Paying for Care

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What we will cover

1. Paying for care at home
2. Paying for permanent residential care
3. The financial assessment if you have a partner
4. The treatment of property in the financial assessment
5. Deprivation of assets
6. NHS Continuing Healthcare

Paying for Care at Home

The range of services available

There are a wide range of social care services that can be provided to help you stay in your own home and assist your carer. These include:

- domiciliary or home care and personal assistants
- meals delivered to your home
- day-centre attendance and respite care
- live-in care services
- rehabilitation services
- counselling
- direct payment support
- information, brokerage, and advice services
- specialist disability equipment
- adaptations to your home
- community alarms and other types of assistive technology.

Capital and maximum charges

- Upper capital limit The upper capital limit is £23,250. If you have more than this, you may be asked to pay the full cost of charges for your care services.
- ‘Tariff’ income calculation Capital between £14,250 and £23,250 is assessed as producing an assumed or ‘tariff’ income.
- For every £250, or part of £250, between £14,250 and £23,250, you are assessed as if you have an extra £1 a week in income

Your personal budget

- Your personal budget is the total amount the LA calculates it will cost to meet your eligible needs i.e. needs it has a legal duty to meet.
- A financial assessment is carried out to find out how much you must pay towards the personal budget figure and the remaining amount the local authority must pay. You can choose to have your personal budget as:

➢ A direct payment (money given directly to you), if appropriate

➢ A budget managed by the local authority

➢ An individual service fund where the funds are managed by a third party such as your service provider, or

➢ A combination of these.

Local authority charging rules

- Minimum income guarantee
- After paying your contribution to care services provided to you, your weekly income should not reduce below a minimum income level, called the ‘Minimum Income Guarantee’ (MIG).
- The MIG should only be applied to income you have available after any housing costs you are liable for have been deducted. Under the charging regulations, housing costs mean ‘mortgage repayments, rent, ground rent, council tax’ and certain service charges.
- Housing costs and Council Tax should be assessed less Housing Benefit or Council Tax Reduction. It should be net of Income Tax. Your available income should also take into account disability related expenditure

Examples of DRE

DRE can include the following but not only:

- extra washing or special washing powder/conditioner for delicate skin
- community alarms (pendant or wrist)
- special diet
- special clothing or footwear (or extra wear and tear)
- additional bedding
- extra heating costs
- Gardening
- household maintenance
- any household cleaning (if not part of your care plan)
- internet access
- any day or night care which is not being arranged by the local authority
- buying and maintaining disability-related equipment
- any transport costs (both for essential visits to the doctor or hospital, but also to keep up social contacts).

Disregarded income

- Some income is fully disregarded in your financial assessment and some can be partially disregarded. Disregarded income includes:
- DLA and PIP mobility components (not care or daily living components)
- Pension Credit Savings Credit
- earnings and income in kind, which is income other than money
- Social Fund payments (including Winter Fuel Payments)
- war widow’s and widower’s special payments
- regular charitable and voluntary payments (e.g. by a relative)
- Child Tax Credit, Child Benefit, or Guardian’s Allowance
- personal injury trust payments
- War Pension Scheme payments except Constant Attendance Allowance.

Disregarded capital

- The value of a property you live in as your main or only home is disregarded.
- Personal possessions are disregarded as long as they were not bought with the intention of avoiding future social care charges.
- Capital that is disregarded indefinitely includes the surrender value of life insurance policies or annuities; the value of funds held in trust which derive from a payment for personal injury, including compensation for vaccine damage and criminal injuries.
- Certain types of investment bond with a life assurance element are disregarded. If you hold an investment bond but are unsure if it has a life assurance element, ask the company that issued the bond or your financial adviser.

Example

- You are single, own your home and have savings of £5,000. Your weekly income from pensions is £230.00. You have a Pension Credit award of £69.65 a week and low rate Attendance Allowance of £72.65 a week. The LA include your pensions and benefits in full, so your weekly income included in the financial assessment is £372.30 a week. As you are State Pension age and single, the local authority apply the minimum income guarantee (MIG) of £232.60 a week.
- You spend £20 per week on a specialist diet relating to your disability. As this is not included in your care package, the LA allow £20 of disability-related expenditure (DRE) per week. Your mortgage repayments are calculated as £37 per week. You are not entitled to a benefit to support this housing cost. Your savings are ignored because they are under £14,250 and the local authority disregards the value of your property because it is your home. The local authority calculates that your care package costs £250 per week. This means your personal budget is set at £250 per week.

The local authority calculation	£
Your total weekly income	383.90
Less MIG	232.60
Less DRE	20.00
Less housing costs	37.00
Your weekly contribution to personal budget	94.30
Personal budget amount	250.00
Local authority's contribution to the personal budget	155.70

Direct payments

- Direct payments are an alternative to the local authority arranging services on your behalf. You are paid an amount based on your personal budget, allowing you to make your own care arrangements.
- You can choose to directly employ a carer/personal assistant or use a local home-care agency if you do not want the responsibility of being an employer.
- Direct payments cannot usually be used to pay your spouse, partner, civil partner, or a close relative living in the same household, unless the local authority agree this is necessary to meet your care needs or to provide administrative and management support to enable you to use the payment.

Paying for Permanent Residential Care

Threshold

- The capital threshold: £23,250
- If your weekly eligible income exceeds your personal budget, you are also considered to be a self-funder.

The financial assessment

- Needs assessment
- Calculate Personal budget
- Income and capital (tariff income)
- Minus Disregards

The local authority does not pay the total personal budget figure towards the cost of your care. Instead, it pays the difference between the personal budget figure and the amount you are assessed as being able to pay through the financial assessment.

Tariff Income

- If your capital reduces to the upper capital limit (£23,250), the local authority (LA) may have to start to assist you with funding. Request this 3-4 months beforehand.
- If you have between £14,250 and £23,250 you have an assumed (or ‘tariff’) income. For every £250 or part thereof = £1 a week income.
- You cannot have any assumed income from capital under £14,250 included in the financial assessment.

Only your own resources should be considered

- Income and savings in your sole name
- Jointly held savings are divided equally in the financial assessment, unless evidence shows your share is unequal
- It is worth dividing joint accounts, so each person holds their money separately, to ensure it is accurately taken into account
- Most forms of capital are included i.e. savings, bank or building society accounts, National Savings accounts, Premium Bonds, stocks and shares, and property (buildings or land).

Income disregards

- 50 per cent of your private/occupational pension or retirement annuity that is paid to a spouse or civil partner, and they do not live in the same care home
- Disability Living Allowance or Personal Independence Payment **mobility** components
- War Widows' and Widowers' special payments
- Child Tax Credit or Guardian's Allowance
- Personal injury trust payments
- Awards of certain damages
- The LA must let you to keep a PEA of at least £30.65 a week. You should not be asked to put your PEA towards the cost of meeting your eligible needs it is for your own personal use.

Benefits

- Your income is calculated on the basis that benefits such as Pension Credit are being claimed
- Notional income is income you are treated as having even though you do not actually receive it. For example, this can be income that is available on application, but you have not yet applied for it, or income due but has not been received, or income you have deliberately deprived yourself of to reduce the amount you must pay for your care

Local authority funding and benefits

- If you receive local authority financial support for your care home, DLA and PIP mobility components are fully disregarded
- AA, DLA care component and PIP daily living component are taken into account as income in the financial assessment
- Payment stops 28 days after local authority financial support begins, or sooner if linked to a recent stay in hospital or state-funded care home
- If self-funding you can continue to be paid AA or care and daily living and mobility components of DLA or PIP
- You are also treated as a self-funder if you receive local authority support via a deferred payment agreement
- If you lose payment of disability benefit during the local authority 12 week property disregard, it can be reinstated at the end of the 12-week period when you become a self-funder

Example 1

You are 83, single and live in a rented flat. You have capital of £5,000 and your weekly income is State Pension of £125.95 and PC Guarantee Credit of £101.15, to give an assessable amount of £227.10 a week. The local authority arranges for you to move permanently into a care home. Your personal budget is set at £700 a week to meet your assessed eligible care and support needs. The home costs £700 a week. Your capital is ignored by the local authority because it is less than £14,250.

The local authority calculation	£
Your total weekly income (£125.95 plus £101.15)	227.10
Less PEA	30.65
Your weekly contribution to personal budget	196.45
Local authority's contribution to personal budget	503.55
Cost of the home	700.00

Choice of accommodation

The LA has a duty to provide suitable residential care at your personal budget level, with at least one choice available where the fees can be met entirely out of your personal budget.

You have the right to choose between different providers of accommodation provided that:

- The home is of the same type as specified in your care and support plan
- The home is suitable for your assessed needs
- The home is available, and
- The home is willing enter into a contract with the local authority on the local authority's terms and conditions.

If your funds run down as a self-funder

- If your capital drops towards the upper capital limit (£23,250), ask the LA authority for a needs assessment a few months before you reach the limit
- If the home in which you have been self-funding costs more than the LA is prepared to pay, they may request payment of a top-up to make up the difference. If no one is willing or able to do this, they may conclude you need to move to a cheaper care home
- They should look at the risk to your physical and mental wellbeing of moving you. If your existing care home is found to be the only one that can meet your assessed eligible needs, the cost must be covered by your personal budget and a top-up cannot be requested
- If you move into a care home as a self-funder in a different LA area from where you lived before, the LA in the area you now live is usually responsible for assisting you if you may become entitled to support with funding

Third party top-ups

- If your preferred accommodation costs more than your personal budget, the LA must still make arrangements for you in that home as long as someone else can make up the difference between that amount and the care home fee, referred to as a 'Third party top-up'
- The third party must show they can reasonably expect to be able to contribute for as long as the arrangement lasts – i.e. the length of time you will be in the home
- The third party and the LA must agree what will happen if the home's fees subsequently increase. The LA may not necessarily agree to pay for all, or even part, of, an increase
- If third party additional payments cannot be continued, you may have to move to another less expensive home

Paying for Care if you have a Partner

Paying for care if you have a partner

- Your partner cannot be charged a contribution towards the cost of your care. You also need to find out whether you should make separate claims for benefits, if one of you permanently enters a care home.
- Only your own assets should be taken into account
- The LA does not have the power to assess couples according to joint resources - each person must be treated individually. However, if you receive income as one of a couple, the local authority can start with the assumption you have an equal share of the income.
- The LA should not generally use a joint assessment form that asks for details of both partners' finances. The LA may ask for details of your partner's finances on a separate form to ensure they are left with enough money to live on when you go into a care home.

Valuation of jointly owned capital

- The LA will treat you as having an equal share in jointly held capital, such as a joint bank account, except where there is evidence that your share is unequal. If you have jointly held savings, it is in your interests to divide capital into the proportions owned by each of you before the financial assessment takes place.
- Example: You enter a care home and have £50,000 in a joint account with your partner. You are assessed as having £25,000 (50 per cent), which is only £1,750 above the upper capital limit. However, £3,500 in total must be spent from the joint account before the overall total falls to £46,500 and your 50 per cent share falls to £23,250 (upper capital limit). Opening separate bank accounts before moving into the care home saves you having to spend more money than is necessary before your assessed share falls below the upper capital limit.

50% private pension and annuity disregard

- If you enter a care home and have a personal or private pension, an occupational pension, or a retirement annuity, you can choose to pass 50 per cent to your partner remaining at home, and this amount must be disregarded in the financial assessment
- If you have more than one of these types of income, they are added together to reach the 50 per cent figure
- Your partner may remain at home or can live anywhere other than in the same care home as you. The disregard does not apply to partners who are neither married nor civil partners

The Treatment of Property

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Disregarded property

- There is also a 12-week disregard from the day you first become a permanent care home resident, giving you time to decide how to use your property to pay care fees.
- Your property can be disregarded if it is your former home, and the following still lives there:

  - your spouse, partner, former partner, or civil partner, except where you are estranged
  - a lone parent who is your estranged or divorced partner
  - a relative of yours, or member of your family, who is:

    - aged 60 or over, or
    - a child of yours aged under 18, or
    - ‘incapacitated’.

They must have been occupying the property before you went into the care home. The disregard lasts until the situation changes, at which time it may be included in the financial assessment.

LA’s have discretion to disregard the value of your property if someone living there does not qualify for a mandatory disregard. It does not have to exercise this power but should give full consideration to a request to do so.

Definitions

What ‘relative’ means

(a) parent; (b) parent-in-law; (c) son; (d) son-in law; (e) daughter; (f) daughter-in-law; (g) step-parent; (h) step-son; (i) step-daughter; (j) brother; (k) sister; (l) grandparent; (m) grandchild; (n) uncle; (o) aunt; (p) nephew; (q) niece; (r) or the spouse, civil partner or unmarried partner of (a) to (k) inclusive.

What ‘incapacitated’ means

Someone is ‘incapacitated’ if they receive any disability benefit. If they do not receive these benefits but their degree of incapacity is equivalent to that required to qualify for such a benefit, they also qualify. Medical or other evidence may be needed for a decision in this case.

Moving from a disregarded property

- The existing disregard only applies to your original property and once it is sold, your share of the proceeds of sale can be taken fully into account as capital in your financial assessment
- The authority can use its discretion to disregard sale proceeds in other situations, for example to help your partner secure rented accommodation, and must consider your individual request. If you pass on any sale proceeds to someone else and the authority do not agree this was reasonable, they can financially assess you as if you still possessed the money

Example: Maxine has moved into a care home and has a 50% interest in a property that continues to be occupied by partner, David. The value of the property is disregarded whilst David lives there, but he decides to move to a smaller property that he can better manage and so sells their shared home to fund this. At the time the property is sold, Maxine's 50% share of the proceeds could be taken into account in the financial assessment, but, in order to ensure that David is able to purchase the smaller property, Maxine makes part of her share of the proceeds from the sale available. In such circumstance, it would not be reasonable to treat Max as having deprived himself of capital in order to reduce his care home charges.

Deferred Payment Agreements (DPA)

- A DPA is meant to ensure you are not forced to sell your home in your lifetime if you need to pay for residential care.
- By entering into a DPA, you delay paying your care costs until a later date, usually by having a legal charge placed on your property by the LA
- A DPA can be used either to defer costs until after your death, or as a ‘bridging loan’ to allow time to sell a property to pay care fees. You effectively borrow money towards your care home fees.
- The LA must offer you a DPA if you meet the eligibility criteria and has discretion to do so if the criteria are not met.
- Payment is deferred, not ‘written off’ – your care home costs must be repaid by you (or a third party on your behalf) at a later date.
- You may be charged administration costs and interest on the accruing amount.

The eligibility criteria

The LA must offer you a DPA if you meet all the following criteria:

- The LA agree you have care needs that should be met through a care home placement, and
- You have a legal or beneficial interest in a property that is your ‘main or only home’, and
- You have less than or equal to £23,250 in capital, excluding your share in the value of your home, and
- Your home is not disregarded in the financial assessment; and
- You agree to the conditions in the deferred payment agreement.

You must be able to provide adequate security, so the LA are confident you can repay in the future.

A DPA is always a choice, they cannot be forced upon you. If you want a DPA, the authority must decide if it is viable before agreeing to it. The authority have a power to refuse a DPA once it has considered your situation.

How much can be deferred?

- The LA must set out an ‘equity limit’ which is the total amount that can be deferred and ensure the amount that is actually deferred does not rise above this.
- The equity limit can vary over time. If the DPA is secured against a property, the equity limit should be set at the value of the property minus ten per cent, minus the amount of any encumbrances (legal claims by another party) already secured on it, for example a mortgage, and minus £14,250.
- The equity limit calculation must ensure there is a buffer to cover subsequent interest accruals and provide a small ‘cushion’ in case of variations in the value of your chosen security, for example a fall in house prices.
- When calculating progress towards the equity limit, the LA must include interest accrued and fees to be deferred. LA’s must not allow additional amounts to be deferred beyond the equity limit and must refuse to defer care costs beyond this.

When 70 per cent of the value of your security is deferred, the LA should review the cost of your care. They should discuss when you might be eligible for financially assessed support from them, the implications for current top-up payments, and consider if a DPA is still the best way to meet these costs.

Deprivation of Assets

What is deliberate deprivation of assets?

- Deliberate deprivation of assets means you have intentionally decreased your overall assets, in order to reduce how much you are required to pay towards your needs for care and support
- The LA must show that you knew you may need care and support in the future when you carried out this action. It is therefore an evidence-based test of both foreseeability and intention
- Inheritance Tax gifting rules do not apply to social care.
- Any past disposal of assets can be considered as possible deprivation

Deprivation of capital examples

Deprivation covers a broad range of ways you might transfer a capital asset out of your possession:

- A lump-sum payment to someone else, for example as a gift
- Substantial expenditure has been incurred suddenly and is out of character with previous spending
- The title deeds of a property have been transferred to someone else
- Assets put into a trust that cannot be revoked
- Assets converted into another form that are disregarded in the financial assessment, for example personal possessions
- Assets reduced by living extravagantly, for example gambling
- Assets used to purchase an investment bond with life insurance.

Giving away assets and deprivation

- It may seem a good idea to transfer property out of your name, for example to children or a trust, so you do not to have to use its value to meet your care costs. Caution is strongly advised before taking this action. If your property would have been included in the financial assessment, and the LA thinks you deliberately transferred it to avoid care costs, it can financially assess you as though you still have it.
- You may also want to pass on savings or other capital to your children or others during your lifetime, but it can affect your eligibility for LA funding assistance with care fees, as well as means tested benefits such as Pension Credit.
- The nature of the rules on deliberate deprivation of assets mean it is not possible to predict with certainty whether the LA will raise the issue during a future financial assessment. The rules relate to the moment your financial assessment happens.

When is deprivation deliberate?

The guidance advises LA's to understand that avoiding your assessed care charges may not be the only motive behind the disposal of eligible capital or income ahead of your financial assessment. There may be justifiable reasons, so the local authority must show why it has come to a deliberate deprivation conclusion.

Intention: Your intention to avoid paying care charges must be a significant factor, or the only reason, you have disposed of an asset, in order to be found to have deliberately deprived yourself. The LA must justify their decision if they intend to take a disposed asset into account.

Foreseeability: It is unreasonable to decide you have disposed of an asset to reduce the level of care charges payable if, at the time of the disposal, you were fit and healthy and could not have foreseen a need for care and support.

The consequences of deliberate deprivation

- If deliberate deprivation is found, the LA can decide to treat you as if you still possess the asset for the purpose of the financial assessment. This means treating you as having ‘notional’ capital or income, even if you no longer actually possess it.
- If you deprive yourself of an actual resource and convert it into something of lesser value, you are treated as notionally possessing the difference between the value of the new resource and the one replaced. For example, if the value of personal possessions acquired is less than the sum spent on them, the difference is treated as notional capital.

NHS Continuing Healthcare

What is NHS Continuing Healthcare (CHC)?

- NHS CHC is an ongoing package of care that is funded solely by the NHS, if you are aged 18 or over, and found to have a ‘primary health need’
- It is provided to meet needs arising because of disability, accident, or illness.
- Your package must meet your assessed health and associated social care needs and include accommodation if that is part of your overall need.
- You can receive NHS CHC in any appropriate setting, but it is usually at home or in a residential setting such as a care home.
- Having a particular diagnosis does not determine eligibility - people with the same health condition can have very different needs

Getting an assessment

If it is clear to health and care staff that there is a need for NHS CHC, they should complete the Checklist tool

Be sure to ask staff if they have considered NHS CHC when:

- Staff are considering your needs following a stay in hospital
- Your physical or mental health deteriorates significantly and your current level of care, at home or in a care home, seems inadequate
- Your condition is rapidly deteriorating, and you may be approaching the end of your life. You may be eligible for ‘fast tracking’

The NHS CHC assessment process

In most cases, once long-term needs are clear, staff follow these steps:

- They consider whether the type and level of your needs prompts them to apply the Checklist, which can lead to a positive or negative decision. In some cases, staff may believe you should go straight to a full assessment.
- A positive Checklist triggers a full assessment of your needs.
- A multi-disciplinary team (MDT) conducts an assessment and then uses that information to complete a DST that informs their eligibility recommendation to the ICB.
- The ICB makes the final eligibility decision and they should follow the MDT recommendation, unless exceptional circumstances apply.
- You have a right to challenge the ICB if you receive a negative decision

The Domains

There are 11 ‘domains’ which are scored based on level of need. A full assessment is needed if the Checklist shows:

- Two or more domains rated as high, or
- Five or more domains rated as moderate, or
- One domain rated as high and four rated as moderate, or
- High in one of four domains with a priority level of need and any level of need in other domains.

Staff should share the outcome with you and your representative as soon as reasonably practical in writing, giving reasons for reaching their decision.

The Domains

1. Breathing
2. Nutrition
3. Continence
4. Skin integrity
5. Mobility
6. Communication
7. Psychological and emotional needs
8. Cognition
9. Behaviour
10. Drug therapies and medication
11. Altered states of consciousness
12. Other significant care needs to be taken into consideration

Key Characteristics of eligibility

When considering eligibility, staff look at key characteristics of your needs in the 12 areas and their impact on the care you require..

The key characteristics are:

Nature - the type and features of your needs - physical, psychological or mental - and type of support or treatment needed to manage them.

Intensity - relates to the severity of your needs, how frequently and to what extent they vary, and the resulting level of support required.

Complexity - how different needs present and interact with each other to increase the knowledge and skills staff need to a) monitor symptoms b) treat any multiple conditions; and how this affects management of your care.

Unpredictability – how much, how often and how unexpectedly changes in your condition create challenges because of the timeliness and skills required to manage needs that arise.

Each of the characteristics may on their own, or in combination, demonstrate a 'primary health need' because the quantity, the quality, or a combination of the quantity and quality of care required to meet your needs, exceeds the limits of an LA's responsibilities.

Further support

- Skills for Care have information about employing a personal assistant: www.skillsforcare.org.uk/Employing-your-own-care-and-support
- Link to Factsheets: www.ageuk.org.uk/services/information-advice/guides-and-factsheets/
- Age UK Hertfordshire Information and Advice: www.ageuk.org.uk/hertfordshire 0300 345 3446 info@ageukherts.org.uk
- Beacon NHS CHS Funding Advice: www.beaconchc.co.uk