

Advocacy Toolkit:

Right to treatment – England – NICE recommendation

The following information is for people living in England only.

What are my rights?

“You have the right to drugs and treatments that have been recommended by NICE for use in the NHS, if your doctor says they are clinically appropriate for you.”

This is set out in Section 3a of the NHS Constitution for England. The ‘rights’ outlined in the Constitution are legal rights to which patients, public and staff are entitled.

Who are NICE?

A key function of the National Institute for Health and Care Excellence (NICE) is its role as a health technology appraisal (HTA) body, issuing recommendations on the use of drugs or treatment within NHS England.

It does this through its technology appraisal process. When NICE issues ‘positive’ guidance recommending the use of a technology, NHS England is obligated to provide funding.

How soon after drugs and treatments have been recommended can I access them?

Under the NHS constitution, “recommended by NICE” means that NICE has issued final guidance recommending the use of a particular drug within NHS England.

Normally, NHS England have three months from the date of this guidance before they are required to provide funding for a treatment.

However, for cancer drugs, funding is usually provided immediately under the Cancer Drugs Fund (CDF), from the moment drugs receive a draft recommendation (before final guidance), as long as they have a “marketing authorisation” licensing them as safe for use. After three months drugs move out of the CDF and in to mainstream NHS commissioning.

However, in some circumstances, this can be delayed where the ‘budget impact’ (cost of funding) of a new technology exceeds £20 million. In this situation, NHS England engage in commercial discussions with the company who make the drug. If an agreement cannot be reached, NHS England can request a delay to the statutory funding requirement.

Find out more about the ‘budget impact’ test at:

- <https://www.nice.org.uk/about/what-we-do/our-programmes/nice-guidance/nice-technology-appraisal-guidance/budget-impact-test>



Where to find out more:

Further information on the right to access NICE recommended treatment is available in the Handbook to the Constitution (pg. 47 and 48):

- <http://www.gov.uk/government/publications/supplements-to-the-nhs-constitution-for-england>

For more guidance on health technology appraisals visit:

- <http://www.leukaemiacare.org.uk/resources/health-technology-appraisals>

Further guidance on your rights as a patient under the NHS Constitution is available at:

- <http://www.leukaemiacare.org.uk/resources/NHS-constitution-what-are-my-rights>

Further Questions

If you have any further questions about the NHS constitution, want to find out more about what you are entitled to or need support if something has gone wrong then contact our Campaigns and Advocacy team. They are available Monday to Friday from 9:00am – 5:30pm. If you would like to speak to them, you can:

- Call our office line on 01905 755977
- Send them an email at advocacy@leukaemiacare.org.uk
- You can also call the 24-hour help line, free of charge on 08088 010 444. The team will pass your enquiry onto the Campaigns and Advocacy team.

Please note that our Campaigns and Advocacy team are unable to provide:

- Detailed medical advice or recommendations
- Legal advice
- Advocacy for a course of action which is contrary to the aims and objectives of Leukaemia CARE