

## **NHS funding for continuing care of older and disabled people**

On 20 Feb 2003, the Health Service Ombudsman England published a special report:

*NHS funding for long term care of older and disabled people.*  
[www.ombudsman.org.uk/hsc/document/care03/index.htm](http://www.ombudsman.org.uk/hsc/document/care03/index.htm)

The report contains the results of four investigations into complaints about the way in which health authorities set and applied their eligibility criteria for NHS funding for continuing care of older and disabled people.

The Ombudsman upheld four complaints about the refusal of NHS funding for long term care and there are several pending cases. Unusually, the English Ombudsman has created a 'fast track' complaints procedure overriding the conventional health service complaints procedure. **This is not the case in Scotland, where the standard health service complaint system should be used.**

The guidance and law were defined and clarified in the 'Coughlan' judgement where:

*Nursing care for a chronically sick patient could, in appropriate cases, be provided by a local authority as a social service, rather than by the NHS, and the patient could, depending on his or her means, be liable to meet the cost of that care. However, if the needs of the patient were primarily health needs, the health authority was as a matter of law responsible.*

R v North and East Devon Health Authority, *Ex parte Coughlan*. July 1999.  
[www.courtservice.gov.uk/judgmentsfiles/j282/coughlan.htm](http://www.courtservice.gov.uk/judgmentsfiles/j282/coughlan.htm)

Age Concern Scotland has received a significant number of enquiries about the impact of this judgment in Scotland. The guidance in Scotland – NHS MEL (1996) 22, *NHS Responsibility for Continuing Health Care* – is very similar to the original English circular, HSG 95 8(A). There has been no successor to the Scottish circular even after the Coughlan case. No complaints have been investigated by the Scottish Public Services Ombudsman and there are no cases pending.

**This does not mean, however, that none could arise in the light of recent events in England.**

## **NHS funding for continuing care of older and disabled people**

Age Concern Scotland has contacted the Scottish Executive and the Scottish Public Services Ombudsman. Both are reviewing the guidance but have not yet reached any conclusion about the situation in Scotland.

People who think they have been wrongly denied NHS funding have recourse to the health service complaints system. They should contact their local health council in the first instance.

### **Useful information**

Age Concern Scotland Factsheet 37s *Hospital discharge arrangements*  
[www.ageconcernscotland.org.uk/fact.asp?id2=4&id=36](http://www.ageconcernscotland.org.uk/fact.asp?id2=4&id=36)  
or call Freephone 0800 00 99 66 for a free copy.

#### **Scottish Public Services Ombudsman**

23 Walker Street, EDINBURGH EH3 7HX

Telephone: 0870 011 5378

Email: [enquiries@scottishombudsman.org.uk](mailto:enquiries@scottishombudsman.org.uk)

[www.scottishombudsman.org.uk](http://www.scottishombudsman.org.uk)

*To find your local health council go to the phone book, or:*

#### **Scottish Association of Health Councils - Members**

[www.show.scot.nhs.uk/sahc/members.htm](http://www.show.scot.nhs.uk/sahc/members.htm)

#### **Scottish Health on the Web – NHS Organisations**

[www.show.scot.nhs.uk/organisations/orghome.htm](http://www.show.scot.nhs.uk/organisations/orghome.htm)

#### **Scottish Association of Health Councils**

24A Palmerston Place, EDINBURGH EH12 5AL

Telephone: 0131 220 4101

Email: [admin1@sahc.sol.co.uk](mailto:admin1@sahc.sol.co.uk)

[www.show.scot.nhs.uk/sahc](http://www.show.scot.nhs.uk/sahc)

### **Contact**

If you have any questions about responsibilities for funding for care, please contact:

Andy Sim, Policy Officer (Health and Community Care)

Age Concern Scotland, 113 Rose Street EDINBURGH EH2 3DT

Telephone: 0131 220 3345; Email: [andrew.sim@acscot.org.uk](mailto:andrew.sim@acscot.org.uk)