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Access to the NHS

Consultation on NHS Primary Medical Services: MigrationWatch UK^[1] response

Introduction

The Department of Health consultation document sets out clearly the scale and nature of the problem. In 2002/2003 some 5 million people registered with a GP. Yet, as the document goes on to explain, there is no effective check on entitlement.

Entitlement is based on the concept of "ordinarily resident". Its definition (Annex C, para 1) is, to say the least, obscure:

"Ordinarily resident is someone who is living lawfully in the United Kingdom, voluntarily and for settled purposes as part of the regular order of their life for the time being, with an identifiable purpose for their residence here which has a sufficient degree of continuity to be properly described as settled".

It is very hard how to see how a receptionist at a general practice can be expected to interpret such language. They do usually ask for proof of address (Annex A, para 15) but this, of course, is by no means the same thing as "ordinarily resident".

A further complication is the requirement that an application to join the GP's list can only be refused if there are reasonable grounds for doing so which "do not relate to the applicant's race, gender, social class, age, religion, sexual orientation, appearance, disability or medical condition". The paper continues "As the regulations stand this means that a practice has the discretion to offer NHS treatment to all people - UK residents and overseas visitors from any country.

The difficulties of refusing access to primary care are compounded by the principles described in Chapter 2 (para 2.4). One is that "the practice will continue to provide free of charge emergency or immediately necessary treatment based on the clinical judgement of the health care professional regardless of whether the person is eligible to register on the practice list as a NHS patient".

The effect of this guidance is to render exclusion from the GPs list almost impossible. General Practitioners are already facing a rising number of complaints and increasing litigation against them. They are obliged to practice very defensive medicine. Thus to refuse to treat a non-eligible patient based on a few brief words at the reception desk would be extremely unwise. Should the

prospective patient subsequently prove to have a serious condition which would have been deemed "emergency" or "immediately necessary treatment", the GP might have to face three serious complaints - professional malpractice before the General Medical Council; breach of his Terms of Service with the National Health Service; and a civil case for damages brought by the patient.

The only way a GP could determine whether a non-eligible patient had a routine or minor condition that did not require immediately necessary treatment would be by seeing and examining him. By this stage the work would have been done.

The paper remarks (para 2;28) that any system is open to abuse. That is certainly true. But it is clear from the foregoing that the National Health Service is wide open to abuse.

Proposal

It will be hard to make serious inroads into this problem until ID cards are introduced. Even then there will be prospective patients of doubtful eligibility.

We suggest therefore, that the way forward is to separate the administrative problem of entitlement from the work of the medical profession.

Local Entitlement Offices (LEOs) should be established covering a number of Primary Care Trusts. Their staff would have specific training in administrative and immigration matters to enable them to decide on eligibility. They would also have access, perhaps by telephone, to interpreters. Once such offices were established, those who are citizens of the UK or the EU should be required to provide proof of citizenship on first registering with a GP. Other prospective patients would be given a note of the nearest Local Entitlement Office and of the documents likely to be required.

The LEO's would, where appropriate, issue a Medical Health Entitlement Card (with a photograph) to those eligible.

It should be possible to process such applications on the spot, or perhaps the following day if further documents were required. If necessary, there could be a fast track for those who claimed that their treatment was urgent. Visitors and immigrants could be advised when issued with their visas of the procedures necessary for access to the NHS.

Once such a system was in place, the absence of proof of entitlement should become a full defence for a GP who refused treatment.

These arrangements would not, of course, deal with emergency cases who would continue to be entitled to treatment at accident and emergency departments.

To avoid these departments becoming inundated by those seeking to avoid the entry controls, patients who were found not to have been genuine A & E cases should be charged (after treatment but before departure) for their visit.

The existing arrangements for communicable diseases would remain in place.

Replies to questions

- 3.1 Yes. The present rules are completely ineffective.
- 3.3 Yes.
- 3.4 Private charging would involve less central administrative work
- 3.6 Yes.
- 3.7 Receptionists are usually under considerable pressure. The relevant person at the PCT may well be engaged, on study leave, or otherwise away. The process would be lengthy and frustrating and would rub off on the doctor patient relationship. It would be much better to separate the administrative process from the medical on the lines described in our main submission.
- 3.9 See our main submission.
- 3.10 Self-certification is extremely unlikely to be effective. Very few would certify that they would not be entitled. Others would have left the country before they could be asked to re-pay.
- 3.12 Yes.
- 3.14 Each case is different, and sometimes complex. Hence our proposal for the development of specialist centres to decide eligibility.
- 3.18 Present arrangements for communicable diseases should continue.

12 August, 2004

NOTES

- 1 MigrationwatchUK is an independent organisation which monitors and conducts research into immigration matters.