ADCS
Leading Children's Services

NRPF network
No Recourse to Public Funds Network

Response to the review of the National Health Service (Charges to Overseas Visitors) (Amendment) Regulations 2017

1. Extension of charging to community services and the impact on NRPF service provision

Through correspondence between ADCS and the Local Government Association (LGA) and relevant ministers, and a previous consultation response, councils have voiced ongoing concerns about the impact of charging on people receiving support, the wider community and NRPF service provision.

Key concerns of how the extension of charging into relevant services provided in the community, or to non-NHS providers of relevant services, has had a particular impact on persons sharing a protected characteristic or on any other vulnerable group include:

- In the absence of a charging exemption for people receiving social services' support, councils are concerned that the extension of charging to community NHS services and the requirement to pay up front for non-urgent treatment will only exacerbate and increase these problems.

- Where a child requires non-urgent treatment and can only receive this following upfront payment, then it is an inevitable consequence that councils' safeguarding duties will extend to covering the cost of NHS healthcare. The majority of families supported by social services are single parent households, so this change will affect women and children. The regulations also create a cost-shunt to local government.

- Concerns still also remain about extending the scope of charging to community based services, where failure to access preventative treatment will lead to an exacerbation of social care needs, resulting in increased demand on staff time and support costs. This particularly impacts on people with disabilities, who are elderly or are pregnant. Case examples were provided in the NRPF Network report of 2014.

- Although it is unlikely that safeguarding duties under section 17 of the Children Act 1989 would extend to repayment of an NHS debt already accrued, if a child's welfare is adversely affected by the repayment of a debt out of subsistence support, then this may result in increased costs to the local authority if support needs to be increased.

Recommendation: the charging exemption be extended to people without status (who are not refused asylum seekers) if they are in local authority support, as it is for those supported by the Home Office, particularly given the impact on persons sharing a protected characteristic, as identified above.

2. Upfront charging for non-urgent treatment – impact on councils and individuals

This response is a consolidation of information provided by councils for the purpose of the review, as requested by ADCS, LGA and the NRPF Network. As the changes have only been in force for less than four months, unfortunately only a limited number of councils were able to provide substantial evidence of their impact on people who are supported by social

services. Therefore, it is not yet possible at this early stage to provide a robust evidence base of how the charges have impacted on NRPF individuals and families.

The examples of impacts that have been submitted by councils include:

- One local authority reported that people who are destitute and liable to be charged are being directed to A&E services, and GPs have been placed under increased pressure to deliver services under primary care, in order to avoid making referrals for secondary care, for example to administer a blood test.

- One local authority provided an example concerning a visa overstayer with multiple health issues, including diabetes. The NHS performed a leg amputation but then refused to provide a bariatric wheelchair, prosthesis and crutches. Following intervention from the local authority, the NHS agreed to provide bariatric wheelchair but the decision regarding prosthesis remains outstanding. This has adversely impacted on a person with a protected characteristic (disability) and has created a cost burden because local authority staff have had to spend time 'contacting the hospital relentlessly and attending meetings to advocate on behalf of the person'. Also, the Home Office decision not to grant leave to remain or remove the person from the UK over the past 15 years had meant significant ongoing financial burden to the local authority in providing accommodation and subsistence support, in this case £474.42/week.

- Local authorities have reported that mothers who have incurred charges following maternity care have been forced to borrow the money from friends and family members to maintain repayment plans, including one case from an ex-partner who is the child's father. Another has set up a repayment plan and is paying the debt out of the subsistence support provided to them by social services in order to safeguard and promote the welfare of their child who has been assessed as in need. This is a level of support designed to cover basic living costs only, so any debt repayment would constitute a significant reduction in the funds available to meet the child's basic living needs. There is concern that the pressures of repaying debts lead to people relying on already stretched support networks.

Recommendation: DH continue to work with councils to capture the impact of the Regulations to inform a later review

3. Implementation of the regulations – Continuing healthcare

Though we welcome the development of a factsheet that sought to outline the key implications for councils of the regulations, there is lack of clarity with regards to what services are actually chargeable or not. For example, the Department of Health's February 2017 response to the consultation on extending the charging regulations indicates (at page 12) that there would be further consideration with stakeholders about whether to extend charging to continuing healthcare (CHC) and nursing care. However, the 2017 amendment regulations appear to bring CHC within the scope of charging.

Local authority concerns about the prospects of charging for CHC were highlighted in our previous consultation response. Given the serious cost implications for councils, where people who have a primary health need and are eligible for CHC are not able to receive it, this issue requires clarification. If CHC and nursing care is within scope of the charging regulations, a full impact assessment must be carried out.

Feedback from local authorities indicates that community services are not yet implementing the charging regulations, so there remains some time to ensure that the regulations are enacted effectively and fully understood.

Recommendation: the DH factsheet is expanded and widely circulated to provide further clarity.

4. Background information – no recourse to public funds
In order to comply with statutory safeguarding duties, local authorities in England are required to provide accommodation and financial support to people with no recourse to public funds:

- Families in receipt of support under section 17 of the Children Act 1989
- Adults with care and support needs in receipt of support under the Care Act 2014
- Care leavers in receipt of support under sections 23C, 24A, 24B of the Children Act 1989

Data from 46 local authorities in England shows that on 15 February 2018, 2486 households with 3878 dependants were receiving financial support at a combined cost of £42 million. The average time that a household is dependent on social services' support is 890 days. The lead applicant of 1585 households has been recorded as a visa overstayer or illegal entrant by the Home Office, so 64% will be subject to NHS charging. This does not include dependants who may also be subject to NHS charging. (Data taken from the NRPF Connect database http://www.nrpfnetwork.org.uk/nrpfconnect/Pages/default.aspx).

Please refer to the attached documents which are referenced in this response:

- NRPF Network consultation response- Overseas visitors and migrants: extending charges for NHS services (March 2016)
  http://www.nrpfnetwork.org.uk/Documents/NHS-consultation-2016.pdf

- Report on the impact of the NHS (Charges to Overseas Visitors) Regulations 2011 on local authority supported service users (November 2014)
  http://www.nrpfnetwork.org.uk/Documents/NHS-report.pdf
