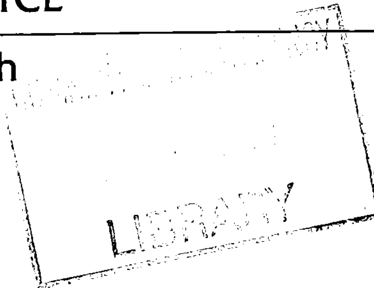
THE SCOTTISH OFFICE

Department of Health


LIBRARY

NHS
MEL (1999) 2

NHS Management Executive
St. Andrew's House
Edinburgh EH1 3DG

12th January 1999

Addressees

For action:
Chief Executives, NHS Trusts

For information:
General Managers, Health Boards
Chief Executive, CSA
General Manager, State Hospital Board for Scotland

Enquiries to:

Chris Naldrett
Room 254A
St Andrew's House
EDINBURGH EH1 3DG

Tel: 0131-244 42363
Fax: 0131-244 42371

Dear Colleague

CHARGES FOR NHS HOSPITAL TREATMENT FOLLOWING ROAD TRAFFIC ACCIDENTS

Purpose

This letter provides advice on planned changes to the arrangements for charging and recovering the cost of treating victims from road traffic accidents. It includes a note of the action to be taken by Trust Chief Executives to prepare for the changes and, in particular, seeks the completion and return of a pro-forma that will establish future contact arrangements for operating the new scheme.

Background

The Road Traffic (NHS Charges) Bill, which is currently before Parliament, will change the way the NHS recoups the cost of treating some victims of road traffic accidents. Subject to Parliamentary approval, the Secretary of State for Scotland will assume responsibility for the collection of these charges from Monday 5 April 1999. From that date NHS Trusts will lose the legal right to pursue both the emergency Treatment Fee and, where a patient makes a claim for personal injury compensation, further treatment costs. However, from that date new central arrangements will come into effect that will:

- identify where charges are, or are likely to become, due;
- increase the amounts that can be collected in any case to more closely reflect the overall costs to the NHS;
- provide for the charges to be collected centrally but paid over to the appropriate Trusts on a monthly basis.

The central agency for administering the new arrangements on behalf of the Secretary of State will be the Department of Social Security's Compensation Recovery Unit (CRU). Fuller details are provided in the attached Annex A.

SCOTTISH HEALTH SERVICE
COMMON SERVICES AGENCY
LIBRARY
Ref.
IP-IA: 104552

165

Recycled 045400 4.96

Action

1. Trust Chief Executives should ensure that all relevant staff in accident and emergency departments, finance departments and any staff dedicated to road traffic accident charge work are aware of the proposed changes in law and procedure.

2. Trusts that currently employ an outside agency to collect or pursue charges should make arrangements to terminate these contracts and transfer any outstanding work back to the Trust by 5 April 1999.

3. Trusts will remain responsible for the collection of outstanding amounts in respect of:

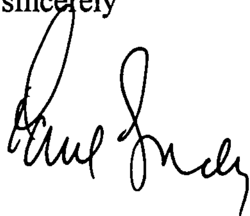
   (a) emergency treatment fees levied before 5 April 1999;

   (b) cases where they are aware that a compensation payment to the victim has been made before 5 April 1999 but the associated charge for NHS treatment has not been remitted to the Trust or its agent.

4. Trusts are asked to appoint a liaison officer to work with the CRU. To that end, **the attached pro-forma (Annex B) should be completed and returned to the Management Executive contact point shown by 29 January 1999 at the latest.**

In the case of the latter requirement, the location codes for Trusts and their local hospitals should be those that will apply from 1 April, i.e. post Trust reconfiguration. The ISD will be able to provide the codes if they are not readily known to the current Trusts. It is appreciated that, with reconfiguration, changes to the data provided on the pro-forma will be inevitable in some cases. Any such changes should be notified to the Management Executive contact points as and when they arise. Failure to keep the CRU database for contact points up to date may result in a delay or, at worst, loss of income.

Yours sincerely



DR PAUL BRADY
Director of Finance

The New Scheme

6. The new scheme will take advantage of an existing collection system. For the last eight years the Department of Social Security (DSS) has recovered certain state benefits in cases where both the benefit and compensation were made in respect of the same accident, injury or disease. Insurers are already required to notify the DSS Compensation Recovery Unit whenever they receive a claim for compensation and from which benefits may be recoverable.

7. Under the new NHS charge recovery scheme the form which insurers use to notify CRU of claims for compensation will ask, in addition to the current questions, whether or not the injured person was treated at an NHS hospital and, if so, which one(s) and for how long. The form requires a brief description of the injuries alleged to have been suffered. This will have been provided by the accident victim or his representative but will not be routinely passed on to hospitals.

8. The CRU will act as the central recovery body for the purposes of the new scheme. On receipt of the information outlined above the CRU will contact the Trust hospital concerned seeking verification of the information provided. This will be done by standard form and will simply require the hospital to confirm that the patient was treated at the hospital and, if that treatment was as an in-patient, for how many days. Hospitals will also be asked to advise if the patient was transferred to another hospital.

9. On receipt of the hospital's or Trust's confirmation of the claim CRU will calculate the charges due, in the event that the compensation claim is eventually settled. This will be done by reference to a tariff, which will be set by regulations. Initially this will be set at the following rates:

- Treatment without Admission: Flat Rate of £354
- Treatment with admission: Daily rate of £435

10. There will be a ceiling for charges in the Treatment with Admission category. Initially this will be set at £10,000. The two fees are mutually exclusive. The Flat Rate Fee will cover all treatment without admission ie both accident and emergency and out-patient clinics, regardless of whether the patient attended accident and emergency once or had a series of appointments as an out-patient. The Daily Rate Fee includes an amount towards any out-patient attendances which may be necessary following discharge so the two fees are mutually exclusive.

11. The CRU will notify the insurer of the amount due to be paid. Moreover, as with the current scheme the compensation claim may take some time to settle – the average time taken to settle personal injury claims is just over two years. The NHS charges are not due until the compensation payment is made and so it may be some time from when a hospital or Trust responded to an enquiry from the CRU that payment is received.

12. The CRU will collect the charges from insurers and will transfer them directly to the appropriate NHS Trust by monthly automatic bank credit transfer. Where a patient received

ANNEX A

THE ROAD TRAFFIC (NHS CHARGES) BILL

Background

1. MEL(1997)81, dated 5 December 1997, announced planned changes to the current arrangements for the recoupment of costs following road traffic accidents. Due to Parliamentary pressure in the last session there was a delay in introducing the required primary legislation. However, The Road Traffic (NHS Charges) Bill was introduced to the House of Commons on 27 November 1998 and should complete its passage through Parliament early in 1999. The new scheme is now expected to begin on 5 April 1999.

2. Hospitals currently recoup charges under the provisions of the Road Traffic Act 1988. Two types of charges can be made:

- The Emergency Treatment Fee (ETF): This is levied on the user of a vehicle involved in an accident and is currently set at £21.30 for each person who needs immediately necessary treatment from a legally qualified medical practitioner as a result of the accident.

- Additionally, *where the accident victim goes on to make a successful claim in respect of personal injury* then the hospital can require the person paying compensation, usually an insurance company, to meet part of the costs of any out- or in-patient treatment received by the victim. The current limits are up to £295 for out-patient treatment and £2,949 for in-patient treatment.

3. The NHS in Scotland currently raises around £1 million from these provisions. However this falls far short of what is calculated to be theoretically possible if all cases, excluding Emergency Treatment Fees, were identified and pursued. Moreover the national picture reveals that performance at individual Trust level varies widely with a number of Trusts pursuing claims vigorously whilst others either fail to identify cases or to pursue them to conclusion.

4. The Government therefore decided to change the system of collection so that as many cases as possible are identified and pursued. At the same time it has been decided to increase the amounts that can be collected in any one case, to more closely reflect the overall costs to the NHS, and to cease collection of the Emergency Treatment Fee. The money will be collected centrally but will be returned to individual Trusts on a monthly basis.

5. In Scotland The Emergency Treatment Fee is estimated to account for around two thirds of the amounts collected by NHS Trusts but at its current level the cost of collection probably outweighs the income generated. The Government is also aware of the concern amongst some staff in accident and emergency departments where collecting the fee can cause distress and anger on the part of the drivers. The decision to cease collection of the ETF will relieve hospitals and insurers of many minor transactions.

19. Each Trust is asked to nominate a person or post to act as contact point for the CRU's enquiries. Once this person or post is identified further information on the detailed working of the system will be sent to them directly. This will include arrangements for the transfer of funds, any amendments to data protection registration which may be needed, further information on appeals procedures, and arrangements for the transfer of outstanding work to the CRU at commencement of the new scheme.

NHSiS Finance Directorate

treatment at more than one hospital the charges will be apportioned between the hospitals up to the £10,000 ceiling. Each payment will be accompanied by a schedule giving details of the claims to which it relates and how much was received for each case. Trusts will receive a quarterly schedule of outstanding cases. This will offer an indication but not a guarantee of future income since some claims may be withdrawn or rejected by the insurer.

13. A major drawback of the current system is that it offers no formal avenue for review or appeal. The new scheme will include these provisions but insurers will be able to appeal against the charges on three grounds only:

(i) that the amount claim is incorrect
(ii) that the amount takes into account treatment which is not NHS treatment given by an NHS hospital in respect of the injury received in the traffic accident
(iii) that the payment being made to the injured person is not a compensation payment leading to NHS charges

14. It is envisaged that Trusts/hospitals will be involved only where the appeal is on the grounds of treatment not being in relation to the accident. Further advice on the procedures for appeals cases will be issued later.

Implications for NHS Trusts

15. Transfering the onus for identifying cases that might lead to NHS charges from hospitals to insurers means that hospital staff will no longer need to ask patients if they intend to make a claim for personal injury compensation. If the patient does claim then the case will be identified when the insurer notifies the CRU.

16. It is important that hospitals continue to keep accurate medical records that will enable claims notified to them by CRU, possibly several years after the time of treatment, to be verified. If the hospital cannot verify a case then the income will be lost.

17. Trusts will no longer have contact with insurance companies about individual cases and, as a general rule, any approach by insurers should be redirected to CRU. Trusts that have placed the work of recoupment of charges with outside bodies will need to ensure that arrangements are in place terminate the contract and transfer any outstanding work back to the Trust.

18. Despite the impending cessation of the need for such contracts, it is understood that a number of companies are still promoting arrangements to facilitate recovery: for a payment that may equate to the current Emergency Treatment Fee the company seeks the names and addresses of patients who have been injured in road traffic accidents and then contacts the patients urging them to claim compensation and offering to act on their behalf. The supply of patients' names and addresses for this purpose is contrary to current advice on patient confidentiality. Without the express consent of each patient this practice is likely to be in breach of common law and, if the information is held electronically, the Data Protection Act 1984. Any such contracts or similar arrangements should cease immediately.

ANNEX B

CHARGES FOR NHS TREATMENT FOLLOWING ROAD TRAFFIC ACCIDENTS

PLEASE COMPLETE AND RETURN THIS FORM BY 29 JANUARY 1999
RETURNS ARE REQUIRED FROM ALL TRUSTS.

TRUST NAME ....

LOCATION ....

TRUST ADDRESS ....

....

....

POST CODE ....

NAME OF CONTACT/POST ....

TELEPHONE NUMBER OF CONTACT ....

SAFE HAVEN ADDRESS ....

SAFE HAVEN FAX NUMBER* ....

*** All written communications between CRU and Trust will be directed through Safe Haven**

CONSTITUTION HOSPITALS

Please give the following information for all constituent hospitals of the Trust (add further sheets if necessary)

HOSPITAL NAME ....

LOCATION† ....

HOSPITAL ADDRESS ....

....

....

POST CODE ....
† If different to Trust code.

PLEASE RETURN THIS FORM TO: COLETTE GILCHRIST, NHS MANAGEMENT EXECUTIVE, ROOM 250, SAH (EXT 42360)
BY 29 JANUARY 1999.

 ISBN 0 7480 7999 X