

CARERS look after family, partners or friends in need of help because they are ill, frail or have a disability. The care they provide is unpaid.

Policy Briefing

Charging for non-residential community care services

Carers England

New Guidance for local authorities on charging for non-residential community care services has also been published by the Department of Health (November 2001). Local authorities must begin to amend their own policies by October 2002, and April 2003, at the latest.

The purpose of this briefing is to set out the current system for charging carers, older people and disabled people for the home care services they receive and also to highlight some of the Government's proposals for reform of the system.

Charging carers for services: The Carers and Disabled Children Act 2000

Following the implementation of the Carers and Disabled Children Act 2000 in England and Wales, local authorities are able to provide services directly to carers, to promote their health and well-being and to support them in their caring role.

Despite intense lobbying from Carers UK, local authorities are able to charge carers for the services that are provided to them, subject to a means test. The Act, and the Guidance attached to it, is very clear that local authorities CANNOT charge carers for services belonging to the person they are caring for.

The current system

Social services has a discretionary power to charge for certain non-residential services such as meals on wheels and home help services provided to older people and disabled people, and for services provided directly to carers.

The law says that local authorities "may recover any such charge (if any)" as they consider reasonable. Thus charging is not compulsory, but local authorities can charge if they choose. The law goes on to say that, in any event, local

authorities cannot charge more than it is 'reasonably practicable' for someone to pay. However, the law makes it clear that the onus to prove an inability to pay rests firmly on the individual concerned.

The only significant Department of Health Guidance given in respect of charges was issued by the Social Services Inspectorate (SSI) in January 1994, as advice to its own officers. The status of this guidance is no more than that of a relevant consideration to which all local authorities should have regard when drawing up their charging policy.

Authorities have, however, been under increasing pressure to operate a charging policy. At present, the standard spending assessment formula assumes that authorities will raise up to 9 per cent of their non-residential care costs through charging. As a result, many local authorities charge for services to avoid huge budget deficits.

Although carers can be charged for their own services, local authorities are not empowered to take carers' incomes into account in financial assessments for non-residential services belonging to the person they care for. This includes the income of a spouse. Any charging system which seeks to take a carer's income into account, other than for their own services, may be open to legal challenge.

Although some local authorities do not charge carers or service users who are in receipt of income support, many do. The advice from the SSI states that the Government does not believe that there should be an automatic exemption from charges for people on a low income, although authorities can waive charges in particular cases. Additionally, if charges are causing financial hardship, then local authorities can reduce or waive them.

The Guidance states that in assessing the ability of a person to pay, local authorities may take into account all types of income, with the exception of the mobility component of Disability Living Allowance. However, the SSI Advice also states that authorities should have regard to the overall financial circumstances of the individual. In particular, they should take into account any extra costs of disability such as extra heating or a special diet.

Local authorities also have the discretion NOT to charge for periods of respite care up to eight weeks long. The availability and cost of respite care varies considerably throughout the country, not least because of judgements about whether the need is for health care (and free through the NHS) or social care (arranged through the local authority).

What does the new Guidance say?

Carers have now been included in the Guidance in their own right, and all of the Guidance applies equally to carers, disabled people and older people who receive

services. The Guidance also includes a reminder that local authorities are not required to charge for these non-residential community care services at all.

Carers UK believes that carers should not be charged for services which, under the new Carers and Disabled Children Act 2000, “help them to provide and continue to provide care”. Improving carers health and well-being should be an important public health target. This will not be achieved if charging is applied to carers’ services.

This is a summary of the main points of the Guidance.

Minimum income protection

- * Income must not be reduced below a minimum level (the level of basic Income Support plus a buffer of 25%).
- * This applies to all people who have an income equivalent to the basic level of Income Support, regardless of whether they actually receive Income Support or not.
- * “Basic” Income Support includes any age, carer or disability-related premiums in payment, including Carer Premium, except the Severe Disability Premium.

Carers UK welcomes this measure as it is likely to protect those on the lowest incomes. However, we maintain that there should be an automatic exemption from charges for anybody who is in receipt of Income Support, regardless of other benefits they may receive.

Charges for different types of services

- * Charges should not be levied for one service in isolation.
- * The impact of charges for one service on the user’s income should be taken into account in assessing whether charges should be levied for another service.

Carers UK welcomes the inclusion of this principle. Carers UK is disappointed, however, that this is not expanded in the Guidance in order to protect families where both a carer and disabled person are in receipt of their own services. Carers UK believes that the overall impact of charging on a household’s income should be considered.

The treatment of carer- and disability-related benefits

- * Carer- and disability-related benefits, such as Invalid Care Allowance (ICA) and Disability Living Allowance (DLA), can be taken into account as income available to pay charges.
- * Benefits which are paid in relation to care during the night (usually the higher rate of DLA or the higher rate of Attendance Allowance) may not be taken into account if the service is only provided during the day.

Carers UK believes fundamentally that ICA should be NOT be considered as

income available to pay charges for services which enable them to continue to care. Carers UK urges local authorities to ignore ICA in their calculations.

Carer and disability related expenditure

- * If a council takes a person's carer or disability benefits into account, they must also consider their carer- or disability-related expenditure.
- * Councils should also consult on whether to assess disability related expenditure in situations where people are not in receipt of carer or disability benefits.
- * Further guidance for councils on assessing these costs is expected in January 2002.

Treatment of earned income

- * Earned income (i.e. a wage or salary) must be completely disregarded in any assessment of charges.
- * This applies equally to carers, disabled people and older people.

This is the biggest single change in the Guidance and is welcomed by Carers UK. However, Carers UK considers that if earnings are to be disregarded then, earnings replacement benefits, such as ICA and Incapacity Benefit, and occupational pensions should also be disregarded.

Savings

- * Councils may take savings into account as income available to pay charges. If they do, the Guidance states that they should apply the same limits as for residential care charges, as a minimum standard. The value of a person's home must not be taken into account.

Currently these limits are:

- * Savings under £11,500 cannot be taken into account
- * Savings over £18,500 (to rise to £19,000 on 1st April 2001) can be taken into account in full (i.e. councils can charge people with savings over this amount the full cost of the service or the maximum charge, if there is one)
- * Savings between these amounts can be considered as yielding an income of £1 for every £250 of savings held

This is very similar to the original proposals. Carers UK believes that it is wrong to treat savings in the same way as for residential services. People who live in their own homes need higher levels of savings as they face the costs of maintenance which may be both high and unexpected. Charging against savings creates a disincentive to save and penalises people who have chosen to save for their later life.

Partners income and assets

- * Councils may consider whether service users could have reasonable access to the resources of a partner and ask for information on such resources – on

a case by case basis, and in the light of their own legal advice.

This section is clearer than in the original proposals, but the issue of whether it is lawful to charge against a partner's assets is effectively still in question. Carers UK continues to believe that it is wrong in principle to charge against a partner's income or assets. A carer, however, is under no obligation to reveal their financial details or situation.

Monitoring and information

- * Councils should monitor certain elements of charging policy and practice. Clear information on charging and the right of appeal must be made available to everyone who uses services.
- * Comprehensive benefits advice should be provided at the time of an assessment of charges, and independent benefits advice should also be made available.

Carers UK welcomes these sections of the Guidance.

Implementation date

Implementation will be in two phases. Certain sections of the guidance must be implemented by 1st October 2002. These include:

- * Not charging against earnings
- * Not charging people who receive Income Support (or income based Jobseekers Allowance) if their overall income is not greater than the protected minimum income (see above).
- * Assessing disability related expenditure for people who receive more than 10 hours of home care weekly if their disability and carer related benefits are being taken into account.

All other sections of the guidance of the guidance must be implemented by 1st April 2003.

Carers UK has great reservations about the delay in implementing large sections of the guidance, and in particular the delay in implementing the minimum income protection for the majority of carers for over a year.

Problems with charging for home care services

Financial effects on carers

Caring imposes additional costs upon carers and their families, thereby compounding the effects of a low income. Research has distinguished between the costs arising from the special needs of the person cared for and those arising from the care giving role. However, these costs often fall upon the carer, either because the disabled person has insufficient income or because of the way finances are managed within the household. Carers, and the people they care for are often forced to rely on one another's income. This relationship

has become even more complicated now that carers can now also be charged for their own services.

Many carers live in poverty and suffer financial hardship as a direct result of their caring role. Any additional financial costs will add further to the poverty and hardship already experienced by carers.

Evidence from Carers UK's recent research, *Caring on the Breadline*, shows that charging for services presents particular problems for carers. Undertaken in 1999/2000, before the introduction of the Carers and Disabled Children Act 2000, the research asked carers to suggest ways in which the Government could most improve their financial situations. The second largest response was the abolition, or at the very least, a reduction in, charges for non-residential community care services.

Research amongst Carers UK members showed that:

- * one in four carers were experiencing hardship as a result of increased charges
- * people were cancelling services because of increased charges
- * half of the carers paying charges did so either from their own, or from joint, incomes
- * half of the carers said that their own income (or joint income) had been assessed
- * carers were not able to challenge assessments due to a lack of written information
- * most carers were unclear about their legal rights and about how charges were assessed.

Inconsistencies in levels of charging

There is no consistency in the amounts charged by local authorities for similar services which leads to inequalities in service provision. There may be no charge, or a minimal charge, for a service in one area and in a neighbouring borough the charges for the same service may be very high.

Charging with Care, the report of the Audit Commission into how councils charge for home care, found wide variations in the way in which councils construct and manage their charges, with significant implications for service users.

The Government hopes that this Guidance will eradicate some of the biggest anomalies that currently exist from area to area and enable a more equitable system of charging based on the ability to pay (see above).

Health and social care divide

Boundaries have become increasingly blurred between health and social care and it is much more difficult to determine which services can be charged for and

which should be free.

This confusion is most evident in the continuing care of older people. If services are provided by social services, a charge can be levied; if it is provided by a health authority, it is free.

This issue has been addressed in the green paper 'Partnership into Action' which encourages joint working between health and social services, particularly in terms of charging, confidentiality and accountability. Although Carers UK welcomed these proposals, we are concerned that little consideration has been given to the impact of charging on joint working. For example, although the section on lead commissioning states that charges must only be made for social care, the question as to what will be health care and what will be social care is not discussed.

Carers UK welcomes the continued commitment to health services being free at the point of delivery. However, Carers UK is concerned that this commitment could be jeopardised if health services are allowed to merge into social care services.

Carers UK's view

Carers UK believes that it is wrong in principle to charge carers, disabled people and older people for non-residential community care services.

Carers UK welcomes the new powers of local authorities to provide services directly to carers, in order to support them in their caring role. We are, however, disappointed that local authorities will be able to charge carers for these services. Local authorities must have amended their charging policies in line with the new Guidance by October 2002, and April 2003, at the latest (see above). Carers UK will be monitoring the impact of the new guidance on carers' ability to take up services available to them to support them in their caring role.

What can carers, carers' groups and organisations do?

- * Ensure that you are consulted before your local authority makes any changes to its charging policy
- * Ensure that your local authority sets out clear guidance on carers and disabled people's related costs
- * Ask your local council how they will ensure that anybody undertaking carers' assessments (social workers etc.) are aware of the new guidance
- * Ask your council how they intend to publicise their charging policies and procedures. How will carers be advised of their rights?
- * If you have a series of cases where carers are being wrongly charged – put together an anonymous dossier (to protect the carers involved) and present it

to your council

- * Do remember to tell us at Carers UK about how charges are affecting you, or other carers in your area. Write to Policy at the Carers UK address below.

Further information

Carers UK has produced a number of briefings related to this topic:

- * The Carers and Disabled Children Act 2000
- * Carers and Disabled Children Act 2000: A Guide to the Policy & Practice Guidance
- * Carers UK's response to the DoH's draft Guidance on charging, Fairer Charges for Home Care and other non-residential Social Services
- * New Rights for Carers (changes to carers' benefits and carers' services)

For copies of any of these briefings, please write to Policy Briefings, Carers UK, 20-25 Glasshouse Yard, London EC1A 4JT.

USEFUL WEBSITE ADDRESSES:

www.carersonline.org.uk

Carers UK's website

www.mencap.org.uk/coc

Coalition on Charging's website

www.carers.gov.uk

The Government's website for carers
DoH Guidance on the Carers and Disabled
Children Act 2000

www.doh.gov.uk/scg/homecarecharges DoH Guidance on Charging

CarersLine

If you are a carer, and are concerned about the charges you are being asked to pay, please contact CarersLine on (freephone) 0808 808 7777, 10-12 and 2-4pm, Monday to Friday. You can also write to CarersLine at the Carers UK address above.

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