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NHS North of Tyne

ELIGIBILITY TO FREE NHS PRIMARY MEDICAL SERVICES GUIDANCE NOTE

Introduction

This guidance sets out the process for determining eligibility to free primary medical services across North of Tyne, the guidance is supported by a chart which is attached at appendix 1.

The information has been produced by a working party led by Newcastle Primary Care Trust in consultation with clinicians, management staff, patient groups and secondary care colleagues; existing guidance has been used to inform the process, where this is available.

The group would now like to seek the views of North of Tyne Local Medical Committees to inform the involvement process. Views will also be sought from the PEC and the Patient and Public Involvement Forum before submitting this for approval.

Current Rules

The arrangements for Secondary Medical Services are now reasonably clear. The National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2004 (Statutory Instrument 614) state that people not ordinarily resident in the UK are liable to NHS secondary health care charges at hospitals, except where the condition requires care because it is immediately necessary or life threatening. However, although there has been consultation to develop statutory rules for Primary Medical Services, these have not yet been formally adopted, leaving a gap in the rules which have proved difficult for patients and health care staff to interpret or navigate.

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1. Immediately necessary treatment

It is the duty of all health care staff to provide treatment when this is immediately necessary; this is enshrined within the GMC duties of a doctor. A crucial point for all Primary Care Services is that this assessment should not be made by a receptionist or other clerical staff but must be made by an appropriately trained clinician.

2. How de we ascertain eligibility ?

It is important to avoid discrimination when questioning patients to determine eligibility. Article 14 of the European Convention of Human Rights (incorporated into UK law by the Human Rights Act 1998) prohibits discrimination on grounds of sex, race, colour, language, religion, political national or social origin, association with the national minority property, birth or other status. The difficulty for services is avoiding discrimination and breach in this law when determining eligibility and ordinary residence.

It is recommended, therefore, that services should only question individuals if they intend to ask the same questions of each and every patient who presents for the first time requesting treatment or registration.

2.1. When are Patients Eligible to Free NHS Primary Medical Services?

- Students from overseas studying in Britain are eligible for free treatment.
  Website dh.gov.uk >Policy and guidance>International>Overseas visitors>Study

- Where a reciprocal agreement is in place.
  Many countries in the EEA and elsewhere have reciprocal agreements for visitors/residents to access free care.
  Website dh.gov.uk >Policy and guidance>International>Overseas Visitors>Bilateral Healthcare agreement countries

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- asylum seekers are always entitled to free NHS primary medical services.
  In the case of failed asylum seekers it should be noted that:

  (a) It can be extremely difficult to be sure when a patient has truly exhausted all routes of appeal for asylum status.
  (b) There are currently no statutory rules excluding failed asylum seekers from free NHS primary medical services.

This particular group of patients are likely to be most deprived and most in need of medical treatment amongst the patients presenting for healthcare.
Website dh.gov.uk >Policy and guidance>International>Asylum seekers and refugees>Entitlement to NHS treatment

2.2. Can the patient provide Identification?

It may be appropriate to ask the patient to provide identification, however Primary Medical Services need to take into account legislation concerning discrimination noted above and should only consider asking this if they do so for each and every patient who newly presents.

Secondly, there is currently no obligation for any person to produce documentary evidence or a form of identity or for Practices to ask for it. It is our view, that whilst asking for ID may be a useful source of information to ask all patients, the lack of ID should not be a bar to accessing health care. Also, that whilst it is important that where appropriate patients are charged for accessing NHS services when not eligible, we could not have a formal policing role and we should expect that most patients who present will be honest when assessing their eligibility.

3. Further Considerations

(a) Homelessness

The group acknowledge that this type of patient is likely to be most in need of help in accessing health care. Having no fixed abode should not be a bar to this and PCOs will work with

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Contractor Services Agency to support Practices who register patients at a care of address, for example, homelessness charity or refugee support group.

(b) Moving Abroad

The rules at present state that patients who move abroad for a period of greater than 3 months should be removed from Practice lists.

(c) Living Abroad

The regulations about British nationals going abroad state that as long as the patient has not lived abroad for more than 5 years and lived in Britain continuously for at least 10 years before going abroad they are entitled to free NHS care (Department of Health document Implementing the Overseas Visitors Charging Regulations, paragraph 631).

(d) These guidance notes apply to all Practices with open lists and also to all services provided by PCT community services.

(e) Referral to Secondary medical services. The Acute Trusts have their own DH guidance with local process to follow; it is not the role of Primary medical services to decide whether an individual is entitled to free NHS secondary care, but patients being referred can be advised if appropriate that charges may be raised by the Acute Trust.

4. Contact points for local advice

Medical Directorate North of Tyne:

Heads of Primary Care Commissioning
Newcastle- Peter Berry peter.berry@northoftyne.nhs.uk
North Tyneside- Jill Gillet jill.gillet@northoftyne.nhs.uk
Northumberland-Helen Poole Helen.poole@northoftyne.nhs.uk

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5. Department of Health website
www.dh.gov.uk/en/Policyandguidance/International

4. Review of Guidance
This guidance will be reviewed in 12 months or sooner if there are any changes in government policy

Dr Neil Morris
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