

An Roinn Sláinte
Department of Health
Secretary General



Sarah Cremin
Committee Secretariat,
Committee of Public Accounts

By email: PAC@oireachtas.ie

3 April 2023

Your Ref: S1262 PAC33

Dear Ms Cremin,

I refer to your letter of 23 March 2023 concerning issues raised during the Committee's meetings of the 2 and 9 February 2023 in relation to the Health Repayment Scheme and the application of additional charges by private nursing homes.

Health Repayment Scheme

The Committee has raised questions specifically relating to contributions made by residents towards maintenance in residential disability services and whether they were comprehended within the scope of the Health Repayment Scheme. As the Committee will appreciate, this is a matter that dates back over 20 years and requires a detailed examination of files over that period. The Department is engaging with the HSE in this regard and a review of these issues is ongoing. It is my intention that this review will be completed over the coming weeks and it will be comprehended into the report the Minister for Health has agreed to bring to Government in May in relation to the recent report by Attorney General on legacy long stay charges.

Nursing Home Support Scheme

The Nursing Home Support Scheme (NHSS), commonly referred to as 'Fair Deal', is a system of financial support for people who require long-term residential care. The primary legislation underpinning the NHSS is the Nursing Home Support Scheme Act 2009. Participants in the NHSS contribute to the cost of their care according to their means while the State pays the balance of the cost. The Scheme aims to ensure that long-term nursing home care is accessible and affordable for everyone, and that people are cared for in the most appropriate settings.

Participants within the NHSS contribute up to 80% of their income (40% if part of a couple) and 7.5% per annum of the value of their assets (3.75% if part of a couple). The first €36,000 (€72,000 if part of a couple) is excluded from assessment. The value of a person's principal residence is only assessed for contributions for their first three years on the scheme.

Additional Charges in Private Nursing Homes

The scope of the Nursing Homes Support Scheme includes the cost of the standard components of long-term residential care which are:

- Nursing and personal care appropriate to the level of care needs of the person;
- Bed and board;
- Basic aids and appliances necessary to assist a person with the activities of daily living; and
- Laundry service.

Costs not covered by the NHSS include those individually incurred for items like social activities, newspapers and hairdressing. A person's eligibility for other schemes, such as the medical card scheme or the drugs payment scheme, is unaffected by participation in the NHSS or residence in a nursing home. In determining the services covered by the NHSS it was considered very important that the care recipient and the taxpayer would be protected and would not end up paying for the same services twice. For this reason, medications and aids that are already prescribed for individuals under an existing scheme are not included in the services covered by the NHSS, as this would involve effectively paying twice for the same service. Residents under the NHSS should not be charged extra for services which come within the scope of long term residential care.

It is important to state that residents of nursing homes should enjoy the same levels of support and access to services for which they are eligible as when they lived in their own homes. It is acknowledged that the reason they require 24 hour levels of support is due to their level of dependency, which in turn may require access to clinical services including hospital and other outpatient appointments in the community.

The Department of Health is currently reviewing the available evidence and considering various policy options with relation to additional nursing home charges, including for services potentially available under the medical card. Given the scale of the Nursing Homes Support Scheme, with an annual budget of over €1 billion and over 22,000 residents supported, it is essential that the full consequences of any policy change are considered in full, including any financial and legal impacts as well as consequences for the quality of care provided.

Nursing homes regulations and complaints procedures

Part 7 of the Health Act 2007 (Care and Welfare of Residents in Designated Centres for Older People) Regulations 2013 stipulates that the registered provider of the nursing home must agree a contract in writing with each resident on their admission to the nursing home. This contract must include details of the services to be provided to that resident and the fees to be charged. Residents should never be charged fees which are not set out in the contract.

Under Part 10 of the 2013 Regulations, all nursing homes are required to have an accessible and effective complaints procedure, including an appeals process. The Regulations also provide that residents should have access to advocacy services. These requirements have been strengthened in recent months. From 1 November 2022, the Patient Advocacy Service has been extended to private nursing homes. The Minister for Health also made amendments to the 2013 Regulations in December 2022 which strengthen residents' rights in relation to

accessing advocacy services and enhance and standardise complaints processes. The amendments came into effect on 1 March 2023 and aim to:

- Increase residents' access to independent advocacy services by way of presentations and in-person awareness campaigns and through meetings and support;
- Ensure that key personnel are suitably trained to deal with complaints and reviews and that all personnel have an awareness of the complaint procedure;
- Specify that complaints / review officers should be nominated to deal with complaints and reviews;
- Encourage registered providers to offer practical assistance to residents in making complaints; and
- Provide timeframes for complaint and review procedures.

The Office of the Ombudsman can examine complaints about the actions of a range of public bodies and, from 24 August 2015, complaints relating to the administrative actions of private nursing homes. The Office of the Ombudsman normally only deals with a complaint once the individual has already gone through the complaint's procedure of the private nursing home concerned.

The Competition and Consumer Protection Commission (CCPC) has published consumer protection guidelines for contracts of care in long-term residential care services for older people. The guidelines set out the obligations and responsibilities that providers must adhere to under consumer protection law and are aimed at providing greater transparency, clarity and certainty for consumers.

I hope this information is useful to you.

Yours sincerely,



Robert Watt
Secretary General