

Charges Appeals Policy: (Terms of Reference)

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INTRODUCTION

The Charges Appeals Panel (The Panel) was established in January 2011, to coincide with the introduction of the Health and Social Services Department's (HSSD) revised Overseas Patients Policy (OPP), superseded by the Residents and Non-residents Charging (RNRC) Policy, February 2014. Its role is to consider and decide on patient appeals against charges for health and social care services provided through the Health and Social Services Department.

The RNRC Policy allows for hospital charges to be waived in exceptional circumstances, and it is the role of the Charges Appeals Panel (see Section 3-6) to decide whether or not an individual case warrants the granting of a special exemption to charges.

PURPOSE OF THE POLICY

Every public patient has a right to appeal against charges set by the department under the Resident & Non-Resident Charging Policy and/or Patient Travel Policy. This Policy sets out the circumstances under which appeals will be considered, how to make an appeal submission, the responsibilities of patients in providing appropriate information to support an appeal, and the appeals review and decision-making process.

It also provides the Terms of Reference for the Charges Appeals Panel.

WHO CAN MAKE AN APPEAL AND WHEN?

Who can appeal?

Any Health and Social services public client¹ can make an appeal if:

- they think that, in their particular circumstances, HSSD's policies are being interpreted incorrectly or that charges are being incorrectly applied
- they believe an exemption to policy or practice should be made in their case

When can an appeal be made?

A client¹ should, in the first instance, raise their appeal/request with the relevant service manager with a view to seeking an agreed solution. The Charges Appeals Panel will only consider appeals which have previously been considered and rejected by the service manager. It is the final course of redress.

Details of the relevant service manager will be provided to any client on request.

An appeal against charges must be lodged within 30 days of the date of the contested invoice. Only in exceptional circumstances will the Panel consider any appeal lodged beyond that date.

¹ Client is used to refer to any Health and Social Services patient, client or service user who is receiving treatment, support or services that are publically funded as opposed to privately funded

What falls outside the appeals process?

An individual client¹ can appeal to the Charges Appeals Panel for high cost drugs and treatments, whether or not that appeal is supported by a consultant. The Panel will not, however, consider referrals from the Health and Social Services' Drugs and Therapeutic Committee, which relate to the introduction of new high cost and/or high volume drugs, procedures or treatment regimes. These applications will be considered by Health and Social Services' High Cost Drugs Review Panel.

ROLE AND SCOPE OF THE CHARGES APPEALS PANEL

Role

The role of the Charges Appeals Panel is to make fair, transparent decisions which balance an individual patient's needs or expectations, in unusual or extreme circumstances, against the need to adhere to policy or practice, and to ensure consistency against eligibility criteria, without which, Jersey's tax payers, qualified residents and other patients are potentially disadvantaged.

The core purpose of the Panel is to assess whether a procedure, treatment or service should be available on the public purse.

Aims

- ❑ To ensure Policies relating to the provision of Health services are implemented appropriately
- ❑ To prevent Health Tourism – in the context of access to States-funded Health Services by non-qualified individuals
- ❑ To ensure fairness and reasonableness in the setting of charges for Health Care provision to non-qualified patients

Scope

The Panel will consider all appeals received by Health and Social Services from public clients. These will include appeals where the individual feels that:

- they have been unfairly charged for health, patient travel, or social care
- they should be exempt from current charging policy as a result of their particular circumstances
- they should be allowed a restricted treatment or procedure on the public purse
- they should have a new or experimental drug, procedure, treatment or service not routinely commissioned or provided by HSSD
- they should, on the public purse, be allowed to access services not routinely provided to other HSSD public clients.

When making decisions on Charges Appeals, the Panel's priorities are to:

- ensure parity and equality of access
- maintain consistency in decisions relating to charging policies and practice
- avoid setting unsustainable precedents

To do so, the Charges Appeals Panel will, in assessing every appeal application, consider whether:

- the Policy been applied appropriately
- there are unique or complex clinical reasons why an exception should be made to current policy
- there are exceptional social/personal reasons why an exception should be made to current policy
- any exception to policy would represent best value for money; or are there alternative options available
- any exception to policy would be unfair to others or undermine or limit the ability of Health and Social Services to meet the health and social care needs of all eligible clients

Precedents

Every appeal will be considered on an individual basis and the outcome based on that individual's particular circumstances. No decision made or exemption granted, therefore, will be regarded as setting a precedent

It is, however, the responsibility of the Panel Officer to note any themes or commonality that may require a review of current policy and practise and to ensure consistency of approach throughout the appeals process.

THE CHARGES APPEALS PANEL

Membership

The Charges Appeals Panel will consist of the following individuals:

- Assistant Minister for Health and Social Services (Chair, with decision-making rights)
- Director of Finance, or his/her nominated representative
- Medical Officer of Health, or his/her nominated representative
- Director of Commissioning (or nominated deputy/representative)

The Panel is administered by the Panel Officer (Assistant Director – Policy, Communications & Ministerial Support), who is responsible for overseeing the Appeals Process and supporting the Panel with case assessment.

Panel Meetings

The Charges Appeals Panel will meet as and when required.

Where an appeal is sufficiently straight forward and based on clearly established facts, the Panel members may consider an individual case and make their views known remotely (via telephone conference or email,) with the Assistant Minister reviewing any Panel comments and/or discussing any concerns raised, before making a decision.

In the rare case where an urgent decision is necessary, the Assistant Minister for Health and Social Services has the authority to consider the details of an emergency case and make a decision without first discussing the case in any detail with the rest of the Panel members.

In all cases, a Charges Appeals Recommendation and Decision Summary report must be completed and signed as authority by the Assistant Minister for Health and Social Services.

A summary of any decisions taken remotely since the previous meeting of the Charges Appeals Panel will be tabled at the following meeting, allowing for discussion on any issues raised and/or learning to be shared.

In more complex cases, the Assistant Minister for Health and Social Services may deem it necessary or appropriate to hold a full Charges Appeals Panel Hearing. It is a matter for the Assistant Minister to determine whether the case is sufficiently complex to warrant a full Panel Hearing

Professional Advisors to the Panel at Hearings

In the event the Assistant Minister for Health and Social Services deems that a full hearing is appropriate, the Chair may also choose to call on one or more of the following professional advisors to join the Appeals Panel for an individual case:

- Hospital Managing Director (or nominated representative)
- Consultant(s) and/or other Clinician(s) involved in the case
- Chief Pharmacist (or nominated representative)
- Relevant Departmental Director(s)/Manager(s) or Budget Holder(s)

The role of attendees is to submit evidence/information to the Panel to support the process of deliberation and understanding. They will do so after the Appellant's written or personal submission has been made to the Panel.

The relevant Health and Social Services representatives will be required to submit their case to the Panel following the Appellant's written or oral submission.

The Panel meeting may also be attended by the following:

- the appellant, if they want to present their case in person as well as in writing
- a representative for the appellant, if the appellant wishes (see 3.3 below)

The Assistant Minister can also request an independent expert to advise the Panel on complex clinical issues or appoint an independent chair to facilitate Panel meetings in particularly complex appeals. The independent expert / chair will not be a lay person, due to issues relating to patient confidentiality.

Only the Assistant Minister (as Chair) has decision-making rights.

Appellant and Representative Attendance at Panel Hearings

The appellant:

- may attend the Panel meeting to present their case, or this can be done in writing
- may be accompanied by one representative who may speak on their behalf (only the appellant or the representative may speak; not both) OR
- may nominate a representative to attend in the place of the appellant
- The appellant may choose anyone as their representative, including a clinician or Health and Social Services professional. However, the Panel is not a legal body and formal legal representation is not permitted

It is important to note that:

- the panel may ask questions of the appellant, or their representative, to clarify the facts and gather sufficient information to consider the appeal
- the appellant and their representative are invited to hear the submissions of all attendees but have no rights for questioning;
- any additional information or discussion with the Appellant will be at the discretion of the Chair.

If the appellant or a representative is attending they must advise the Charges Appeals Panel Officer in advance and confirm the name and association of any representative attending with, or presenting the case on their behalf.

Any special access or communications support/arrangements required to facilitate an appellant's attendance, must be notified to the Charges Appeals Panel at least 48 hours in advance of the Appeal Hearing

Conflict of Interest

Any person attending a Panel meeting, either as a member or an attendee, is responsible for declaring any interest in the matter to be discussed. The Assistant Minister will determine if any member has a conflict of interest and should withdraw from the Panel. A register of declarations and decisions on conflicts of interest will be kept.

Should an Appeal raise any conflict of interests for the Assistant Minister, the Minister for Health and Social Services will take the role of chair and decision-maker, or nominate an independent person to Chair the Appeals Panel. The independent Chair will not be a lay person, due to issues relating to patient confidentiality.

Record Keeping

A recommendation and decision summary report must be completed for every Appeal case – whether the outcome is determined remotely, in a Charges Appeals Panel meeting or a full Charges Appeals Panel Hearing.

A paper file of relevant documentation relating to each case will be retained in the office of the Head of Policy and Ministerial Support, with a signed Decision Summary File maintained by the Ministerial Office and individual Decision Summaries copied to the Income Manager (Finance Department).

All Charges Appeals Panel Hearings will be minuted, recording those present, documenting evidence given and clearly recording the grounds on which a Hearing decision was taken.

A summary of Charges Appeals will be reported to Corporate Directors on a quarterly basis.

DECISION MAKING

The Charges Appeals Panel sits under the chairmanship of the Assistant Minister for Health and Social Services and is the only authority for considering and determining appeals against charges.

Details of appellants, grounds for appeal, the deliberations of the Charges Appeals Panel and the decision of the Assistant Minister remain confidential and are not disclosed to anyone outside of those required to hear the appeal and/or administer its outcome.

The decision of the Charges Appeals Panel/Panel is final.

All Panel members are entitled and encouraged to engage in discussion about the circumstances of appeals, to raise any concerns and to reflect their views and opinions on appeal submissions. The final decision on any appeal, however, rests solely with the Assistant Minister for Health and Social Services.

The decision of the Appeals Panel will be notified to the Health and Social Services Finance Department, together with the Patient Liaison Officer, as soon as possible after the Decision Summary has been signed, to allow for outstanding financial business relating to the case to be resolved.

The appellant will also be notified of the decision, in writing, by the Charges Appeals Panel

CHARGES APPEALS PROCESS

Step 1: Receipt of Appeal

Appeals should be submitted in writing – either by signed letter² or Appeals submission³ form.

Appeals must be submitted in writing⁴ within 30 days of the date of the contested invoice(s) to:

Patient Liaison Officer
(Charges Appeals Panel)
Minister for Health and Social Services Office
4th Floor Peter Crill House
Gloucester Street
St Helier, Jersey, JE1 3QS

Email: a.aubert@health.gov.je

² Letter of submission must include all details and facts relevant to the Appeal. A summary of information required is outlined in the Residents and Non-Residents Charging Policy

³ An Appeal Submission Form is attached at Appendix 1

⁴ An appeals submission form is available from the Income Manager, Health & Social Services Finance Department on 01534 444495 or email: patientfinance@health.gov.je, or copies can be downloaded at www.gov.je/health

The Patient Liaison Officer will register the appeal, send an acknowledgment letter/email to the appellant within 7 days, and forward the Appeal submission to the Income Manager with responsibility for setting the Charges, and the Lead Clinical Officer in the case. The Appeal will also be copied to the Administrator of the Charges Appeals Panel for notification.

Step 2: Evidence Gathering

The Income Manager and Clinical Lead Officer will be responsible for collating the information relevant to the case and the circumstances used to determine treatment, care and charges. The Income Manager may gather further information about the appeal. This may include:

- asking the appellant to provide additional information or evidence (it is the responsibility of the appellant to provide supporting evidence as required);
- seeking or sharing information with the Social Security Department (under the scheduled Data Sharing Agreement.⁵)
- seek further views from a Consultant, clinical specialist or other advisor, where necessary

On completion of the evidence gathering, The Income Manager and Clinical Lead Officer will forward the Appeal to the Charges Appeals Panel Officer. This must be done within seven (7) working days of registration of the Appeal.

The Income Manager will prepare a report on the case, outlining background details of the patient's circumstances, medical condition and treatment for which the charges are being levied, and the Department's justification for doing so (i.e. the reasons why the Appellant is not entitled to access free⁶ health care)

This patient case and charges report will be submitted, with the letter of Appeal, to the Assistant Director, Policy, Communications and Ministerial Support (Panel Officer), who will be responsible for reviewing the case details.

The Panel Officer may, where necessary, request further information about the appeal. This may include:

- asking the appellant to provide additional information or evidence (it is the responsibility of the appellant to provide supporting evidence as required);
- seeking the views of a Consultant, clinical specialist or other advisor
- seeking the views of the Hospital Director and/or relevant Corporate Director

Step 3: Appeals Panel Case Review

The Panel Officer will complete a Case Summary and Decision Recommendation Report for consideration by the Charges Appeals Panel. The Report will include an outline of the reasons for the recommendation and, where appropriate, a detailed Appeals Case Briefing Pack

Depending on the individual circumstances of the case, the Panel Officer may circulate the case documentation to the Panel Members for review remotely, or recommend that a Charges Appeals Panel meeting be convened.

⁵ A Data Sharing Agreement exists between the Health and Social Services Department and the Social Security Department which allows personal information about an individual to be sought or shared as part of an assessment of entitlement to free health care.

⁶ All services provided by the Health and Social Services Department are free to persons who meet the conditions outlined within this policy unless the treatment or service is chargeable to all eligible Jersey residents.

Where a case is reviewed remotely⁷ by members of the Panel, the details of the case, together with the views /comments expressed of the Panel members, will be considered in a Summary meeting between the Assistant Minister for Health and Social Services and the Panel Officer, before the decision is finalised.

Where the recommendation is agreed, the Assistant Minister will sign the Decision Summary Report and authorise that the appellant be notified of the decision.

Alternatively, the Assistant Minister may request additional information before making a decision, call a meeting of the Charges Appeals Panel to discuss further, or, in some particularly complex cases, determine that the case should go before a formal Hearing by the Charges Appeals Panel (**see Step 5**).

Where a Panel Meeting is called, the Panel Officer will arrange for a meeting to be convened within 21 days of receipt of the Appeal, when details of the individual case(s) will be reviewed, discussion notes taken and the decision of the Minister for Health and Social Services, as Chair of the Panel, recorded.

The Income Manager will be responsible for providing the Panel with all the necessary detailed reports and information to support the Department's claims for charges against the patient.

Step 4: Outcome of the Case Review

There are two potential outcomes following a Case Review:

1. There is sufficient information to enable a decision to be made by the Assistant Minister
2. The Minister for Health and Social Services determines that the complexity of the case requires further information and warrants a full Charges Appeals Panel Hearing before a decision can be made.

Where the decision is agreed at this stage, the Panel Officer will write to the Appellant within 7 days of the Panel Decision being confirmed to advise of the outcome of the Panel's deliberations. A copy of the letter will be sent to the Income Manager and to the Patient Liaison Officer.

It is the responsibility of the Income Manager to contact the patient subsequently to confirm the position regarding any outstanding invoices and to address whatever financial arrangements may need to be resolved in light of the Panel decision.

The Patient Liaison Officer will be responsible, in conjunction with the Income Manager, for logging the appeal decision to ensure ease of cross referencing with any future appeals which may have comparable circumstances.

The Income Manager and Patient Liaison Officer should ensure that, where any comparisons with previous cases are identified, these are brought to the attention of the Charges Appeals Panel at the earliest opportunity, and should also be referenced in the initial Case Report submitted to the Panel Officer for consideration in developing recommendations.

⁷ In straightforward cases, the Appeals Panel members will receive details of the individual case via email circulation, and will respond with any comments on the case, and their views on the recommendation, to be considered by the Assistant Minister for Health and Social Services in making his final decision.

Step 5: Charges Appeals Panel Hearing

In the event the Assistant Minister for Health and Social Services determines that a full Charges Appeals Panel Hearing is appropriate, the Panel Officer will make arrangements for the Hearing and notify the clinicians, specialists and/or officers required to attend.

Where a Charges Appeal Panel Hearing is called for, the Appellant will be invited to attend to present their case OR if they would prefer, to submit a further written summary and/or any additional evidence to support their original appeal.

The Appellant may bring with them a 'companion' or, alternatively, their case may be presented on their behalf, by a nominated representative. Only the Appellant OR the representative is entitled to speak at the Hearing and set out the case, not both.

Where the Appellant's submission is in writing only, this will be presented to the Panel with any supporting evidence submitted.

NB: The Charges Appeals Panel is not a legal body and formal legal representation is not permitted

The Panel may ask questions of the Appellant or their representative.

Other attendees, i.e. the Consultant or Clinical specialist etc., will then be invited to set out the circumstances of the case and give their views/opinions on the grounds for appeal.

The Panel may ask questions of the other attendees.

The Appellant (or their representative) is not permitted to ask questions

The Panel Chair will conclude this stage of the Hearing, and the Appellant asked to leave.

The Panel will then commence its discussions in private, inviting further comment from other attendees where it feels it is appropriate or helpful to their deliberations

When the Panel is satisfied it has all the information necessary, all attendees, with the exception of the Charges Appeals Panel members, the Chair of the Hearing (where appropriate), the Panel Officer and the Hearing administrator (minute-taker), will be asked to leave.

The Chair of the Hearing will sum up the details of the case and the Assistant Minister for Health and Social Services will announce the decision.

The Appellant will be notified of the decision, in writing, within 7 days of the Appeal Hearing. A copy of the Decision Summary report and the official record of the hearing will be filed, and the decision notified to the Income Manager and Patient Liaison Officer.

The Charges Appeal Panel Hearing will not be open to the public or any non-invited individual(s) and access to all evidence, discussions and deliberations will remain confidential, in line with the restrictions applied to all Charges Appeals Panel decisions.

TIMELINES

Patients have **30 days** from the date of the invoice to lodge an appeal against those charges for consideration by the Charges Appeals Panel.

This is considered a reasonable timeframe within which to manage the financial implications of charges being suspended, pending the outcome of an appeal.

However, what is less predictable and manageable is the varying complexity of individual cases and the time it might take to complete each stage of the Charges Appeals process. In recognition of such uncertainty, while target time frames are set against specific steps of the appeals process, the Charges Appeals Panel will, on occasion, determine that those time frames may lapse in order to ensure the complete circumstances of an Appeal are fully considered.

It is, nonetheless, important that Charges Appeals submissions are responded to as quickly and efficiently as possible to minimise the potentially damaging impact of delays on both the patient and the Health and Social Services Department's finance management processes.

On that basis, there is a common presumption that, with the exception of particularly complex cases, appeals against public patient charges should be resolved within eight weeks of the date of the complaint being lodged with the Health and Social Services Department.

While some cases will, inevitably, extend beyond that deadline, the reasons for any significant delay should be noted in the Appeal case report to be taken into account by the Appeals Panel in its deliberations.

It is also important to remember that patients are at their most vulnerable when suffering injury or illness, and addressing financial matters can be particularly distressing at such times.

While this cannot be allowed to influence the Panels' decision-making, and patients should be advised that they are responsible for providing the information required to support their appeal claim within the given timeframe, every effort should, nevertheless, be made to ensure we remain compassionate, considerate and understanding in our dealings with patients and their families throughout this process.

Urgent appeals

It is recognised that there are circumstances in which an appeal decision is urgently required. Where this is the case the Panel Officer will agree the procedure and timeframe with the Assistant Minister and this will be communicated to the Appellant.

Every effort will be made to conclude consideration and decision-making at the earliest possible opportunity. In such cases, the Chair of the Charges Appeals Panel may make a decision on the Appeal alone and members of the Panel will be advised of the Chair's decision and considerations by the Panel Officer as soon as possible.

FURTHER RIGHT TO APPEAL

The Charges Appeals Panel decision is final and there is no further right of appeal against the decision⁸

⁸ In the event that changing circumstances or external factors can subsequently be shown to potentially have a significant impact on the Charges Appeals Panel decision, the Chair of the Panel may elect to undertake a further review

APPENDIX 1: Appeals Submission Form**Charges Appeals Form**

To:

Patient Liaison Officer
 (Charges Appeals Panel)
 4th Floor Peter Crill House
 Gloucester Street
 St Helier, Jersey, JE1 3QS
 Or Email: a.aubert@health.gov.je

Patient details

Surname	
First names	
Date of Birth	
Email	
Contact number	
Address:	
Parish / Town	
County	
Postcode	
Country	

Residential/ Visitor Status:	Permanently Entitled / Licensed / Unlicensed or Non-Permanent Resident / Visitor* (*delete as applicable)
Date Ordinary Residence commenced:	
If a Visitor, dates of arrival and departure and address while in Jersey	
Country and Address of Normal Residence (if not Jersey):	

Details of this appeal

Date of first appointment / admission:	
Name of Consultant/Clinician	
Date of first invoice being contested:	
Grounds for Appeal:	

of the case by way of a Charges Appeals Panel Hearing. Only the Chair of the Panel can call for a case to undergo a further review.

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Details of all pertinent facts, for example, treatment received, dates and details of travel to the UK for treatment or surgery / details of any related pre-existing conditions/treatments that may be relevant to the appeal:

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Details of and special or extenuating circumstances relevant to the appeal:

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Signature of Patient: _____

Name (Please print clearly): _____

Date: _____

Important note:

If someone is appealing on your behalf you must enclose either:

- a letter signed by the patient stating that the H&SS Department may correspond with your representative to discuss your case and that H&SS may disclose your personal information to your representative in relation to your appeal **OR**
- a completed consent form (a consent form can be downloaded from www.gov.je/health)
OR
- Power of Attorney

An appeal against charges made by Health and Social Services must be received by the Minister **within 30 days of the invoice date of the charge** you are appealing.

Enclosed:

- ✓ Completed copy of the patient representative consent form / representative authorisation letter / Power of Attorney if applicable

- ✓ Evidential material, including copies of documentation

APPENDIX 2: Patient Representative Consent Form



The States of Jersey Department for **Health & Social Services**

Charges Appeals Panel: patient representative consent form

To ensure the confidentiality of your information and that it is processed in line with your rights under the Data Protection (Jersey) Law 2005; Health and Social Services will not process information held about you for purposes not relating to the provision of your health and social care without your knowledge and consent.

Health and Social Services will not share your information with anyone not involved in the provision of your health and social care without your permission.

We have received a request to relation to an appeal or complaint from:

.....

In order to process this request we seek your consent. Please complete the section below and return it to: The Patient Liaison Officer (Charges Appeals Panel) Minister for Health and Social Services Office, 4th floor, Peter Crill House, Gloucester Street, St Helier, Jersey JE1 3QS

I do / do not (please delete as applicable) consent to the investigation of the appeal or complaint initiated by the individual named above.

I request that any correspondence relating to the above appeal or complaint is (Please tick appropriate box)

- a) directed to myself only
- b) directed to the individual named above only
- c) directed to both myself and the individual named above

Print Name:

Signature: Date:

If the person is unable to sign consent or is a child, please indicate this, state their name and specify your relationship below.

.....

.....