

THE ATTACHED TRANSCRIPT WAS TYPED FROM A RECORDING AND NOT COPIED FROM AN ORIGINAL SCRIPT. BECAUSE OF THE RISK OF MISHEARING AND THE DIFFICULTY IN SOME CASES OF IDENTIFYING INDIVIDUAL SPEAKERS, THE BBC CANNOT VOUCH FOR ITS COMPLETE ACCURACY.

---

**TX: 20.02.03 ELDERLY AND DISABLED PEOPLE HAVE BEEN UNFAIRLY CHARGED FOR LONG TERM CARE, SAYS NHS OMBUDSMAN**

**PRESENTERS: LIZ BARCLAY AND DIANA MADILL**

**MADILL**

Now worrying evidence has landed on the Government's desk showing elderly and disabled people have been unfairly charged for long-term care by their health authorities. It'll not be what the Government wants to hear, it had an uphill task pushing through the controversial legislation in England, which intended that personal care should be paid for but nursing care would be free. The findings today, by the health service ombudsman, Ann Abraham, will add fuel to the protestors' fire. She concluded that people's complaints were largely justified and that health authorities were misinterpreting and misapplying Department of Health guidelines. Her fear is that the injustice goes well beyond the number of cases already on her desk.

Well joining us now is Pauline Thomson who's policy officer from Age Concern. How widespread do you think this goes Pauline?

**THOMSON**

We think it could be very widespread, it's difficult to know the numbers because not everybody will fall within the criteria for having fully funded NHS care but certainly we are aware of people who complain bitterly that they've been assessed as not needing and not being the responsibility of the NHS when their needs are just so clearly really related through their health needs and the reason that they're going into a nursing home is primarily because they've got such severe health needs.

**MADILL**

So what's going wrong here - is it the mechanism of appeal or is it the guidelines in the first place and the way that they're being interpreted?

**THOMSON**

I think this could be described as being one of the greyist of all grey areas of policy. It is so complicated to try and work out. Since we've had free nursing care in England we have three bands, one at 35, one at 70 and one at £110, it is incredibly difficult, looking at the criteria, to see how somebody who needs £110 worth of nursing is any different from somebody who might need fully funded NHS care. And so what we're worried about and we've always said this in our fact sheets that if somebody is placed on the £110 band then they should seriously discuss whether or not they shouldn't also really qualify for the NHS to fund the full cost of the care.

**MADILL**

Well whose shoulders does this onus fall on - who has to sort out which criteria you're in, how much is the elderly and disabled person put in a situation where they have to fight their own corner?

**THOMSON**

Well this is what causes us a huge amount of concern. I mean the four intrepid people who took the cases to the ombudsman and there are others we know in the pipeline as well, have had to wait years to get it sorted out. We feel very strongly that there must be a mechanism and we note that the ombudsman has said that not just the health authorities in the areas where the people come from but all of the - they're now called strategic health authorities - that all of the strategic health authorities need to review the criteria that's been previously used and it will be quite difficult because different criteria has come in at different times. The Government did say back in 1999, after the Coughlan Case, a big case that was very important in trying to sort this out, that they ought to review the criteria but there's been a tremendous amount of dragging of feet.

**MADILL**

Okay. What about compensation do you feel - how is that going to work out?

**THOMSON**

Well I think it's going to be difficult but certainly I would suggest that anybody who feels they are talking about - the ombudsman does recommend that there should be trawling of cases and that people - so hopefully some of this will actually be done by the various departments but certainly people should be making queries themselves and I'm assured that our helpline is very much ...

**MADILL**

Yes but the problem is, quite frankly, that a lot of these elderly people who have been forced to pay because they've been presented with a bill have since died. Now the families are taking on this ...

**THOMSON**

Yeah, yeah.

**MADILL**

... do they have a case?

**THOMSON**

Yes they would have a case as well, so it's not just people who are currently in nursing homes, it's anybody who feels that perhaps their relative wrongly paid in the past and they should be asking for the money to be paid back and if it is proved that the NHS, in the area that they came from, was using the wrong criteria and that that person could have fallen within the NHS fully funded category then they should ask both for compensation and interest.

**MADILL**

Pauline Thomson thank you very much indeed.