

3 April 2019



PHSO evidence submission to National Audit Office investigation into healthcare penalty charge notices

About the Parliamentary & Health Service Ombudsman (PHSO)

We were set up by Parliament to provide an independent complaint handling service for complaints that have not been resolved by the NHS in England and UK government departments. We look into complaints where someone believes there has been injustice or hardship because an organisation has not acted properly or has given a poor service and not put things right.

We share findings from our casework to help Parliament scrutinise public service providers. We also share our findings more widely to help drive improvements in public services and complaint handling.

Summary of issues

People who use the NHS in England generally pay a fee for prescriptions and dental care. Some people are exempt from paying some or all of these charges. To claim an exemption, people must have a valid exemption certificate or prepaid prescription card. The NHS Business Services Authority (NHSBSA) administers this process, and recovers costs from people who have made incorrect exemption claims through penalty charge notices. The charge amounts to the original fee for the prescription or dental care, plus a Penalty Notice Charge of £100 or five times the original cost (whichever is lower). Failure to pay within 30 days results in a further £50 surcharge. The charges are set out in The National Health Service (Penalty Charge) Regulations 1999.

We generally do not find failings in complaints about healthcare penalty charge notices, because NHSBSA acts properly, according to the regulations. However, although we do not see technical failings, there are a number of common themes in complaints to us that highlight issues with how the system is working:

- People are confused about what benefits entitle them to free prescriptions or dental care
- People don't notice their exemption, or prepaid prescription card has expired, sometimes resulting in multiple penalty charge notices
- People feel the penalty charge notice is excessive for what is an 'honest mistake'
- People have been penalised for mistakes by pharmacies

We receive a significant number of complaints about healthcare penalty notices

Between April 2018 and March 2019, we closed 44 complaints about the NHSBSA administration of healthcare penalty notices. A further 4 cases are open (at the time of writing) about the same issue. In nearly all of the complaints we looked at we did not see a failing from NHSBSA. The regulations and paperwork around healthcare penalty notices are clear and consistent, and the administration of the



charges by NHSBSA follow the regulations clearly. On the rare occasions we saw a penalty notice has been incorrectly issued, NHSBA positively addressed the errors and waived the charges.

We received a further 262 complaints about NHSBSA that were not ready for us. If a complaint is not yet ready for us, for example if the local resolution process has not been completed, we do not record information about the detail of the complaint. However, the majority of complaints we receive about the NHSBSA are in relation to penalty notices.

People are confused about what benefits entitle them to free prescriptions or dental care

The complaints we have closed cover both prescription charges and dental care charges. In many cases, people report being given advice either from a pharmacy or dental practice that they qualify for free treatment because they are in receipt of benefits. Although the form people are required to fill in clearly states responsibility for claiming free treatment lies with the patient and explains, the complicated benefits system, as well as possible erroneous advice from employees at pharmacies and dental practices, can make the system difficult to understand and navigate.

People don't notice their exemption, or prepaid prescription card has expired, sometimes resulting in multiple penalty charge notices

Other cases we have seen involve people whose entitlement to free prescriptions or treatment, or prescription prepayment card, has expired, sometimes by only a matter of days. Furthermore, as pharmacies return information to NHSBSA about claimed exemptions once-a-month, there can be a delay between someone incorrectly claiming an exemption and NHSBSA issuing a penalty notice. This can lead to multiple penalty notices being issued as someone may incorrectly claim an exemption from fees for several prescriptions in the month before a pharmacy returns information to NHSBSA. This seems to be a more common problem where someone has a prescription prepayment card that has expired.

People feel the penalty charge notice is excessive for what is an 'honest mistake'

People often explain that they have made an "honest mistake" rather than a fraudulent attempt to avoid payment, whether this is due to confusion about eligibility or expiry dates. People are often willing to pay the appropriate charge, but feel they should not be punished for these mistakes.

People have been penalised for mistakes by pharmacies

We have seen a small number of cases where people claim a pharmacy has made a mistake resulting in penalty notices being issued. Often this is where there has been no direct interaction between the pharmacy and the patient on the day (i.e. prescriptions are delivered to the patient's home). This can include where the exemption has expired but the pharmacy has not realised, or where the pharmacy has confused which family member is receiving the prescription, where one family member is exempt and the other not.

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