

Disputes about treatment and care needs (companion to Part 4)

You can dispute a decision we made about your treatment and care needs as a participant in the Lifetime Care and Support Scheme if you disagree with the decision on the certificate you receive.

This companion explains how you can dispute a decision we have made about your treatment and care needs.

When we use the word 'you', we mean the person covered by the Lifetime Care and Support Scheme (also known as 'the participant') or someone representing them, such as a parent, guardian or legal representative.

What is a dispute about treatment and care needs?

If you disagree with anything about the decision we made for your treatment and care needs, you can make a dispute application. A dispute application is a request for us to refer your dispute to a dispute assessor who will review the decision and resolve the dispute.

You can only apply for a dispute after we've sent you a 'certificate' to tell you our assessment of your treatment and care needs.

Time frame for making a dispute

A dispute application must be made by you, or by someone on your behalf within 28 calendar days of the date we give you the certificate. We can extend this time limit if there is a valid reason why the application was not made earlier.

You can lodge a dispute application in writing, in person or by telephone

The dispute application must include:

- your name, address and contact details
- the date of our decision
- a statement that you don't agree with our assessment
- the reasons why you think we should pay for the treatment or service that is not approved, with reference to any other information or reports.

If you don't give us this information, we might ask you for it before we can assess your dispute application.

Further information or documentation required

If we need more information about the application, or other information that might help resolve the dispute, we may ask you or a service provider to give us this information within 20 working days. If we don't receive this information we'll go ahead with the application after 20 working days.

We can contact any party, or any of your treating health practitioners or service providers in order to clarify the issues in dispute or to assist with getting information relevant to the dispute. We may also contact any of your treating health practitioners if an assessor thinks there is an urgent or serious health or physical safety issue at any stage of the dispute.

Not accepting a dispute application

We might not accept a dispute application if it:

- doesn't clearly seem to be about our assessment of your treatment and care needs
- hasn't been made by you or someone on your behalf
- hasn't been made within the 28 calendar days of the date we give you the certificate.

Resolving the dispute informally

After we've received your dispute application, we might contact you to:

- better understand what the dispute is about (for example, to talk about the reasons why you dispute our decision)
- see if the dispute can be resolved in another way, if you would like, before referring it to a dispute assessor
- ask if we can look at your request again and make a new decision
- find out what you might need, if you have an assessment by a dispute assessor.

Meetings

We might ask to meet with you, or a service provider, to do another assessment or to clarify what's in dispute. If this happens, we'll let you know who will go to the meeting and what it's about, for example, to try to agree on options to resolve the dispute. We'll also arrange a time and venue that suits you. We'll aim to contact you as soon as possible to arrange a meeting and no longer than 5 working days of receiving the dispute application.

If you don't get the outcome you want from this informal process, you can still go ahead with the dispute.

What happens during the dispute?

Our existing assessment of your needs stays the same until the dispute is resolved.

1. We'll choose a dispute assessor

We'll choose a dispute assessor from our list of assessors, 5 working days after we receive your dispute application or any additional information we asked for. This could also happen after we have assessed your application, but you still want to dispute it. When we choose the dispute assessor, we consider:

- your needs, such as the nature of your injury
- what is in dispute
- your location, and the location of the assessor

- the specialty and expertise of the assessor
- the availability of the assessor
- whether you need an interpreter.

If the dispute assessor is not appropriate

You can ask us to reallocate the dispute to a different assessor if we think you have sound reasons for thinking that the assessor is not appropriate.

To do this, you have to:

- ask us to reallocate the dispute within 10 working days of finding out the name of the assessor
- tell us exactly why you think the assessor is not appropriate to assess the dispute; and
- send a copy to us.

We'll decide about the request for reallocation within 10 working days of receiving the request.

Same assessor but different dispute

If an assessor has resolved a previous dispute, we could ask them to determine the current unrelated dispute. *For example, a dispute assessment for a different type of dispute under another part of these Guidelines.*

2. We'll refer the dispute to the dispute assessor

Referring the dispute

We'll send the dispute assessor:

- a letter referring the dispute to them
- your dispute application and any supporting documents
- our certificate of assessment of your treatment and care needs, and a copy of all other information about this certificate, including all information we considered when making our assessment
- all information we think is relevant to our assessment of the participant's treatment and care needs, *for example, certificates of previous assessments of treatment and care needs for the requested item or service, the most recent treating specialist report or neuropsychological report*
- a copy of any additional information received about the certificate since the dispute started
- a copy of any information you ask us to send the assessor.

Once the dispute is referred to a dispute assessor, they decide how the assessment will proceed and might:

- contact you to clarify issues in dispute
- contact any treating health professional or service provider, where appropriate, to clarify any issues in dispute or ask for more information
- ask you to have an assessment (clinical examination) with the dispute assessor
- ask you to have an assessment (clinical examination) with another health professional who will give a report to the dispute assessor to help them make their decision and/or
- assess the dispute on the information provided.

The dispute assessor may decide to assess the dispute without examining you if they think:

- they can make a decision based on the information provided
- a clinical examination isn't needed
- there are reasons why you shouldn't have a clinical examination, or it would be distressing for you.

We'll provide administrative support to the dispute assessor during the assessment process.

3. We'll confirm the assessment details with you

We'll write to you to tell you the arrangements for the assessment, and the name and specialty of the assessor.

We may need to arrange a clinical examination

When a clinical examination is required, we'll notify you in writing of the time, date and location of the clinical examination, and the name and specialty of the health professional.

Preparing for the clinical examination

Before the examination, we'll tell you how to prepare for the examination (e.g. what to wear and bring), what to expect, and what might happen. *For example, the kind of questions you or your support person might be asked.*

What happens during a clinical examination?

When the clinical examination happens, the assessor will try to make sure that you and your support person understand why the examination is happening and what is involved; the things the assessor will consider in assessing the dispute; and the role of the assessor as an independent decision-maker in making a decision to resolve the dispute that has to be followed.

The dispute assessor will decide who can be there at a clinical examination and how it goes ahead. A parent, legal guardian, carer or other support person can be there to help or support you.

Your legal or medical representatives can't be there unless we give prior approval and we think there are good reasons.

Your legal guardian, carer or other support person may provide information to the assessor during a clinical examination, but only when asked by the assessor. The assessor sometimes might have to ask your legal guardian, carer or other support person to leave the clinical examination. *For example, if your support person is shouting and speaking over you. The assessor asks your support person to let you speak, but they don't. This is affecting the assessment and causing you to be upset.*

Costs

We'll pay the reasonable costs associated with your attendance and if required, the reasonable expenses of one accompanying person such as your guardian, carer or other support person to attend any clinical examination. We'll need to approve these costs before payment.

Using interpreters in assessments and clinical examinations

If you need an interpreter, we'll arrange one who is accredited by NAATI (National Accreditation Authority for Translators and Interpreters).

If a NAATI interpreter is not available, a non-NAATI interpreter may be used if the Assessment Panel or Review Panel agree to this.

Anyone who is with you at an examination or assessment, such as a carer or support person, can't be your interpreter.

3. Certificate issued by dispute assessor

The dispute assessor has to try to resolve the dispute as quickly as possible and will issue their decision in a written report, called a 'certificate'. The certificate will include written reasons for the decision. This will be sent to you within 15 working days of assessment, whether this was a clinical examination or on the information provided.

We'll revise our assessment within 5 working days of receiving the dispute assessor's report to be the same as what the dispute assessor has decided.

Reviews

You can ask for a review of the dispute assessor's decision. To apply for a review, you need to write to us within 28 days of receiving the dispute assessor's decision. We'll acknowledge your application within 10 working days.

An application for review has to:

- be in writing (letter or email)
- include your name, address and contact details
- a statement about why you're asking for a review, including which ground or grounds for review in the Act apply, together with reasons
- attach any relevant information or medical reports that are relevant to the review application.

Grounds for review

Any or all of the following reasons justify a review of a decision we have made about your eligibility:

- There has been a change in your condition, being a change that occurred or that first became apparent after the dispute was referred to the assessment panel and that change is capable of having a material effect on the determination.
- There is additional relevant information about your injury, being information that was not available, or could not reasonably have been obtained, before the dispute was referred to the panel and that information is capable of having a material effect on the determination.

- The decision was not made in accordance with the Guidelines.
- The decision is demonstrably incorrect in a material respect.

We have to apply for a review if you haven't applied, and we think there are sound reasons. We'll only do this if we think the review will make a practical difference to you or us.

Before we apply for a review, we must write to you and ask you what you think about the review being referred to a panel or dismissed. You have 20 working days to write back to us.

The Review Panel

We'll convene a Review Panel from our list of assessors within 10 working days of deciding to refer the application to a Review Panel.

If you applied for the review, we'll convene the Review Panel. We'll consider:

- your needs, such as the nature of your injury
- the issues in dispute
- the grounds for review in the review application
- your location, and the location of the assessors
- the specialty and expertise of the assessors
- the availability of the assessors
- whether you need an interpreter.

Who's on the Review Panel?

If we applied for the review, we'll let you choose who will be on the Review Panel (the Panel) and convene the Panel based on who you choose. The Review Panel can't include the dispute assessor whose decision is under review. We'll tell you about the details of the review within 5 working days of convening the Panel. This will include the names and specialties of the assessors on the Panel. We might contact you before any assessment by a Review Panel. This is to make sure that your needs can be met in any assessment or examination.

If you disagree with who is on the Review Panel

If you think the assessor is not appropriate, you can ask us to reallocate the dispute to a different assessor or assessors. This could be for any or all of the assessors on the Review Panel. However, if you were involved in choosing the Panel, you can't ask us to reallocate anyone you chose.

You have to ask us to reallocate, within 10 working days of finding out the names of the assessors on the Review Panel and tell us exactly why you think the assessor is not appropriate to assess the dispute.

We'll decide about the request for reallocation within 10 working days of receiving the request, or within 10 working days of receiving a submission from the other party.

We'll reconvene the Review Panel, in whole or in part, if we think there are reasonable grounds for thinking that any of the assessors originally appointed to the Review Panel are not appropriate.

Same assessor but different dispute

If an assessor has resolved a previous dispute, we could ask them to be a part of a Panel to determine the current unrelated dispute. *For example, a dispute assessment for a different type of dispute under another part of these Guidelines.*

We might reallocate a dispute to a different assessor or Review Panel as a whole if we need to. This could be because of illness, if an assessor asks us to, or if the Panel can't resolve the dispute in a reasonable timeframe.

Review panel procedures

1. Review Panel holds initial meeting

The Review Panel will appoint a chairperson. We'll send the Panel copies of:

- all information that the previous dispute assessor had, including our decision about your treatment and care needs that is in dispute
- the dispute assessor's decision
- the review application and all accompanying documents
- any additional information received since the dispute application.

The Review Panel will hold an initial meeting or teleconference within 20 working days of the date they were convened. This might not involve you.

2. Review Panel assesses your dispute application

The Review Panel can decide its own way to assess the dispute, but they have to follow the Guidelines and any practice notes.

The Review Panel's assessment process will consider all aspects of the dispute assessor's decision again, which could involve:

- deciding whether one or more of the review grounds are made out.
- asking you to have another clinical examination, or whether the Review Panel assessment will be done on the information they have.
- asking you to attend a clinical examination with another health professional who is not part of the Assessment Panel or Review Panel. If this happens, the health professional will assess you and give a report to the Review Panel, and to you.
- deciding whether any additional information is required to make a decision, from you or anyone else.
- deciding whether and how to contact you, any party to the dispute or anyone else.
- considering any new information that the dispute assessor did not have.

Other information

If the Review Panel decides to examine you, or to ask for more information, then the sections on 'Clinical examination' and 'Clinical examination procedures' apply.

The Review Panel will hold as many meetings or teleconferences as they need to, to make a decision to resolve the dispute, but they must try to resolve the dispute as quickly as possible.

We will provide administrative support to the Review Panel during their process.

3. Certificate issued by Review Panel

The Review Panel can either confirm the decision of the Assessment Panel or revoke it and substitute its own decision.

The Review Panel will issue their decision in a written report, called a certificate. The certificate will include written reasons for their decision. This will be sent to you and us within 15 working days of their final contact, clinical examination or final teleconference. Depending on the decision, we will implement the Panel's decision within 5 working days of receiving it.

Corrections of obvious errors in certificates

If you think a dispute assessor or Review Panel has made an obvious error, you can ask us to have it corrected. An obvious error is a clerical or typographical error in the certificate, or an error arising from an omission or inconsistency.

You need to write to us within 30 working days of the date on the certificate, tell us the error and how it should be corrected.

Lifetime Care, a dispute assessor or the Review Panel might also find an error and ask for it to be corrected. If an Assessment Panel or Review Panel identifies an obvious error in the certificate, they have to tell us within 30 working days of the date on the certificate.

An obvious error is a clerical or typographical error in the certificate, or an error arising from an obvious omission or inconsistency.

If a dispute assessor or Review Panel tells us they think there is an obvious error, we'll tell you. You'll then have 20 working days to tell us whether you think there is an error that should be corrected.

We'll send an obvious error application to the dispute assessor or Review Panel 10 working days after we get the application, or any submission from you.

The dispute assessor or Review Panel must decide whether to issue a replacement certificate within 20 working days of receiving the application or submission from the other party to correct the obvious error.

The dispute assessor or Review Panel may issue a replacement certificate that corrects any obvious error and that will replace the previous certificate. If a replacement certificate is issued, the replacement certificate is to be identified as a replacement certificate and replaces the previous certificate.

We may not accept an application for review

We might dismiss a review application if it:

- isn't received within 28 calendar days of the dispute assessor's decision
- relates to a review panel certificate
- it doesn't clearly identify which one or more grounds for review apply.

If you apply for review, we might decline to make submissions in response to your application. However, if we find a potential ground for review or we agree with any of the grounds you state, we must make a submission in response to your application.

We'll write to you to tell you whether the review is referred to a panel or dismissed.

If you applied for the review, this will be within 20 working days of your application.

If we applied for the review, we will write to you within 5 days of receiving your submission.

Alternatives to review

Sometimes, your review application could contain new information, or information that might change the decision we made. If we think this is the case, we might ask you if we can make a new decision. You still have other options if the new decision didn't help you get the outcome you wanted.

Will it cost me anything?

No. The cost of the review panel assessment is paid by us, including any necessary travel and accommodation. We can't pay any legal costs for you, for example, if you engage a solicitor to assist you with the review.

For more information contact Lifetime Care

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