

SPSO decision report

Case: 201508318, Fife NHS Board
Sector: health
Subject: continuing care
Outcome: upheld, recommendations

Summary

Mr C complained about the way the board dealt with his review application for NHS continuing healthcare for his late mother (Mrs A), who was resident in a care home. He also complained about how the board handled his subsequent complaint.

Mr C's application was rejected by the board on the basis that Mrs A did not meet the criteria as set out in the Scottish Government Guidance Circular CEL 6 (2008), the relevant guidance at the time. By the time the board had referred the application to two clinicians for assessment, Mrs A had died. Their assessments were paper based.

We took independent advice from a consultant in medicine for the elderly. They said it could reasonably be interpreted from the wording of the CEL 6 (2008) guidance that a paper based assessment constituted a clinical opinion. The adviser agreed with the findings of the clinicians that Mrs A had not satisfied the criteria for NHS continuing healthcare. The adviser also said that Mrs A's deteriorating health, her admissions to hospital, and the fact that her care home was unable to meet her care needs did not mean that she met the criteria. We accepted that advice.

However, we found that there were unacceptable and lengthy delays by the board in reaching a decision on Mr C's application, that their review process was slow and disorganised, and that they had not appeared to have taken Mr C's review application and concerns seriously. We also found that there was a failure to communicate effectively with Mr C during the review process. For this reason, we upheld the complaint.

The board had accepted there had been unacceptable delay in responding to Mr C's complaint, for which they had apologised. However, we considered the board's actions were then aggravated by their failure to obtain a suitable person to carry out an independent review of their decision, having said to Mr C that they would do so, which resulted in yet further unreasonable delay.

Recommendations

We recommended that the board:

- issue Mr C with a formal apology for the failings in relation to delay and their communication with him during the review process;
- issue Mr C with a formal apology for their failure to carry out an appropriate independent review and to handle his complaint in a timely manner;
- provide evidence of the review carried out of their patient experience processes in relation to complaints handling; and
- reflect on the comments of the adviser in relation to the need to identify an independent reviewer.