admin tel: 020 8423 9111. Advice to patients and carers on patients' rights, complaints procedures and access to health services or appropriate self-help groups.

Chest Heart & Stroke Scotland, 65 North Castle Street, Edinburgh, EH2 3LT, tel: 0131 225 6963. Helps stroke patients and their families with rehabilitation. Counselling and welfare services. Lists available of stroke support and rehabilitation groups.

Scottish Health on the web <http://www.show.scot.nhs.uk/> Website of the National Health Service in Scotland with links to the Scottish Executive website.

Public Services Ombudsman

Scottish Public Services Ombudsman, 4 Melville Street, Edinburgh EH3 7NS, telephone: 0870 011 5378 (national call rate), fax: 0870 011 5379 (national call rate), email: enquiries@scottishombudsman.org.uk. Offers members of the public an independent response to complaints about public services, including the Scottish Parliament and the Scottish Executive), the health services, Registered Social Landlords and local government

7. Further information from Age Concern

Your Rights: a guide to money benefits for older people. 2004-2005 edition price £4.99 (plus p&p). Available from Age Concern Scotland, 113 Rose Street, Edinburgh, EH2 3DT, tel: 0131 220 3345.

The following factsheets may be of use:

Factsheet 5	<i>Dental care and older people</i>
Factsheet 18	<i>A brief guide to money benefits</i>
Factsheet 23	<i>Help with continence</i>
Factsheet 32s	<i>Disability and ageing: your rights to social services</i>
Factsheet 41s	<i>Local authority assessment for community care services</i>

If you would like

- any additional factsheets mentioned (up to a maximum of 5 will be sent free of charge)
- a full list of factsheets and/or a book catalogue
- further information or if you have questions arising from this factsheet
- to receive this information in a different format

phone 0800 00 99 66 (free call) or write to Age Concern FREEPOST (SWB 30375), Ashburton, Devon TQ13 7ZZ.

For people with hearing loss who have access to a textphone, calls can be made by Tynetalk, which relays conversations between text and voice via an operator.

Age Concern's series of over 40 factsheets is available as a subscription service to those whose work involves older people; for details of this service please call us on 08705 00 99 66 (national call rate) and ask for our factsheet subscription leaflet.

Age Concern provides factsheets free to older people, their families and people who work with them. If you would like to make a donation towards the work of Age Concern Scotland, you can send a cheque or postal order (made payable to Age Concern Scotland) to Age Concern Scotland, 113 Rose Street, Edinburgh EH2 3DT. Find out more about Age Concern Scotland online at www.ageconcernscotland.org.uk, or Age Concern England at www.ageconcern.org.uk.

If you have questions arising from this factsheet, or it does not cover the information you require, please contact the Scottish Helpline for Older People, a confidential and impartial service managed by Age Concern Scotland, tel: 0845 125 9732 (local call rate), Monday to Friday 10am - 4pm. The address is Age Concern Scotland, 113 Rose Street, Edinburgh EH2 3DT

Please note that the inclusion of named agencies, companies, products, services or publications in this factsheet does not constitute a recommendation or endorsement by Age Concern. Whilst every effort is made to ensure accuracy, Age Concern cannot be held responsible for errors or omissions.

No factsheet can ever be a complete guide to the law, which also changes from time to time. Therefore please ensure that you have an up to date factsheet and that it clearly applies to your situation. Legal advice should always be taken if you are in doubt.

All rights reserved. This factsheet may be reproduced in whole or in part in unaltered form by Age Concern Organisations and Groups with due acknowledgement to Age Concern Scotland. No other reproduction in any form is permitted without written permission from Age Concern Scotland.

This factsheet is based on one of a similar title produced by the Information Unit, Communications Division at Age Concern England and is adapted for Scottish use.

Age Concern Scotland, 113 Rose Street, Edinburgh EH2 3DT
Registered charity no. SC010100

AS/CH
FS37s/04/09/01