

Complaints about Retrospective Continuing Care Funding (Also known as Continuing Health Care: CHC Funding)

Retrospective continuing care complaints are those in which all, or the majority of the claimed funding period lies between 1 April 1996 and 31 March 2004.

What the Ombudsman can and cannot do

Continuing Care Funding for long term care can be given to people in care homes or in their own home, if their physical and/or mental health care needs meet the rules (known as eligibility criteria) of the local Strategic Health Authority (SHA). Because the areas where the Ombudsman can help are often misunderstood, and misleading information sometimes appears in the media, we have prepared this guide to explain what we can and cannot do.

All complaints must first be made to the Primary Care Trust (PCT) that made the decision and then pursued with the appropriate SHA. If the SHA do not resolve your complaint, the Ombudsman may be able to help you.

If you think that a decision by the SHA to agree with a PCT decision to refuse you continuing care funding to pay for the long term care of your relative, or the person you look after, is flawed, the Ombudsman may be able to help you.

The Ombudsman can usually look at your complaint if you can show that:

- a request for a continuing care assessment or review to be conducted was unreasonably refused;
- the process of assessment of your claim was significantly flawed;
- the rationale for the decision not to pay continuing care funding was illogical, flawed, or not based on evidence; and that these flaws are likely to have rendered the decision not to fund unreasonable.

Your complaint will be looked at to see if there is, on the face of it, maladministration, that is, whether the process used by the PCT/SHA was significantly flawed, and then whether, and to what extent, the Ombudsman can or should investigate your complaint.

If your complaint is accepted for investigation, and if the Ombudsman identifies significant problems, we will usually uphold your complaint, write to you and the SHA, and recommend that action be taken to rectify the problem. This may not necessarily mean the SHA will arrange for a new assessment panel. However we will set out clearly to you the action that the SHA will be taking, and give you the opportunity to comment upon our findings in a draft report.

The Ombudsman cannot:

- undertake her own continuing care assessment of your relative's health care needs;
- help you to put your case to the PCT or SHA (the Ombudsman is independent and impartial; there are other organisations which may help you present your case);
- tell you whether or not continuing care funding should have been granted or replace the PCT decision or the SHA's recommendation and direct them to pay continuing care funding;
- say whether a particular continuing care rule used by the PCT or SHA is lawful (that is for the courts); or
- look at continuing care funding for any period before 1 April 1996 (before that date there was no requirement for SHAs to have continuing care eligibility criteria).

Further points:

- At present, the Healthcare Commission is the appropriate body to complain to regarding PCT decisions or SHA recommendations about funding for periods of care wholly or largely after 31 March 2004.
- At present the Healthcare Commission is the appropriate body to complain to about a PCT decision regarding compensation, interest or redress associated with a continuing care decision.

If, after reading this guide, you need further general information, telephone: 0845 015 4033, or look at the Ombudsman's website: <http://www.ombudsman.org.uk>.