



CONTINUING
HEALTHCARE

FAQs



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Why have I not had regular updates on my case?

Simply because there is nothing to report and no material progress in your case. We are receiving letters from Clinical Commissioning Groups (CCGs) asking us not to chase them and informing us that they will contact us in 3 or 6 months by way of update. Sending you simple, standard, general update letters, saying nothing in reality, takes us away from doing what we really need to do to actively progress cases. **Rest assured that we will contact you when appropriate to do so**, and that we diarise and schedule tasks to chase CCGs to keep the pressure on.

Why is the process taking so long?

The imposition by the Government of “deadlines” (September 2012 and March 2013) for the submission of claims resulted in a rush of claims being submitted, totalling over **60,000** claims nationally. At the same time there were major changes in the NHS, with CCGs being set up in place of Primary Care Trusts (PCTs). The new organisations had neither the staff nor the financial resources to cope with the massive influx of cases. What used to take 12-18 months on average is now taking 3-5 years on average.

The gathering of records and information by the CCGs (who sometimes use another part of the NHS organisation, Commissioning Support Units – “CSUs” – or external outsource bodies to do this) can also take some time, particularly if the records relate to a deceased care home resident or the records are from years ago.

CCGs usually prioritise living residents. The CCGs often put a number of hurdles in the way by insisting on certain documents being produced to them, such as Power of Attorney or Court of Protection Deputy order (for living residents) or Grant of Probate (deceased resident with a Will) or Letters of Administration (deceased resident without a Will). More often than not, such documents are not already in existence because they have not been needed previously or otherwise, but then months can be taken up by having to put them in place.

Although there is a “National Framework” to work to, this is not legislation, meaning that CCGs have their own internal administrative processes and timescales, which we have little or no influence over.

What have you done to assist or push the claim along?

We have had meetings and discussions with CCGs and their outsource organisations, we have provided copy records to the CCGs at our expense, we have had meetings with local M.P.s and we are part of a national forum of Solicitors specialising in these claims, sharing information and “best practice”.

Why is another regional CCG dealing with this matter?

Because one CCG has outsourced it to another CCG/CSU or organisation, or where it is subsequently established after registration of a claim that another CCG should in fact be dealing with it. In many cases this is because they do not have the resources to deal with the volume of cases.

Why am I supplying new Forms of Authority or Consent Forms?

If there is a change of CCG dealing with a matter, or they ask another organisation such as a CSU or external body to deal with a case, or there is a change of status in the case e.g. where a resident dies and the claim is now treated in a different way, or because of past delays on its part the CCG now says it needs updated Forms.

What happens if there are no care home records?

Claims are considered and assessed by both Us and the CCGs using a range of available information, including Care Home, GP/Medical evidence, Local Authority records etc. Obviously, Care Home records are a particularly important source of information. If the records are not available for some reason – the Care Home may have closed, the records destroyed after a certain period of time, or they may simply have not been kept properly or gone missing (in part or totally) – we will use what records and information there are available (such as District Nurse, Hospital and Social Services records and Family Witness statements) to do as much as we can to ensure that the claim has the best chance of success. We do not simply close a claim down if there are no Care Home records BUT the absence of such records may result in us advising you that there is simply insufficient evidence to proceed.

Can you always get copy Care Home records?

Unfortunately, not always.

The care fees claim process is a lengthy one in any event, but is not helped in any way when we experience delays and difficulties in obtaining records from Care Homes. Care Homes are sometimes unhelpful or obstructive for a number of reasons, and either do not provide us at all with records in their possession, or take a substantial period of time to respond. Some say the records are theirs and not the resident's. There are different legislative provisions depending on whether the resident is alive or deceased. We have, where necessary, had to threaten legal proceedings to get what we need and are entitled to – and even then it has not always resulted in success.

This poses a particular problem where we are attempting to comply with “deadlines” imposed by CCGs for the provision of information, Detailed Medical Assessments and Written Submissions on your behalf, with a view to a successful outcome of the application. **Where “deadlines” are not met it is almost certain that a case will be closed by the CCG and the application will fail entirely, despite the possible merits.**

We often make repeated requests of Care Homes, through telephone calls, letters and emails. We often offer to collect records from the Care Homes ourselves, or go in and scan the records to take copies. Most of this goes on “behind the scenes” without clients knowing about it and we do not usually trouble the client with it.

However, there may come a point when we do need to bring any problems with the collection of Care Home records to your attention, particularly where a “deadline” is looming, and we may be hampered or unable to do the job we need to do. Not only may the CCG close the case down, but we may also be forced to tell you that, through no fault of yours or ours, we can no longer conduct the matter properly for you and must close the file ourselves.

We will let you know if we are experiencing problems, and where we may need your assistance and pressure to bear BUT we must warn you that if we cannot obtain the records in sufficient time to comply with any deadline imposed by the CCG and/or cannot agree an extension of time with the CCG, the claim may be closed down by the CCG for which we are not responsible or liable.

Why do you need bank statements and other personal information?

Either to satisfy the CCGs requirements as to proof of identity of the person with the right to pursue the claim or so that we can satisfy the CCG, in a successful claim, of proof of payment of care fees to obtain a refund. We ask for the information as early as possible so that financial records are not destroyed by banks and to avoid lengthy delays in obtaining statements from archives on conclusion of the case. It is so that we can be ready with the information to give to the CCG as soon as it is needed.

What are typical legal documents required during the process?

Forms of Authority (FOAs)
Consent forms to access medical records
Proof of identity
Death Certificate
Will
Grant of probate
Power of Attorney
Court of Protection Deputy order
Proof of payment i.e. bank statements and care home invoices or statements

How long does it take to receive my money once award agreed?

There is a difference between a claim being successful and an agreement as to the exact amount that should be repaid. Proof of payment has to be provided, then calculation of the amount for the agreed period of time, plus calculation of interest. Disputes can arise as to the figure. Unfortunately, the CCGs can sometimes be notoriously slow in processing payments even when an award has been agreed. There is no exact time period prescribed and can be anything from 2 months to 2 years in extreme cases.

The resident has passed away, what should I do?

Notify us as soon as possible, and provide us with the Death Certificate and any Will there may be. The claim will still proceed, but new documents will need to be issued by us in the name of the person with legal authority on death of the resident.

How does the resident's death affect the claim process?

Ultimately, it does not stop a claim from proceeding, but from a CCG point of view – where they give priority to assessing living residents first – the CCG might not prioritise the claim in the same way. Also, the requirement to obtain Grants of Probate or Letters of Administration may delay matters.

Who can claim on behalf of the resident?

Someone with Power of Attorney or a Court of Protection Deputy for a living resident, or an Executor or Administrator of the Estate where deceased.

When will I know if my case has reasonable merit?

We screen and assess cases on a regular basis, from an initial screening in or out depending on the information you initially provide (within days of receiving a Questionnaire from you), but more usually when assessing documents produced by the CCG and on our own assessment of records. This can take months or years, depending on the age, amount and quality of the evidence. We will keep you informed at each material stage and particularly where we think your case does not have merits. You will appreciate that it is not in our interests to carry on with a case that does not have merits.

I've received a negative assessment, what should I do?

If you receive something direct from the CCG, let us know immediately and send us anything you receive in writing. We will discuss and advise you in every case where such an assessment is received. Unfortunately, it happens in a large number of cases, and it is not until the decision is challenged or appealed that a successful outcome results. **PLEASE NOTE – there is a 6 month deadline for challenging/appealing a negative assessment.** If we do not know about it in sufficient time, this will be to the detriment of you and your claim.

I've been advised that an assessment will take place, what should I do?

If you are notified directly by the CCG, let us know immediately and we will discuss it with you. There can be different types of assessments, at different stages, and the CCG may have their own way of dealing with matters. You and/or we may consider it appropriate to attend. If you attend an assessment on your own, please be careful not to be drawn in to agreeing the levels of needs or domain "scoring" to avoid this being used against you in an assessment.

The resident's needs have increased/changed. What can I do?

Let us know straight away. A request for an updated assessment is probably appropriate. There are different ways of doing this and different people or organisations (GP, Care Home, Local Authority) can be approached.

The resident is running out of money.

If a resident is not eligible for Continuing Healthcare, and is partially or wholly responsible for paying for their care, then there certain limits on what money can be taken from their capital or income. Where their capital (value of house, savings bank accounts etc.) is over **£23,250** they pay care fees in full. If **between £14,250 and £23,250**, they pay a proportion and the Local Authority pay a proportion. If **below £14,250**, then their capital is ignored but monies may be taken from **income** (pension, benefits etc.).

In any event a financial assessment should be conducted by the Local Authority on a regular basis. Where there concerns about "running out of money" this should be addressed with the Care Home and Local Authority immediately.

We will still continue to deal with the care fees claim.

Will I get to see everything you receive from the CCG or you send to the CCG?

Everything of importance or relevance. Our main document submitted to the CCG is called a "Detailed Medical Assessment" with Written Submissions, and is usually quite lengthy. Documents or assessments from the CCG are usually a "Needs Portrayal Document", a "Checklist" or a "Decision Support Tool". You will be provided with copies of these documents and asked for any comments

The documents can portray a resident's needs in great detail and you may be unaware of some of the types of behaviour and incidents described. We appreciate that the documents may be distressing for you to read. You are under no obligation to read the documents in full, but we would normally like to receive your comments on the contents and, should the matter progress to a hearing and you decide to attend, these issues will be discussed in great detail.



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