



Tel: (061) 461490
Fax: (061) 461481

MID-WESTERN
HEALTH BOARD

3rd April, 2002.

To: Chairman & Each Member
Mid-Western Health Board

Report No:
Item No on Agenda

FAMILY CIRCUMSTANCES – NURSING HOME ARREARS

Dear Member,

The following is a report and update on Family Circumstances – Nursing Home Arrears.

Background

The Third Schedule to the Nursing Home Regulations, 1993 stated that Health Board should apply these rules in assessing the capacity of a son/daughter over 21 years of age, residing in the jurisdiction, to contribute towards the cost of care in a nursing home, of a parent who has qualified for nursing home subvention.

The Third Schedule set out the process and the rules for assessing the circumstances/means of sons/daughters and the impact of the ability of the sons/daughters to contribute to a parent's nursing home fees – this in turn, impacted the amount of subvention approved by the Health Board.

In accordance with the Regulations, the Mid Western Health Board assessed each application for subvention and appropriately abated the subvention in accordance with the capacity of the son/daughter to contribute to nursing home fees. In many cases, no abatement was applied. In cases of dispute, an appeals mechanism was used.

The provision to assess the capacity of adult sons and/or daughters to contribute towards the cost of care of their parents was deleted from the legislation with effect from 1/1/1999.

As advised by the Department of Health, the new regulations, i.e. the Nursing Home (Subvention) (Amendment) Regulations, 1998 were implemented by the Board from the 1st January 1999 for all of those subvented persons residing in nursing homes at the time. The cost involved was provided for in the 1999 letter of determination. At this stage there were only 37 such cases.

On the 17th October 2001, the Board received approval from the Department of Health & Children to pay retrospective payments to those adversely affected by the provision in the Nursing Home (Subvention) Regulation 1993, which allowed for the assessment of the capacity of adult sons and/or daughters to contribute to the cost of their parent's care. The approval contained instructions regarding the repayment process and noted that all payments were being made on an ex gratia basis.

Current position in the Mid Western Health Board

The Board has put in place clear administrative and communication processes to ensure that payments in relation to the assessment of "family circumstances" is carried out in an efficient, fair, and uniform manner.

There were approximately 5,000 files to be examined between the years 1993 and 1998 to identify all those adversely affected by the above provisions. 488 were identified at an estimated cost of €2.64m and of these 440 subventees are now deceased.

In this regard the guidelines issued from the Department of Health and Children state "that payment should be made to the legal representatives or executor of the estate, having produced either letters of administration or a grant of probate, as appropriate". The guidelines further state that "if intestacy has occurred and letters of administration have not already been taken out, they will be required to be taken out by the next of kin as monies can only be paid on receipt of letters of administration".

In this way the monies are distributed in accordance with law and according to the Will or the Rules of Intestacy as set out in the Succession Act 1965.

The only discretion allowed to the Board in this regard is where the cost to the claimants in obtaining letter of administration exceeds the value of monies to be paid. In these cases the Board still has to satisfy itself that the money is being claimed by the appropriate person. In this context the Board has set a limit of €1,000, on the basis of a completed claim form from the relevant next of kin.

To facilitate the process the Board sent out, to all next of kin, information sheets containing general advice regarding Grants of Probate/Administration and the steps to take in applying to the District Probate Registry. The average cost of Probate tax is €24. Otherwise the service is free.

Payments to people still residing in private nursing homes are being made directly to them via a bank/post office/building society/credit union account or in the absence of same via a trust fund. A sample trust fund has been developed and is provided when required. This procedure is only required in a minimum of cases (To date 7 cases). There is no cost in this regard.

To date the Board has made payments in respect of 131 cases and to a value €596,293. In the majority of the remaining cases, the Board is awaiting instructions from the families concerned. The outstanding number of cases adversely affected by the above provision is 357.

On receipt of the relevant information, the Board will progress the payment process as quickly as possible.

Yours sincerely,

James Conway,
Asst. Chief Executive Officer.

