OHCHR Study on the right of the child to the enjoyment of the highest attainable standard of health

OHCHR report to the Human Rights Council at its 22nd session in March 2013

Submission by National Children's Bureau Northern Ireland (NCB NI)[1]

Introduction

This submission concerns children living in Northern Ireland who are dependent on their parent/s or caregivers immigration status to access health care provision. The population of Northern Ireland has changed significantly over the last 10 years, confidence in the peace process has developed, the European Union has expanded and more people are seeking asylum both North and South of the border. This has lead to an increasing ethnically diverse Northern Irish society, a sign of a more normalised society. However this has also placed additional pressures on those working in the health care sector as they become acquainted with the complexities of determining if a person is entitled to access health care via the NHS[2] or if they have to pay a private rate. The only exception to this is the accessing of emergency health care, which is free to all. In Northern Ireland, the NHS operated through DHSSPS[3].

Accessing Health Care

[1] NCB NI works to enhance the outcomes of children and young people in Northern Ireland. We deliver high quality policy related research, inform practice development and work directly with children and young people getting their voices heard

[2] National Health Service –The NHS is a United Kingdom wide health care provision provided by the state for residents and those who qualify to access it free of charge, it's functionality and operations are devolved to each jurisdiction, England, Scotland, Wales and Northern Ireland

[3] Department of Health Social Services and Public Safety

Accessing health care in many instances is determined by a person's immigration status and/or through proving habitual residence[4]. However if at the point of accessing a service the practitioner is confused as to an individual's status this could lead to children and families being refused a service. This situation was the subject of a recent report by the Northern Ireland Human Rights Commission[5]. The effects of denying a service where children are involved can lead to an increase in referrals to social work services, particularly on welfare grounds, as well as an increase in referrals to accident and emergency (A & E) departments to access health care.

For many families who have irregular immigration status lack the funds to pay privately to see a doctor for ongoing medical conditions and are most likely to use the A & E departments to access medical care for their children and themselves. This is particularly concerning if a child has a chronic condition (for example diabetes or asthma) as the A & E department only treats emergency conditions. This would make it particularly difficult for these children to attain the highest standard of health and in fact would be detrimental to their health both in the short and longer term.

Policy Impact on Accessing Health Care

Rules and policies governing the access to health care are complex and frequently changing. In Northern Ireland DHSSPS is due to issue new guidance relating to access to health care for public consultation in the autumn 2012. This may provide some clarity for practitioners and services users; however concerns are already being raised that it will eliminate any discretionary powers that some health care professionals are currently exercising, particularly in the treatment of children. The UK Border Agency[6] decided to

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[4] There are two elements to the phrase 'habitual residence'

- 'residence': the person must be actually resident – mere intention to live here is not sufficient nor is mere presence
- 'habitual': there must be a degree of permanence about the residence - it implies a settled state in which the person is making their home here.

[5] Holder, D (2011) "Access denied or paying when you shouldn't. Access to publicly funded medical care in Northern Ireland for non-British/Irish citizens.

[6] UK Home Office is responsible for immigration matters for the whole of the UK, they discharge this responsibility through UK Border Agency (UKBA), the Northern Ireland Assembly does not legislate for immigration matters.

implement a change to the Immigration Rules in October 2011. Those who fail to discharge debts to the NHS of or in excess of £1,000 will normally be refused permission to enter or remain in the UK. The NHS will provide sufficient information to the UK Border Agency to enable it to identify the debtor but medical records will not be shared. This has an added implication in that those with irregular status or no access to public funds may avoid seeking medical attention in case they incur a NHS debt and this information is passed to the UK Border Agency. Again this will disproportionately affect children as they have no say in their own immigration status or that of their parents and are highly limited in their own ability to access medical care.

Front line health care professionals as well as community and voluntary groups are raising concerns about the impact of this new ruling. They are particularly concerned about pregnant women who have attended hospital for pre natal care only to be given a price list for costs associated with having a baby in the NHS. Pre natal and Post natal care is not considered emergency care[7] and so can incur a cost if you have no or limited access to public funds and health care. However the actual act of child birth is concerned immediate and necessary and therefore should not incur a cost. The concern is that women who wish to avoid incurring a debt may not access pre natal care. This may result in women not attending screening or health checks related to pregnancy putting both the mother and her baby at great risk. In addition the subtleties of which services will incur a cost may not have been explained fully to them or they may have not understood what was explained to them, and as a result may decide to have their babies at home with no medical supervision. Given that they are also unlikely to have had any pre natal care the possibility of complications is greatly increased as are the chances of endangering the life of the mother and the child. This is in complete contravention of UNCRC article 24, 2a and d[8].

Good Practice

Northern Ireland New Entrant Service (NINES)

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[7] Emergency care is defined and immediate and necessary

[8] State parties shall pursue full implementation of this right and, in particular, shall take appropriate measures:

a. To diminish infant and child mortality;

(d) To ensure appropriate pre-natal and post-natal care for mothers;

Although not yet fully operational (September 2012) the Northern Ireland New Entrant Service (NINES)[9] is based in Belfast. This nurse led service aims to provide access to health care for new entrants to Northern Ireland to include new immigrants, asylum seekers, refugees and clients who are unable to register for GP services. The service will offer Mantoux testing and BCG vaccination for children and infants identified through the “at risk” screening programme.

A range of clinics can be accessed to address the health and social well being needs of the client group to include drop in clinics for advice and support; health assessment clinics; immunisation clinics and health promotion sessions. Over the coming months clinic sessions will be further developed to include a GP clinic and a consultant led paediatric clinic.

[9] Funded through the Public Health Agency in partnership with the TB screening unit based in Belfast Health and Social Care Trust.

Conclusion

For children and young people to enjoy the highest attainable standard of health in Northern Ireland, we should consider their rights to access health care separately from their parent/s or caregivers immigration status. The difference for children and young people who are with their care givers and who have an irregular immigration status is that they are at a distinct disadvantage in maintaining a healthy self compared to other children and young people in Northern Ireland. Their access to health care is based on variables that are completely out of their control, parental immigration status. Perhaps where children and young people are concerned immigration status should not be the defining factor in their access to health care, particularly primary health care.