

For personal use only. Not to be reproduced without permission of the editor  
(permissions@pharmj.org.uk)

# Co-payment schemes

## — when patients pay for high cost drugs

By Steve Williamson, MSc Onc, MRPharmS

One of the unfortunate realities of the NHS is that there are many licensed medicines that patients and prescribers would like to use but they are not funded by the NHS. It may be that these medicines have not been accepted as cost-effective by the National Institute for Health and Clinical Excellence or the Scottish Medicines Consortium, or simply that there is no funding for their use.

The term “co-payment” is used when a patient remains in the NHS but pays for part of their treatment themselves (eg, for a cancer medicine that would otherwise be unavailable on the NHS). Many patients choose this option because they either cannot afford or do not want to become fully private patients.

It is not unheard of for patients to arrive at an appointment with their NHS consultant, having already started to take an oral anticancer medicine obtained privately, yet wanting the NHS to manage their treatment.

A new market is developing in the private sector as demand for new, expensive cancer medicines grows. Indeed, a leading health insurer has developed a policy specifically to cover the cost of buying non-NHS funded cancer medicines.

Hospital pharmacists are often caught up in situations where patients come into hospital with self-funded medicines or the desire to buy them privately, and want to continue with NHS care. There is much confusion around these issues and pharmacists can find themselves facing ethical dilemmas.

Steve Williamson is consultant pharmacist in cancer services, Northumbria Healthcare and North of England Cancer Network

### Advice

The North of England Cancer Network, in partnership with Northumbria Healthcare NHS Foundation Trust, recently commissioned the law firm Eversheds LLP to provide advice on the legal and policy issues surrounding co-payment. This is a sensitive area and it is perhaps only a matter of time before the legalities of such situations are tested in court.

It was acknowledged that “co-payment” is a broad term, and advice was given around the following possible scenarios:

- Concurrent private and NHS treatment
- “Top-up” payments in the NHS
- Private purchase and public administration of high cost cancer drugs
- Self-administration of privately purchased cancer drugs

**Concurrent treatment** NHS and private treatment may both be received for the same condition, but within separate clinical episodes. An example would be private IVF treatment followed by subsequent antenatal care and delivery of the child on the NHS. This is lawful and occurs as a matter of routine, but problems can arise when it is difficult to separate clinical episodes (for example, if a patient seeks NHS treatment for a complication of a drug they have bought privately).

**Top-up payments** The term top-up payment refers to a system where there is a limit to public funding for treatment for a particular condition, but patients are given the option of paying for extra treatment or services. All treatment would be

provided at the same time at an NHS facility. Top-up payments in the NHS appear unlawful as they run contrary to the statutory requirement that NHS services are to be provided free at the point of delivery unless specifically provided for otherwise by statute (eg, prescription charges). Pharmacists must be aware that NHS patients are not allowed to “top-up” their NHS treatment with non-NHS medicines, and should discuss any cases with their primary care trust.

**Private purchase and public administration** In the most common co-payment scenario, a patient buys a drug privately and wants to have it administered under the care of the NHS. This is a complex situation. There are difficulties in actually getting the medicines into the NHS system because the NHS has strict rules about accepting “donations” and the trust or PCT would have to agree to fund the cost of care associated with administering the medicines.

It is perhaps only a matter of time before the legalities of co-payment are tested in court

Pharmacists should be cautious about accepting privately purchased medicines to be administered on the NHS and ensure they follow all guidance issued by the Royal Pharmaceutical Society on the safe and secure handling of

medicines and local clinical governance policies.

**Self-administration** The Society’s guidance on the safe and secure handling of medicines states: “Medicines brought in by the patient should only be used in the hospital when they can be positively identified, meet defined quality criteria and are appropriately labelled.” Problems may occur if a patient taking a privately purchased drug is admitted to hospital. Even if the pharmacy team is happy with the medicine, the situation is not straightforward. The clinical monitoring of the effects of the medicine will still have to be funded and it may be something that the PCT will not agree to fund. Pharmacists must ensure that funding is available for the associated care they provide. The trust or PCT will have to decide if it will allow use of the drug in the absence of funding for appropriate clinical supervision.

### Summary

Co-payment does not seem to be consistent with the core philosophy of the NHS, namely, that care should be available free of charge according to clinical need, not the ability to pay. Pharmacists should act with caution when faced with patients seeking such arrangements, and seek advice from their trust or PCT.

### ACKNOWLEDGEMENTS

Thanks to Ian Cooper, associate, and Paul McGough, solicitor, both Eversheds LLP; Moria Davison, director of the North of England Cancer Network and Rosemary Stephenson, director of nursing, Northumbria Healthcare NHS Foundation Trust.